***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 6, 2012**
**7:00 p.m.**
**Robert L. Simon Council Chambers**
**Keizer, Oregon**

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **PLEDGE OF ALLEGIANCE**

4. **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.***

5. **PUBLIC HEARINGS**

6. **ADMINISTRATIVE ACTION**

   a. **RESOLUTION – Authorizing the City Manager to Enter Into Restated Ground Lease with Keizer Heritage Foundation**

   b. **RESOLUTION – Authorizing the City Manager to Enter into a Collective Bargaining Agreement with the Laborers International Union of North America, Local 320**

   c. **RESOLUTION – Authorization for Supplemental Budget Vacuum, Weapons, Hearings Officer, Public Works Personnel Services, Berning Agreement Payment, and Pump Station Project**
      **RESOLUTION – Authorization for Interfund Loan to the Sewer Reserve Fund from the Transportation Improvement Fund**

   d. **Request for Waiver of Fees for Use of Keizer Rotary Amphitheatre Movie in the Park**

7. **CONSENT CALENDAR**

   a. **RESOLUTION – Authorizing the Mayor and Council President to Execute New City Attorney Employment Contract**

   b. **RESOLUTION – Authorizing the Mayor and Council President to Execute New City Manager Employment Contract**

   c. **RESOLUTION – Establishing Fees for Certain Administrative Services (Repealing R2007-1826)**

**d. RESOLUTION – Appointing Municipal Court Judge Pro Tems**

**e. RESOLUTION – Regarding Evaluation of Keizer Municipal Court Judge**

**f. Surplus Property Report**

## 8. COMMITTEE REPORTS

**a. Appointment to Keizer Points of Interest Committee**

**b. Appointment to Keizer Festivals and Events Services Team (K-FEST) Committee**

**c. Keizer Rapids Park Host Appointment**

**d. Appointments to Water Master Plan Update Task Force**

## 9. 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.***

**a. New Business or Old Business Issues**

## 10. WRITTEN COMMUNICATIONS

***To inform the Council of significant written communications*.**

## 11. AGENDA INPUT

**August 13, 2012**
**5:45 p.m. – City Council Work Session**
- **Economic Development Discussion w/Chamber of Commerce**

**August 20, 2012**
**7:00 p.m. – City Council Meeting**

**September 4, 2012 (Tuesday)**
**7:00 p.m. – City Council Meeting**

## 12. ADJOURNMENT

**CITY COUNCIL MEETING: August 6, 2012**

**AGENDA ITEM NUMBER:_____**

**TO:** **MAYOR CHRISTOPHER AND COUNCIL MEMBERS**

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

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

**SUBJECT:** **RESTATED GROUND LEASE WITH KEIZER HERITAGE FOUNDATION**

The current Ground Lease with Keizer Heritage Foundation expires on September 30, 2012. The Councilor Subcommittee and Keizer Heritage Foundation worked together over the past few months to discuss terms of a Restated Ground Lease. The Restated Ground Lease attached as an exhibit to the enclosed Resolution incorporates the agreed upon terms as well as a few minor revisions.

**RECOMMENDATION:**

If Council deems it appropriate, adopt the attached Resolution authorizing the City Manager to enter into the Restated Ground Lease with Keizer Heritage Foundation.

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

ESJ/tmh

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2012-_____

AUTHORIZING CITY MANAGER TO ENTER INTO RESTATED GROUND LEASE WITH KEIZER HERITAGE FOUNDATION

WHEREAS, Keizer Heritage Foundation and the City of Keizer entered into that certain Ground Lease on or about July 19, 1995 pursuant to Resolution No. R95-846. The purpose of such Ground Lease was to provide Keizer Heritage Foundation with property on the city hall complex to place the Old Keizer School and to allow Keizer Heritage to refurbish such school;

WHEREAS, such Ground Lease is set to expire on September 30, 2012;

WHEREAS, the parties have negotiated the terms of a restated ground lease;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that the City Manager is authorized to enter into the Restated Ground Lease with Keizer Heritage Foundation, a copy of which is attached.

PASSED this _____ day of _____, 2012.

SIGNED this _____ day of _____, 2012.

_____
Mayor

_____
City Recorder



Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

## RESTATED GROUND LEASE

This Agreement is made and entered into by and between the CITY OF KEIZER, an Oregon municipal corporation, hereinafter referred to as "the City," and KEIZER HERITAGE FOUNDATION, INC., an Oregon nonprofit corporation, hereinafter referred to as "Keizer Heritage," effective retroactive to July 1, 2012.

## RECITALS

WHEREAS, Keizer Heritage is the owner of a building known as the 1916 portion of the Old Keizer School ("the Building"), together with all other structures and fixtures being termed "Improvements;"

WHEREAS, by Ground Lease between the City and Keizer Heritage dated July 19, 1995 ("the Original Lease"), the Old Keizer School has been located on real property owned by the City immediately adjacent to the east of the Keizer City Hall, such real property being legally described on Exhibit "A" and "B" attached hereto; and

WHEREAS, the Original Lease is due to expire on September 30, 2012; and

WHEREAS, the parties have negotiated and now wish to extend and restate the Original Lease as hereafter provided;

NOW, THEREFORE, in consideration of the mutual agreements between the parties and the mutual advantages and obligations assumed herein, the City and Keizer Heritage do hereby agree by and among themselves as follows:

## AGREEMENT

The City leases to Keizer Heritage, and Keizer Heritage leases from the City, the real property (the "Premises ") described on Exhibit "A" and "B" attached and incorporated in this lease by this reference. In addition, Keizer Heritage and its employees, tenants, guests, patrons and other users of the building shall have the primary non-exclusive use of the parking lot owned and maintained by the City immediately to the east of the Premises on a first-come, first-served basis. As used herein, the primary non-exclusive use shall mean that Keizer Heritage users shall be directed and encouraged to use the East Lot and directed away from and discouraged from using the remaining parking lots. In addition, city hall employees, tenants, guests, patrons, and other users shall be directed and encouraged to use parking lots other than the East Lot and directed away from and discouraged from using the East Lot. Neither party is responsible for its users using any particular portion of the combined parking lots.

The Premises are leased for a term (the "Term,") of ten (10) years commencing on the date of this Lease and ending June 30, 2022 (subject to extensions as set forth In Section 17).

## SECTION 1

## RENT

Keizer Heritage covenants and agrees to pay to the City, promptly when due, without notice or demand and without deduction or set-off of any amount whatsoever, $100.00 per year as Rent for the Premises. All Rent shall be payable in advance on July 1 each year, provided that rent for the 2012-13 year shall be paid upon execution of this agreement.

## SECTION 2

## USE

2.1 Intent of the Parties Regarding Uses. It is the intent of the parties to secure the future of the Building and to recognize the importance of the Building in Keizer's history. The parties agree that the use of the Building shall be for generally social, cultural, educational, historical, and recreational purposes and that any commercial or semi-commercial interests are secondary to the use of the Building as a museum, interpretive center, civic center, headquarters for nonprofit groups, and similar uses. Keizer Heritage agrees that use of the Building as a public resource is a material element of this Lease. To that end, Keizer Heritage agrees to have the Building open to the public as posted on the Keizer Heritage website and the individual tenant doors pursuant to Section 2.8.

2.2 General Operation. Keizer Heritage shall operate the Building as a public resource consistent with all applicable laws and regulations for use of public property. The Building may be operated as a museum for the preservation of art and historical objects appropriate to the Building, for use as a community library and for other public purposes appropriate to the use of the premises as a public property, subject to all applicable regulations and approvals. The selection of objects to be observed or displayed shall be exclusively under the control of Keizer Heritage. Also, Keizer Heritage may operate a gift shop within the Building as an adjunct to the purpose of the Building, so long as such shop does not exceed 2000 square feet in size. Keizer Heritage may rent meeting rooms to service clubs and civic groups or to private groups for special occasions (e.g., wedding parties); provided, however, that other than as listed above, all uses shall be noncommercial. Any tenant other than Keizer Heritage, Keizer Community Library, Keizer Museum, Keizer Art Association or Keizer Young Life must be approved by the City Council in its sole discretion in addition to applicable land use approvals, if any. The City Council's approval shall not be unreasonably withheld or delayed. Request for approval of a new tenant, identifying the tenant and the proposed term of lease, must be made in writing by Keizer Heritage to the City. If the request is so made and if the proposed tenant is not specifically disapproved by City Council within 45 days after such request, then the tenant shall be deemed approved for purposes of this section.

2.3 Public Openings. Keizer Heritage shall keep and maintain the public rooms of the Building open to the public, admission free, for at least four days each calendar year, in addition to four programmed public outreach days per non-profit tenant (one per quarter). The programming for public days shall be reported to the Keizer City Council no later than March 30 annually for the next fiscal year and published in regular Keizer Heritage publications for promotion. As used herein, "public rooms" shall mean all rooms which are open to the public upon payment of a fee, including, but not limited to, any museum operated by Keizer Heritage. The days of such free admission shall be fixed by Keizer Heritage and stated in a notice posted upon the Building where it may be seen by the public, and such notice shall also be published in a newspaper of general circulation. Such public notice and free admission shall also satisfy the requirements of the National Register of Historic Places should the Building be placed on such register. In addition, between September 1 and the following May 30 of any school year, groups of public schoolchildren under school supervision may visit the Building free of charge during regular visiting hours by prior appointment. Otherwise, Keizer Heritage may charge admission and rental fees for tours and public uses of the Building.

2.4 Prohibited Uses. Keizer Heritage shall not use or occupy, or permit or suffer all or any part of the Premises or the Improvements to be used or occupied (1) for any unlawful or illegal business, use, or purpose, (2) in any such manner to constitute a "public nuisance, or (3) for any purpose or in any way in violation of the certificate of occupancy, or of any Legal Requirements, including but not limited to Legal Requirements respecting any land use regulations or Hazardous Substances, or (4) for any business, use, or purpose reasonably deemed disreputable. The term "Hazardous Substance" means any hazardous, toxic, or dangerous substance, waste, or material that is the subject of environmental protection Legal Requirements, including but not limited to the items *listed* in the United States Department of Transportation Hazardous Materials Table (49 CFR §172.1 01) or designated as hazardous substances by the United States Environmental Protection Agency (40 CFR pt 302). Keizer Heritage acknowledges that the term "Legal Requirements" includes but is not limited to all environmental protection laws such as the Comprehensive Environmental Response, Compensation and Liability Act (42 USC §6901 et seq., the

Federal Water Pollution Control Act (33 USC §6901 et seq.), the Federal Water Pollution Control Act (33 USC § 1257 et seq., and the *Clean* Air Act (42 USC §2001 et seq.).

2.5 Public Use Restricted. Keizer Heritage shall not suffer or permit the Premises or the Improvements or any portion to be used by the public, as such, without restriction or in such manner as might reasonably tend to impair the City's title to the Premises or Improvements or any portion, or in such manner as might reasonably make possible a claim or claims of adverse usage, adverse possession, or prescription by the public, as such, or of implied dedication, of the Premises or Improvements or any portion. Keizer Heritage acknowledges that the City does not consent, expressly or by implication, to the unrestricted use or possession of the whole or any portion of the Premises or Improvements by the public, as such.

2.6 Dedication for Rights-of-Way or Utilities. The City and Keizer Heritage agree that if and when any governmental or any other public authority requires the execution and delivery of any instrument to evidence or consummate the dedication of any street adjoining the Premises and/or if and when any governmental or any other public authority or any public utility company requires the execution and delivery of any rights of way, easements, and grants in, over, and along any such streets or in, over, under, or through the Premises (except any that may run under the Improvements) for the purpose of providing water, gas, steam, electricity, telephone, storm and sanitary sewer, or any other necessary or desirable service or facility for the benefit of the Premises or the Improvements, then both parties, without cost to either party, will execute, acknowledge, and deliver any such instrument or document as may be required.

2.7 Storage of Historical Objects. To the extent the parties agree from time to time, Keizer Heritage shall provide for the care, storage, and exhibition of any art or historical objects which the City may own or hereafter may acquire and entrust to Keizer Heritage for such purposes. Keizer Heritage shall have the right to place in storage or to return to the City any such objects which Keizer Heritage deems unsuitable for exhibition.

2.8 Operating Rules. Keizer Heritage may prescribe such rules and regulations as may be deemed necessary for the operation of the Building and the Premises. The operating hours of the Building and the Premises shall be determined by Keizer Heritage, subject to the limitations set forth in any land use approvals. Keizer Heritage agrees that maintaining the Building in reasonable fashion open to the public is a material element of this Lease.

2.9 Manager and Staff Required. Keizer Heritage shall select and supervise one person to act as manager. Keizer Heritage shall provide or arrange for the staff necessary to supervise programs and conduct public tours of the Building. Keizer Heritage shall maintain an up-to-date roster of board members and staff and shall continue to provide this updated roster to the City as part of the annual report under section 2.10 below.

2.10 Annual Reports. No later than 120 days following the end of each fiscal year, Keizer Heritage shall submit to the City a detailed report of the operations and transactions of Keizer Heritage in connection with the operation of the Building. This shall include a summary of activities, financial statements, including a detailed revenue and expense statement. Such financial statements shall include, but shall not be limited to the balance and activity on the established sinking fund to provide for maintenance and repairs to the Building. The underlying accounting records shall be examined by a certified public accountant each year. Keizer Heritage shall submit a detailed budget to the City on an annual basis.

2.11 Keizer City Councilor on Keizer Heritage Board. At all times during this Lease, at least one Keizer City Councilor shall serve on the board of directors of Keizer Heritage, if so appointed by the Keizer City Council or mayor. Such appointee shall be subject to, perform and fulfill the obligations required of all other such board members, including attendance, and shall be subject to removal if the appointee fails to do so. Any removed appointee shall be replaced on the board by another Keizer Councilor as appointed by the Keizer City Council or mayor.

## SECTION 3

## LIENS

3.1 No Lien Power. Keizer Heritage shall have no power to do any act or to make any contract that may create or be the foundation for any lien, mortgage, or other encumbrance on the reversion or other estate of the City or on any interest of the City in the Premises.

3.2 Lien to be Discharged. Keizer Heritage shall not suffer or permit any liens to attach to the interest of Keizer Heritage in all or any part the Premises by reason of any work, labor, services, or materials done for, or supplied to, or claimed to have been done for or supplied to, Keizer Heritage or anyone occupying or holding an interest in all or any part of the Improvements or the Premises through or under Keizer Heritage. If any such lien shall at any time be filed against the Premises, Keizer Heritage shall cause the same to be discharged of record within 30 days after the date of filing the same, by either payment, deposit, or bond.

3.3 Construction Liens. Nothing in this Lease shall be deemed to be, or be construed in any way as constituting, the consent or request of the City, express or implied, by inference or otherwise, to any person, firm, or corporation for the performance of any labor or the furnishing of any materials for any construction, rebuilding, alteration, or repair of or to the Premises or to the Improvements, or as giving Keizer Heritage any right, power, or authority to contract for or permit the rendering of any services or the furnishing of any materials that might in any way give rise to the right to file any lien against the City's interest in the Premises or against the City's interest, if any, in the Improvements. Keizer Heritage is not intended to be an agent of the City for the construction of Improvements on the Premises. The City shall have the right to post and keep posted at all reasonable times on the Premises and on the Improvements any notices that the City shall be required to post for the protection of the City and of the Premises and of the Improvements from any such lien. The foregoing shall not be construed to diminish or vitiate any rights of Keizer Heritage in this Lease to construct, alter, or *add* to the Improvements.

## SECTION 4

## TAXES AND OTHER CHARGES

4.1 Exempt Status to be Maintained. The Premises are owned by the City and as such are exempt from ad valorem taxes. Keizer Heritage agrees to operate and use the Premises in a manner consistent with retaining such exempt status. However, if exempt status is not retained, or if other taxes or assessments are incurred against the property, this Section shall detail the rights and responsibilities of the parties, without waiver of any of the City's remedies for breach of this Lease.

4.2 Discharge of Tax Liability. Keizer Heritage shall pay and discharge, or cause to be paid and discharged, before any fine, penalty, interest, or cost may be added for nonpayment, all real estate taxes, personal property taxes, privilege taxes, excise taxes, business and occupation taxes, gross sales charges, assessments (including, but not limited to, assessments for public improvements or benefits). and all other governmental impositions and charges of every kind and nature whatsoever, whether or not now customary or within the contemplation of the parties and regardless of whether the same shall be extraordinary or ordinary, general or special, unforeseen or foreseen, or similar or dissimilar to any of the foregoing which, at any time during the Term, shall be or become due and payable and which:

4.2.1 Shall be levied, assessed, or imposed against the Premises or the Improvements or any interest of the City or Keizer Heritage under this Lease; or

4.2.2. Shall be or become liens against the Premises or the Improvements or any interest of the City or Keizer Heritage under this Lease; or

4.2.3 Shall be levied, assessed; or imposed on or against the City by reason of any actual or asserted engagement by the City or Keizer Heritage, directly or indirectly, in any business, occupation, or other activity in connection with the Premises or the Improvements; or

4.2.4 Shall be levied, assessed, or imposed on or in connection with the ownership, leasing, operation, management, maintenance, repair, rebuilding, use, or occupancy of the Premises or the Improvements; under or by virtue of any present or future Legal Requirement, it being the intention of the parties that, insofar as the same may lawfully be done, the City shall be free from all such expenses and all such real estate taxes, personal property taxes, privilege taxes, excise taxes, business and occupation taxes, gross sales taxes, occupational license taxes, sewer charges, assessments, and all other governmental impositions and charges of every kind and nature whatsoever (all of such taxes, water charges, sewer charges, assessments, and other governmental impositions and charges that Keizer Heritage is obligated to pay being collectively called "Tax" or "Taxes").

4.3 Installment Payments. If by law any Tax is payable, or may at the option of the taxpayer be paid, in installments, Keizer Heritage may, whether or not interest shall accrue on the unpaid balance, pay the same, and any accrued interest on any unpaid balance, in installments as each installment becomes due and payable, but in any event before any fine, penalty, interest, or cost may be added for nonpayment of any installment or interest.

4.4 Furnishing Receipts. Keizer Heritage covenants to furnish to the City, within 30 days after the last date when any Tax must be paid by Keizer Heritage as provided in this section, official receipts, if such receipts are then available to Keizer Heritage, of the appropriate taxing authority, or other proof satisfactory to the City, evidencing payment.

4.5 Right to Contest. Keizer Heritage shall have the right at Keizer Heritage's expense to contest or review the amount or validity of any Tax or to seek a reduction in the assessed valuation on which any Tax is based, by appropriate legal proceedings. Keizer Heritage may defer payment of such contested Tax on condition, however, that if such contested Tax is not paid beforehand and if such legal proceedings shall not operate to prevent the enforcement of the collection of the Tax so contested and shall not prevent the sale of the Premises or the Improvements to satisfy the same, then before instituting any such proceedings Keizer Heritage shall furnish to the City a surety company bond, cash deposit, or other security reasonably satisfactory to the City as security for the payment of such Tax, in an amount sufficient to pay such Tax, together with all interest and penalties in connection with such Tax and all charges that might be assessed against the Premises or the Improvements in the legal proceedings. Upon termination of such legal proceedings or at any time when the City shall determine the security to be insufficient for the purpose, Keizer Heritage shall forthwith, on demand, deliver to the City additional security as is sufficient and necessary for the purpose, and on failure of Keizer Heritage so to do, the security originally deposited shall be applied to the payment, removal, and discharge of the Tax and the interest and penalties in connection with the Tax and the charges and costs accruing in such legal proceedings and the balance, if any, shall be paid to Keizer Heritage provided that there is then no uncured default under this Lease. In the event that such security shall be insufficient for this purpose, Keizer Heritage shall forthwith pay over to the City an amount sufficient, together with the security originally deposited, to pay the same. Keizer Heritage shall not be entitled to interest on any money deposited pursuant to this section.

4.6 City to be Held Harmless. Any contest as to the validity or amount of any Tax, or assessed valuation on which such Tax was computed or based, whether before or after payment, may be made by Keizer Heritage in the name of the City or of Keizer Heritage, or both, as Keizer Heritage shall determine, and the City agrees that it will, at Keizer Heritage's expense, cooperate with Keizer Heritage in any such contest to such extent as Keizer Heritage may reasonably request, it being understood, however, that the City shall not be subject to any liability for the payment of any costs or expenses in connection with any proceeding brought by Keizer Heritage, and Keizer Heritage covenants to indemnify and save the City harmless from any such costs or expenses. Keizer Heritage shall be entitled to any refund of any such Tax and penalties or interest that have been paid by Keizer Heritage or by the City and reimbursed to the City by Keizer Heritage.

4.7 Forwarding of Tax Information. The parties shall use reasonable efforts to see that all communications from the governmental authorities respecting Taxes are sent directly by such authorities to the City. The City shall forward any and all communications to Keizer Heritage within 48 hours of the City's receipt. The certificate, advice, receipt, or bill of the appropriate official designated by law to make or issue the same or to receive payment of any *Tax* or nonpayment of such Tax shall be prima facie evidence that such Tax is due and unpaid or has been paid at the time of the making or issuance of such certificate, advice, receipt, or bill.

## SECTION 5

## INSURANCE

5.1 Casualty Insurance. Keizer Heritage, at Keizer Heritage's sole cost and expense, shall maintain, for the mutual benefit of Keizer Heritage and the City casualty insurance covering loss or damage by fire, and other risks as may be embraced within all-risk insurance insuring the full replacement cost (excluding foundation and excavation cost) of the Improvements. If all-risk insurance becomes unavailable, then Keizer Heritage shall insure the Improvements with such coverage as is customary from time to time for comparable commercial buildings in the Salem Keizer metropolitan area. The amount of such insurance policy shall be increased from time to time as the full replacement cost of the Improvements increases.

In the event of any casualty damage to the Improvements, the City may make proof of loss if Keizer Heritage fails to do so within 15 days of the casualty and after 10 days' written notice from the City of its intent to do so. If the insurance proceeds (the “Proceeds") of any insurance on the Improvements equal more than 10% of the replacement cost of the Improvements, then all Proceeds shall be paid to the City. If the Proceeds are less than such amount, then the Proceeds shall be delivered to Keizer Heritage. Unless the Proceeds are more than fifty percent (50%) of the replacement cost of the Improvements, Keizer Heritage shall promptly repair or replace the damaged and destroyed Improvements in substantially the form on the date of the casualty or in a manner reasonably satisfactory to the City. The City shall pay or reimburse Keizer Heritage from the Proceeds for the cost of repair, restoration, or replacement upon satisfactory evidence of sufficient progress on the work. Any proceeds not used for the repair, restoration, or replacement of the Improvements shall be distributed to Keizer Heritage. Progress payments will be arranged in such a manner that the Building may be repaired without expenditure of funds by Keizer Heritage.

If the Proceeds are fifty percent (50%) or more of the replacement cost of the Improvements, Keizer Heritage, at its option, may choose not to repair the Improvements and this Lease is terminated upon such election. If this option is chosen, Keizer Heritage must demolish the Building and return the Premises to its previous condition. Upon completion of such work to the reasonable satisfaction of the City, or upon reasonable assurances that Keizer Heritage will complete such work, the City shall pay the Proceeds to Keizer Heritage.

5.2 Liability Insurance. Keizer Heritage, at its expense, shall maintain at all times during the Term of this Lease public liability insurance in respect of the Premises and the conduct or operation of its business, naming both Keizer Heritage and the City as insureds, with $2 million ($2,000,000.00) minimum combined single limit coverage, or its equivalent. All casualty insurance policies shall include contractual liability, severability of interest, and cross-liability endorsements. Keizer Heritage shall procure and pay for renewals of such insurance from time to time before the expiration, and Keizer Heritage shall deliver to the City such renewal policy or certificate at least 30 days before the expiration of any existing policy. All insurance policies shall contain provisions whereby (1) losses shall be payable despite the negligence of any person having an insurable interest in the Improvements; (2) the Proceeds will be paid in accordance with the terms of this Lease; and (3) the policies cannot be cancelled or modified unless the City is given at least 20 days' prior written notice of such cancellation or modification.

5.3 Primary Policies. All insurance policies shall be written as primary policies and shall not be contributing with or be in excess of the coverage that either the City or Keizer Heritage may carry. All such

insurance policies shall be issued in the name of both Keizer Heritage and the City and shall be primary to any insurance available to the City.

5.4 Certificates of Insurance. All policies of insurance shall be issued by good, responsible companies, reasonably acceptable to the City and that are qualified to do business in the State of Oregon. Certificates evidencing such policies shall be delivered to the City within 30 days before the expiration of the term of each such policy. As often as any such policy shall expire or terminate, renewal or additional policies shall be procured and maintained by Keizer Heritage in like manner and to like extent. All policies of insurance must contain a provision that the company writing the policy will give the City 30 days' written notice in advance of any cancellation, substantial change of coverage or the effective date of any reduction in amount of insurance.

5.5 Blanket Policies. The obligations of Keizer Heritage to carry the insurance provided for may be brought within the coverage of a so-called blanket policy or policies of insurance; provided, however:

5.5.1 That the coverage afforded will not be reduced or diminished by reason of the use of such blanket policy of insurance;

5.5.2 That the requirements set forth are otherwise satisfied; and

5.5.3 That, as to all insurance, the City shall be named as additional insured.

5.6 Increase of Liability Insurance. The City may from time to time, but not more frequently than once every three years, require that the amount of public liability insurance to be maintained by Keizer Heritage under Section 5.2 be increased so that the amount adequately protects the City's interest based on amounts of coverage required of comparable tenants in comparable buildings.

## SECTION 6

## CITY'S RIGHT TO PERFORM COVENANTS OF KEIZER HERITAGE

6.1 Payment by City. If Keizer Heritage at any time fails to pay any Tax in accordance with the provisions of this Lease or fails to make any other payment or perform any other act on its part to be made or performed, then the City, after 10 days' notice to Keizer Heritage (or without notice in case of an emergency) and without waiving or releasing Keizer Heritage from any obligation of Keizer Heritage contained in this Lease or from any default by Keizer Heritage and without waiving the City's right to take such action as may be permissible under this Lease as a result of such default, may (but shall be under no obligation to):

6.1.1 Pay any Tax payable by Keizer Heritage pursuant to the provisions of this Lease; or

6.1.2 Make any other payment or perform any other act on Keizer Heritage's part to be made or performed as provided in this Lease, and may enter the Premises and the Improvements for any such purpose, and take all such action, as may be necessary.

6.2 Repayment to City. All sums so paid by the City and all costs and expenses incurred by the City, including reasonable attorney fees (calculated at the City's actual out-of-pocket costs for legal services), in connection with the performance of any such act, together with, if Keizer Heritage does not pay the same within the 30-day period after notice from the City, interest from the date of such payment or occurrence by the City of such cost and expense until paid, at the annual rate of eight percent (8%) shall be paid by Keizer Heritage to the City on demand.

## SECTION 7

## COMPLIANCE WITH LEGAL REQUIREMENTS

7.1 Definition of Legal Requirements. For purposes of this Lease, the term "Legal Requirements" includes all present and future laws, ordinances, orders, rules, regulations and requirements of all federal, state, and municipal governments, departments, commissions, boards and officers, forseen or unforeseen, ordinance as well as extraordinary.

7.2 Compliance Required. Throughout the Term, Keizer Heritage shall promptly comply with all Legal Requirements that may apply to the Premises or to the use or manner of uses of the Premises or the Improvements or the owners or users of the Improvements, whether or not the Legal Requirements affect the interior or exterior of the Improvement, necessitate structural changes or improvements, or interfere with the use and enjoyment of the Premises or the Improvements, and whether or not compliance with the Legal Requirements is required by reason of any condition, event, or circumstance existing before or after the Term commences. Keizer Heritage shall pay all costs of compliance with Legal Requirements.

7.3 Right to Contest. Keizer Heritage shall have the right, after prior written notice to the City, to contest by appropriate legal proceedings, diligently conducted in good faith, in the name of Keizer Heritage or the City or both, without cost or expense to the City, the validity or application of any Legal Requirement subject to the following:

7.3.1 If, by the terms of any Legal Requirement, compliance may legally be delayed pending the prosecution of any such proceeding without the occurrence of any lien, charge, or liability of any kind against all or any part of the Premises or the Improvements and without subjecting Keizer Heritage or the City to any liability, civil or criminal. for failure to comply, Keizer Heritage may delay compliance until the final determination of such proceeding; or

7.3.2 If any lien, charge, or civil liability would be incurred by reason of any such delay, Keizer Heritage nevertheless may contest the matter and delay compliance, provided that such delay would not subject the City to criminal liability or fine, and Keizer Heritage

7.3.2.1 Furnishes to the City security, reasonably satisfactory to the City, against any loss or injury by reason of such contest or delay, and

7.3.2.2 Prosecutes the contest with due diligence.

7.4 Cooperation by the City. The City shall execute and deliver any appropriate papers that may be necessary or proper to permit Keizer Heritage to contest the validity or application of any Legal Requirement, provided all the requirements of this section have been satisfied by Keizer Heritage and the City will incur no cost.

## SECTION 8

## REPAIRS AND MAINTENANCE

8.1 General Maintenance. Keizer Heritage shall maintain, repair, and replace the Premises and the Improvements as necessary to keep them in good order, condition, and repair throughout the entire Term. Keizer Heritage's obligations shall extend to both structural and nonstructural items and to all maintenance, repair, and replacement work, including but not limited to unforeseen and extraordinary items. Keizer Heritage shall maintain the Premises of the development in good order, condition, and repair throughout the entire Term. The City shall be responsible for all aspects of maintaining any joint parking area, but Keizer Heritage shall be responsible for landscaping, cleaning, snow and ice removal and lighting on the remainder of the Premises. In order to facilitate the maintenance and repair of the premises, Keizer Heritage shall develop and maintain a "sinking fund" to pay for the costs of repair and replacement of major

components of the building, including roof, HVAC and structural components, in amounts reasonably necessary to fund such replacement and repair.

8.2 City Not to Provide Utilities. With the exception of water service, the City shall not be required to furnish to Keizer Heritage any facilities or services of any kind whatsoever during the Term, such as, but not limited to, steam heat, gas, hot water, electricity, light, and power. The City shall in no event be required to make any alterations, rebuildings, replacements, changes, additions, improvements, or repairs during the Term.

8.3 Assignment of Rights. The City assigns to Keizer Heritage, without recourse, such rights, if any, as the City may have against *any* parties causing damage to the Improvements on the Premises to sue for and recover amounts expended by Keizer Heritage as a result of such damage.

## SECTION 9

## ALTERATIONS, ADDITIONS, AND NEW IMPROVEMENTS

The term "Modifications' means any demolition, improvement, alteration, change, or addition, of, in or to all or any part of the Premises or the Improvements. The term "Minor Modifications' shall mean any Modifications costing less than $50,000, and the term "Major Modifications" shall mean any and all Modifications other than Minor Modifications. Multiple Modifications occurring within a period of 365 days shall be deemed a single Modification for the purposes of applying the provisions contained in this section. At any time during the Term and at Keizer Heritage's own cost and expense, Keizer Heritage may make or permit to be made any Minor Modifications, provided there is no existing and unremedied default on the part of Keizer Heritage, of which Keizer Heritage has received notice of default, under any of the terms, covenants, and conditions of this Lease. Major Modifications shall require the prior consent of the City, which consent shall not be unreasonably withheld or delayed. All salvage material in connection with any Modification that Keizer Heritage is permitted to make shall belong to Keizer Heritage.

## SECTION 10

## TITLE TO IMPROVEMENTS

Title to Improvements shall be and remain in Keizer Heritage until the expiration of the Term, as may be extended hereunder, unless this Lease is terminated sooner as provided herein. Upon such expiration or sooner termination, title to the Improvements shall automatically pass to, vest in, and belong to the City without further action on the part of either party and without cost or charge to the City. During the Term, and any extensions thereof, Keizer Heritage shall be entitled for all taxation purposes to claim cost recovery deductions and the like on the Improvements, if applicable.

## SECTION 11

## NO WASTE

Keizer Heritage shall not do or suffer any waste or damage, disfigurement, or injury to the Premises or the Improvements. Keizer Heritage agrees that it shall not remove the building from the Premises either during the term of the Lease or upon termination.

## SECTION 12

## INSPECTION AND ACCESS

12.1 Right to Inspect. Keizer Heritage shall permit the City or its authorized representative to enter the Premises and the Improvements at all reasonable times during usual business hours for the purposes of inspecting the same and making any repairs or performing any work that Keizer Heritage has neglected or

refused to make in accordance with the terms, covenants, and conditions of this Lease. Nothing in this Lease shall imply any duty or obligation on the part of the City to do any such work or to make any Improvements of any kind whatsoever to the Premises (including, but not limited to, repairs and other restoration work made necessary due to any fire, other casualty, or partial condemnation, irrespective of the sufficiency or availability of any fire or other insurance proceeds, or any award in condemnation, which may be payable). The performance of any work by the City shall not constitute a waiver of Keizer Heritage's default in failing to perform the same.

12.2 Storage of Supplies and Equipment. During the progress of any work on the Premises or the Improvements performed by the City pursuant to the provisions in this section, the City may keep and store on the Premises all necessary materials, tools, supplies, and equipment. The City agrees to keep any disruption of Keizer Heritage's operation to a minimum. However, the City shall not be liable for inconvenience, annoyance, disturbance, loss of business, or other damage of Keizer Heritage or any user by reason of making such repairs or performing any such work, or on account of bringing materials, tools, supplies, and equipment onto the Premises or into the Improvements during the course of the work and the obligations of Keizer Heritage under this Lease shall not be affected by the work.

12.3 Notice to Keizer Heritage. Except in the event of emergency repairs, all entry to the Premises by the City shall require at least 24 hours' advance notice to Keizer Heritage. In the event of any emergency repairs, the City shall use reasonable efforts to give Keizer Heritage the earliest possible notice of the same.

## SECTION 13

## CITY'S EXCULPATION AND INDEMNITY

13.1 City Not Liable for Damage. Keizer Heritage shall be responsible for the condition of the Premises and of the Improvements, and except to the extent of any fault by the City, its employees, officers or agents, the City shall not in any event whatsoever be liable for any injury or damage to any property or to any person happening on, in, or about the Premises or the Improvements or any injury or damage to the Premises or the Improvements or to any property, whether belonging to Keizer Heritage or to any other person, caused by any fire, breakage, leakage, defect, or bad condition in any part or portion of the Premises or of the Improvements, or from steam, gas, electricity, water, rain, or snow that may leak into, issue, or flow from any part of the Premises or the Improvements from the drains, pipes, or plumbing work of the same, or from the street, subsurface, or any place or quarter, or due to the use, misuse, or abuse of all or any of the Improvements or from any kind of injury that may arise from any other cause whatsoever on the Premises or in or on the Improvements, including defects in construction of the Improvements, latent or otherwise.

13.2 Imperfections. Except to the extent of any fault by the City, its employees, officers or agents, Keizer Heritage shall indemnify and hold the City harmless against and from all liabilities, obligations, damages, penalties, claims, costs, charges, and expenses, including reasonable architect and attorney fees that may be imposed on or incurred by or asserted against the City by reason of any of the following occurrences during the Term:

13.2.1 Any work or thing done in, on, or about all or any part of the Premises or the Improvements by Keizer Heritage or any party other than the City;

13.2.2 Any use, nonuse, possession, occupation, condition, operation, maintenance, or management of all or any part of the Premises or the Improvements or any adjacent alley, sidewalk, curb, vault, passageway, or space;

13.2.3 Any negligence on the part of Keizer Heritage or any of its agents, contractors, servants, employees, sublessees, licensees, or invitees;

13.2.4 Any accident, injury, or damage to any person or property occurring in or on the Premises or the Improvements; or

13.2.5 Any failure on the part of Keizer Heritage to perform or comply with any of the covenants, agreements, terms, provisions, conditions, or limitations contained in this Lease on its part to be performed or complied with.

13.3 Duty to Defend. In case any action or proceeding is brought against the City by reason of any such claim, Keizer Heritage upon written notice from the City shall, at Keizer Heritage's expense, resist or defend such action or proceeding by counsel approved by the City in writing, which approval shall not be unreasonably withheld. The City shall not make any claim against Keizer Heritage with respect to any of such risks as to which Keizer Heritage has furnished the City with insurance policies or certificates of insurance evidencing coverage of such risks unless and until the insurer fails or refuses to defend and/or pay all or any part of a third-party claim.

## SECTION 14

## ASSIGNMENT AND SUBLETTING

14.1 . Transfer Void. Except as provided in Section 2.2, Keizer Heritage shall neither assign, transfer, attempt to assign or transfer, nor permit any involuntary assignment or transfer of its rights or obligations under this Agreement or in the Building itself, in whole or in part, without the prior written consent of the City. Such consent may be withheld with or without cause in the City's sole discretion. Any such assignment, transfer, or attempt to do so, whether voluntary or involuntary, without such prior written consent shall automatically and without further notice render this Agreement null and void.

14.2 Subletting Prohibited. Keizer Heritage shall in no way sublet any portion of the Improvements or Premises, subject to Section 2. 2.

## SECTION 15

## DEFAULT; REMEDIES

15.1 Items of Default. The occurrence of anyone or more of the following events of default constitutes a breach of this Lease by Keizer Heritage:

15.1.1 If Keizer Heritage defaults in the payment of Rent due and payable by Keizer Heritage, and such default continues for 30 days after the City has given Keizer Heritage a notice specifying the same; or

15.1.2 If Keizer Heritage, whether by action or inaction, is in default of any of its obligations under this Lease (other than a default in the payment of Rent by Keizer Heritage) and such default continues and is not remedied within 60 days after the City has given Keizer Heritage a notice specifying the same, or, in the case of a default that can be cured but not within a period of 60 days, if Keizer Heritage has not (1) commenced curing such default within such 60-day period; (2) notified the City of Keizer Heritage's intention to cure the default; or (3) continuously and diligently completed the cure of the default.

15.2 Notices. During any 12-month period, Keizer Heritage shall be entitled to only two notices regarding the same item or type of default pursuant to Section 15.1.2.

15.3 Remedies. Upon the occurrence of an event of default, the City may exercise any one or more of the remedies set forth in this section or any other remedy available under applicable law or contained in this Lease:

15.3.1 The City or the City's agents and employees may immediately or at any time thereafter reenter the Premises either by summary eviction proceedings or by any suitable action or proceeding at law, or by force or otherwise, without being liable to indictment, prosecution, or damages, and may repossess the same, and may remove any person from the Premises, to the end that the City may have, hold, and enjoy the Premises.

15.3.2 The City may relet the whole or any part of the Premises from time to time, either in the name of the City or otherwise, to such lessees for such terms ending before, on, or after the expiration date of the Lease Term, at such rentals and on such other conditions (including concessions and free rent) as the City may determine to be appropriate. To the extent allowed under Oregon law, the City shall have no obligation to relet all or any part of the Premises and shall not be liable for refusal to relet the Premises, or, in the event of such reletting, for refusal or failure to collect any rent due on such reletting; and any action of the City shall not operate to relieve Keizer Heritage of any liability under this Lease or otherwise affect such liability. The City at its option may make such physical changes to the Premises as the City, in its sole discretion, considers advisable and necessary in connection with any such reletting or proposed reletting, without relieving Keizer Heritage of any liability under this Lease or otherwise affecting Keizer Heritage's liability.

15.4 Waiver. No failure by the City to insist on the strict performance of any agreement, term, covenant, or condition of this Lease or to exercise any right or remedy consequent upon a breach, and no acceptance of full or partial Rent during the continuance of any such breach, constitutes a waiver of any such breach or of such agreement, term, covenant, or condition. No agreement, term, covenant, or condition to be performed or complied with by Keizer Heritage, and no breach by Keizer Heritage, shall be waived, altered, or modified except by a written instrument executed by the City. No waiver of any breach shall affect or alter this Lease, but each and every agreement, term, covenant, and condition of this Lease shall continue in full force and effect with respect to any other then-existing or subsequent breach.

15.5 Remedies Cumulative. Each right and remedy provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by the City or Keizer Heritage of anyone or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the party in question of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

## SECTION 16

## TRANSFER OF INTEREST BY CITY

The City may not sell, exchange, assign, transfer, convey, contribute, distribute, or otherwise dispose of all or any part of its interest (called "the City's Interest") in the Premises or this Lease (including but not limited to the City's reversion) without the written consent of Keizer Heritage. Such consent shall not be unreasonably withheld.

## SECTION 17

## EXTENSIONS OF LEASE

The Term may be extended by Keizer Heritage for three successive additional terms of five-years each, each five-year term to begin on the first day following the end of the expiring original or renewal term (i.e., to begin July 1, 2022, July 1, 2027 and July 1, 2032, if each is renewed as provided herein) as follows:

17.1 Keizer Heritage gives the City written notice of its intent to extend the lease not less than 90 days prior to the end of the original or extended term which is about to expire.

17.2 Keizer Heritage is not in material default of this lease as of the beginning of the renewal term.

17.3 Keizer Heritage remains in good standing as an Oregon non-profit corporation and is still recognized by the Internal Revenue Service as a tax-exempt entity under IRC 501(c)(3).

17:4 Except with reference to the term of the lease, and except as the parties may then renegotiate by mutual consent, all other provisions of this Lease (including rent) shall apply during each renewal term of this lease.

**SECTION 18**

**CITY'S RIGHT TO ENCUMBER**

The City, during the Term and any extension thereof, may not encumber, mortgage, pledge, or otherwise hypothecate its fee simple interest in the Premises without Keizer Heritage's consent.

**SECTION 19**

**NONMERGER**

There shall be no merger of this Lease, or of the leasehold estate created by this Lease, with the fee estate in the Premises by reason of the fact that this Lease, the leasehold estate created by this Lease, or any interest in this Lease or in any such leasehold estate, may be held, directly or indirectly, by or for the account of any person who shall own the fee estate in the Premises or any interest in such fee estate, and no such merger shall occur unless and until all persons at the time having an interest in the fee estate in the Premises and all persons having an interest in this Lease, or in the leasehold estate created by this Lease, shall join in a written instrument effecting such merger and shall duly record the same.

**SECTION 20**

**QUIET ENJOYMENT**

Keizer Heritage, on paying the Rent and observing and keeping all covenants, agreements, and conditions of this Lease on its part to be kept, shall quietly have and enjoy the Premises during the Term, and any extensions thereof, without hindrance or molestation by anyone claiming by, through, or under the City as such, subject, however, to the exceptions, reservations, and conditions of this Lease.

**SECTION 21**

**SURRENDER**

21.1 Surrender of Premises. Except as otherwise provided, Keizer Heritage, on the last day of the Term or any extension thereof, if not further renewed, shall surrender and deliver up the Premises and all Improvements to the possession and use of the City without fraud or delay, free and clear of all lettings and occupancies other than subleases then terminable at the option of the City or subleases to which the City shall have specifically consented, and free and clear of all liens and encumbrances other than those, if any, presently existing or created or suffered by the City, without any payment or allowance whatever by the City on account of any Improvements on the Premises. Also at the option of Keizer Heritage at any time it so determines, Keizer Heritage may voluntarily terminate this lease and surrender and deliver up the Premises and all Improvements to the City. At the time that Keizer Heritage surrenders the Premises under this Section 21.1, Keizer Heritage shall surrender to the City the balance of the sinking fund referred to in Section 8.1, provided that the City shall then maintain and use such funds exclusively for the continued maintenance and repair of the building and not otherwise. The City shall maintain the Building pursuant to Section 22.

21.2 Removal of Personal Property. When furnished by or at the expense of Keizer Heritage or any sublessee, furniture, fixtures, and equipment may be removed by Keizer Heritage at or before this Lease terminates, provided, however that the removal will not injure the Premises or the Improvements or necessitate changes in or repairs to the same. Keizer Heritage shall pay or cause to be paid to the City the cost of repairing any damage arising from such removal and restoration of the Premises and/or the Improvements to their condition before such removal.

21.3 Abandonment of Personal Property. Any personal property of Keizer Heritage or any sublessee that shall remain on the Premises after the termination of this Lease and the removal of Keizer Heritage or such sublessee from the Premises may, at the option of the City, be deemed to have been abandoned by Keizer Heritage or such sublessee and may either be retained by the City as its property or be disposed of, without accountability, in such manner as the City may see fit, or if the City gives written notice to Keizer Heritage to such effect, such property shall be removed by Keizer Heritage at Keizer Heritage's sole cost and expense. If this Lease terminates early for any reason other than the default of Keizer Heritage then, anything to the contrary notwithstanding, Keizer Heritage or any sublessee shall have a reasonable time thereafter to remove its personal property.

21.4 City Not Responsible for Loss. The City shall not be responsible for any loss or damage occurring to any property owned by Keizer Heritage or any sublessee.

21.5 Survival of Provisions. The provisions of this section shall survive any termination of this Lease.

## SECTION 22

## BUILDING PERMANENTLY KEPT FOR PUBLIC USE

Upon termination of this Lease for any reason at any time, the City agrees that the Building will be permanently dedicated to historical, literary, cultural and similar public uses, so long as an appropriate organization, reasonably acceptable to the City, is able to operate the Building upon terms reasonably similar to the terms contained in this Lease. Nothing contained herein shall obligate the City to keep the Building open for public use. Nothing contained herein obligates the City in any manner whatsoever to expend funds to maintain or operate the Building except as to the “sinking fund” received by the City under Section 21.1. The agreement by the City contained in this Section is personal to Keizer Heritage and shall not encumber or otherwise run with the land. Such agreement can be enforced only by Keizer Heritage or its successors.

## SECTION 23

## INVALIDITY OF PARTICULAR PROVISIONS

If any term or provision of this Lease or the application of the Lease to any person or circumstances is, to any extent, invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

## SECTION 24

## NO REPRESENTATIONS

24.1 Except as set forth in subsection 24.2, Keizer Heritage acknowledges that it has examined the Premises and that no representations as to the condition of the Premises have been made by the City or any agent or person acting for the City (except as expressly provided in this Lease). Before any construction commences on the Premises, Keizer Heritage shall conduct tests of the subsurface and soil conditions to

ascertain the suitability of the Premises for the contemplated Project and shall furnish such fill and take such other steps as may be required before the commencement of construction. The City shall have no liability because of, or as a result of, the existence of any subsurface or soil condition, either on the Premises or on adjacent land that might affect Keizer Heritage's construction.

24.2 The City represents that the Premises have not been used for any purpose or in any way in violation of the certificate of occupancy, or of Legal Requirements, including but not limited to Legal Requirements respecting any land use regulations or Hazardous Substances. Should any underground fuel storage tanks be discovered on the Premises, the City agrees that it will assume full responsibility for removal and any necessary remediation due to the existence of such tanks.

The term "Hazardous Substance" means any hazardous, toxic, or dangerous substance, waste, or material that is the subject of environmental protection Legal Requirements, including but not limited to the items listed in the United States Department of Transportation Hazardous Materials Table (49 CFR §172.1 01) or designated as hazardous substances by the United States Environmental Protection Agency (40 CRF pt 302). The term "Legal Requirements" includes but is not limited to all environmental protection laws such as the Comprehensive Environmental Response, Compensation and Liability Act (42 USC §6901 et seq.), the Federal Water Pollution Control Act (33 USC §6901 et seq.), the Federal Water Pollution Control Act (33 USC § 1267 et seq.), and the Clean Air Act (42 USC §2001 et seq.).

## SECTION 25

## ESTOPPEL CERTIFICATE

Either party, within 10 days after a request from time to time made by the other party and without charge, shall give a certification in writing to any person, firm, or corporation reasonably specified by the requesting party stating (1) that this Lease is then in full force and effect and unmodified, or if modified, stating the modifications; (2) that Keizer Heritage is not in default in the payment of Rent to the City, or if in default, stating such default; (3) that as far as the maker of the certificate knows, neither party is in default in the performance or observance of any other covenant or condition to be performed or observed under this Lease, or if either party is in default, stating such default; (4) that as far as the maker (if the City) of the certificate knows, no event has occurred that authorized, or with the lapse of time will authorize, Keizer Heritage to terminate this Lease, or if such event has occurred, stating such event; (6) that as far as the maker of the certificate knows, neither party has any offsets, counterclaims, or defenses, or, if so, stating them; (6) the dates to which Rent have been paid; and (7) any other matters that may be reasonably requested by the requesting party.

## SECTION 26

## FORCE MAJEURE

If the performance by either of the parties of their respective obligations under this lease (excluding monetary obligations) is delayed or prevented in whole or in part by any Legal Requirement (and not attributable to an act or omission of the party) or by any acts of God, fire or other casualty, floods, storms, explosions, accidents, epidemics, war, civil disorders, strikes or other labor difficulties, shortage or failure of supply of materials, labor, fuel, power, equipment, supplies or transportation, or by any other cause not reasonably within the party's control, whether or not specifically mentioned, the party shall be excused, discharged, and released of performance to the extent such performance or obligation (excluding any monetary obligation) is so limited or prevented by such occurrence without liability of any kind.

## SECTION 27

## NOTICES

Any notice required or permitted by the terms of this Lease shall be deemed given if sent by United States registered or certified mail, postage prepaid, return-receipt requested; and addressed as follows:

| | |
|---|---|
| If to the City: | City Attorney<br>CITY OF KEIZER<br>P.O. BOX 21000<br>KEIZER, OR 97307-1000 |
| If to Keizer Heritage: | KEIZER HERITAGE FOUNDATION, INC.<br>P.O. BOX 20845<br>KEIZER, OR 97307 |

or such other addresses as may be designated by either party by written notice to the other. Except as otherwise provided in this Lease, every notice, demand, request, or other communication shall be deemed to have been given three days after deposit in the United States mail, postage fully prepared, addressed to the party as set forth above.

## SECTION 28

## COSTS AND ATTORNEY FEES

If either party brings an action to recover any sum due or for any breach and obtains a judgment or decree in its favor, the court may award to such prevailing party its reasonable costs and reasonable attorney fees (calculated at the City's actual out-of-pocket costs for legal services), specifically including reasonable attorney fees and costs incurred in connection with any appeals (whether or not taxable as such by law).

## SECTION 29

## ENTIRE AGREEMENT

This Lease contains the entire agreement between the parties and, except as otherwise provided, can be changed, modified, amended, or terminated only by an instrument in writing executed by the parties. It is mutually acknowledged and agreed by Keizer Heritage and the City that there are no verbal agreements, representations, warranties, or other understandings affecting this Lease.

## SECTION 30

## APPLICABLE LAW

This Lease shall be governed by, and construed in accordance with, the laws of the state of Oregon.

## SECTION 31

## INTEREST ON RENT ARREARAGES

All arrearages in the payment of Rent that Keizer Heritage fails to pay within the 30-day period after notice from the City shall bear interest from the date due until paid, at the rate defined in Section 6.2 above.

## SECTION 32

## TIME ESSENCE

Time is of the essence in the performance of this Lease.

## SECTION 33

## COVENANTS TO BIND AND BENEFIT PARTIES

The covenants and agreements contained in this Lease shall bind and inure to the benefit of the City, its successors and assigns, and Keizer Heritage and its successors and assigns.

## SECTION 34

## DEFINITION OF CITY

The term "the City" as used in this Lease means only the owner for the time being of the Premises, so that in the event of a sale, transfer, conveyance, or other termination of the City's interest in the Premises, the City shall be and is entirely freed and relieved of all liability of the City thereafter accruing, and in such event the City shall remit any funds held by the City, in which Keizer Heritage has an interest, to the successor owner of the Premises. The City shall remain liable for any such money not so remitted. It shall be deemed and construed without further agreement between the parties or their successors in interest, or between the parties and such successor owner of the Premises, that such successor owner has assumed and agreed to carry out any and all agreements, covenants, and obligations of the City thereafter accruing.

## SECTION 35

## RECORDATION OF LEASE

Either Keizer Heritage or the City may record an executed memorandum of this lease.

## SECTION 36

## STATUTORY WARNING

**BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.**

IN WITNESS WHEREOF, Keizer Heritage and the City have caused this Lease to be executed by their duly authorized officers.

The City:

By _____

Its _____

Keizer Heritage:

By _____

Its _____

BARKER SURVEYING CO.
2085 - 25th STREET S.E. • SALEM, OREGON 97302

City of Keizer
January 9, 2008
Lease Area for Schoolhouse

Beginning at a point marking the intersection of the South right-of-way line of Chemawa Road with the East line of Lot 18, Clover Leaf Farms Subdivision which point bears South 00°15'48" East 10.00 feet from the Northeast corner of said Lot 18 and being situated in the Northeast Quarter of Section 2, Township 7 South, Range 3 West of the Willamette Meridian in the City of Keizer, Marion County, Oregon;

thence North 89°58'05" East 4.00 feet;

thence South 00°15'48" East 176.00 feet;

thence South 89°58'05" West parallel with the South right-of-way line of said Chemawa Road, a distance of 22.50 feet;

thence southwesterly along the arc of a 25.00 foot radius curve to the left (the chord of which bears South 71°31'59" West 15.81 feet) a distance of 16.09 feet;

thence southwesterly along the arc of a 25.00 foot radius curve to the right (the chord of which bears South 89°58'05" West 30.00 feet) a distance of 32.17 feet;

thence northwesterly along the arc of a 25.00 foot radius curve to the left (the chord of which bears North 71°35'50" West 15.81 feet) a distance of 16.09 feet;

thence South 89°58'05" West parallel with the South right-of-way line of said Chemawa Road, a distance of 60.00 feet;

thence North 00°15'48" West parallel with the East line of said Lot 18, a distance of 176.00 feet to the South right-of-way line of said Chemawa Road;

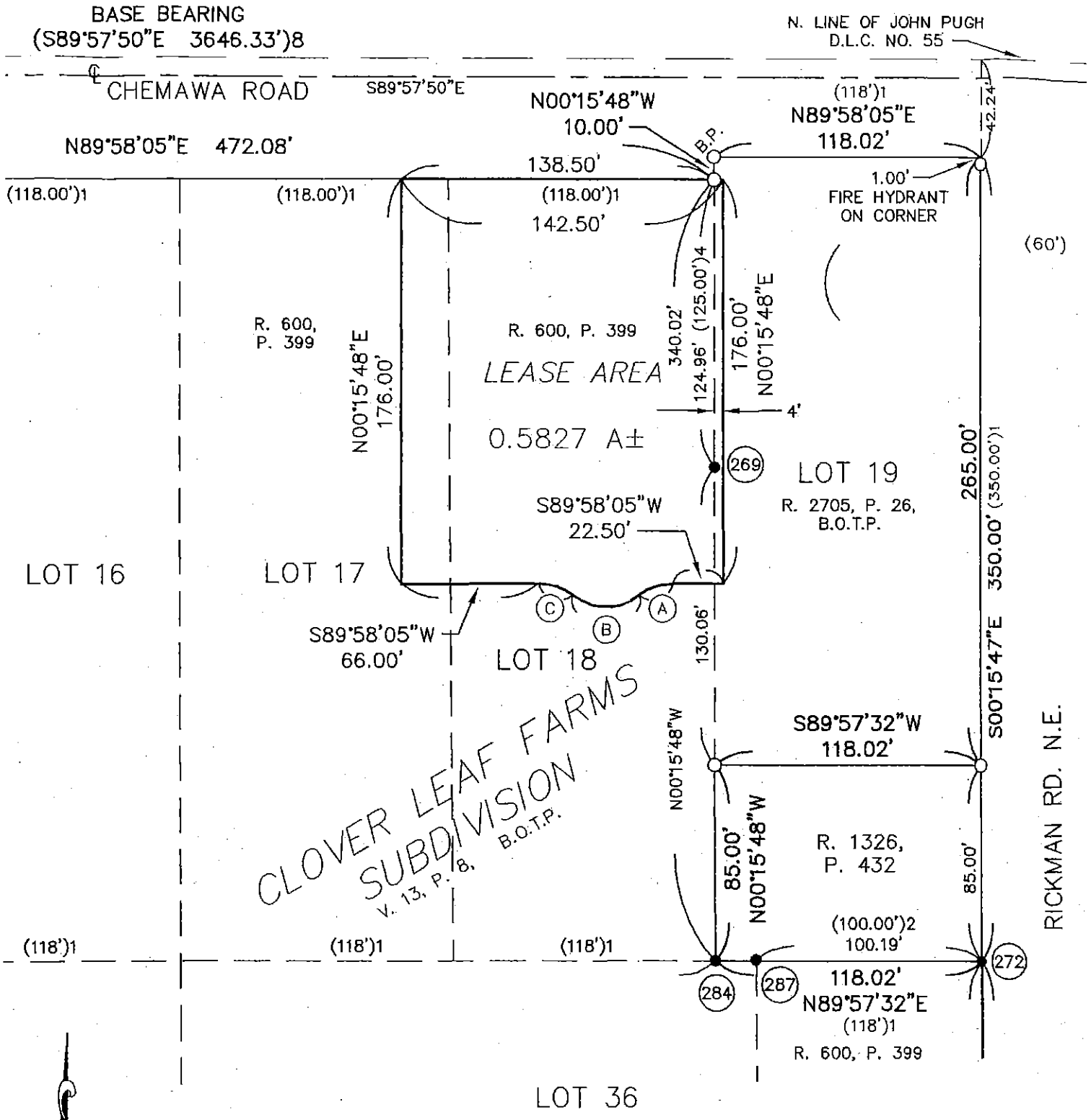
thence North 89°58'05" East along said right-of-way line, a distance of 138.50 feet to the Point of Beginning.

Contains 0.5827 acres of land, more or less.



LAND SURVEYORS
SUBDIVISIONS • CONSTRUCTION STAKING • TOPOGRAPHIC MAPPING
METROPOLITAN • RURAL • PARTITIONINGS • STRUCTURAL LAYOUTS
PHONE (503) 588-8800 • FAX (503) 588-8804

# EXHIBIT "B"




| CURVE DATA TABLE | | | | | |
|---|---|---|---|---|---|
| CURVE | RADIUS | DELTA | LENGTH | CHORD BEARING & DISTANCE | |
| A | 25.00' | 36°52'12" | 16.09' | S71°31'59"W | 15.81' |
| B | 25.00' | 73°44'23" | 32.17' | S89°58'05"W | 30.00' |
| C | 25.00' | 36°52'12" | 16.09' | N71°35'50"W | 15.81' |


**BARKER SURVEYING CO.**
2035 25TH STREET S.E.
SALEM, OREGON 97302
PHONE (503) 588-8800
FAX (503) 588-8804
EMAIL: SURVEYING@WVI.COM


SCALE: 1"=60'

MAT 07001

**CITY COUNCIL MEETING: August 6, 2012**

**AGENDA ITEM NUMBER:_____**

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

**THROUGH: CHRIS EPPLEY**
**CITY MANAGER**

**FROM: MACHELL DEPINA**
**HUMAN RESOURCES DIRECTOR**

**SUBJECT: COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF KEIZER AND THE LABORERS INTERNATIONAL UNION OF NORTH AMERICA, LOCAL 320**

## BACKGROUND

The City's contract with the Laborers International Union of North America, Local 320 was scheduled to expire on June 30, 2012. City staff have negotiated a new Collective Bargaining Agreement with the Laborers International Union of North America, Local 320. The Agreement is attached as Exhibit 'A.'

## FISCAL IMPACT

The financial impact of this contract is $1,300 to the Street Fund, $1,300 to the Storm Water Fund and $3,600 to the Water Fund for a total of $6,200 above that provided for in the FY12-13 Adopted Budget. Each fund has sufficient contingency to cover this cost. A budget adjustment Resolution has been prepared and will be presented for Council approval at tonight's meeting.

Years 2 and 3 of the contract period provide for a cost of living increase that is consistent the General Fund Long Range Planning Model (one Local 320 employee works in the General Fund Parks program).

## RECOMMENDATION

It is recommended that the Council adopt the attached resolution authorizing the City Manager to sign the Collective Bargaining Agreement between the City of Keizer, Oregon and the Laborers International Union of North America, Local 320, effective July 1, 2012 through June 30, 2015.

If you have any questions regarding this staff report, please contact me by phone at 503-856-3417 or by email at depinam@keizer.org. You may also contact Chris Eppley by phone at 503-856-3414 or by email at eppleyc@keizer.org. Thank you.

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2012- _____

AUTHORIZING THE CITY MANAGER TO ENTER INTO A COLLECTIVE BARGAINING AGREEMENT WITH THE LABORERS INTERNATIONAL UNION OF NORTH AMERICA, LOCAL 320

BE IT RESOLVED by the City Council of the City of Keizer that the City Manager is hereby authorized to sign a three-year collective bargaining agreement with the Laborers International Union of North America, Local 320.

BE IT FURTHER RESOLVED said agreement, which is attached as Exhibit 'A' and by this reference incorporated herein, is effective July 1, 2012 through June 30, 2015.

PASSED this _____ day of _____, 2012.

SIGNED this _____ day of _____, 2012.

_____
Mayor

_____
City Recorder

# COLLECTIVE BARGAINING AGREEMENT

# BETWEEN

# CITY OF KEIZER, OREGON

# AND

# LABORERS INTERNATIONAL UNION OF NORTH AMERICA, LOCAL 320

# 2012 - 2015

**TABLE OF CONTENTS**

ARTICLE 1: RECOGNITION ..... 1
ARTICLE 2: UNION SECURITY AND CHECKOFF ..... 1
ARTICLE 3: MANAGEMENT RIGHTS ..... 2
ARTICLE 4: STRIKES AND LOCKOUTS ..... 3
ARTICLE 5: HOLIDAYS ..... 3
ARTICLE 6: VACATIONS ..... 4
ARTICLE 7: HOURS OF WORK ..... 5
ARTICLE 8: SICK LEAVE ..... 6
ARTICLE 9: OTHER PAID LEAVES OF ABSENCE ..... 7
ARTICLE 10: UNPAID LEAVES OF ABSENCE ..... 7
ARTICLE 11: COMPENSATION ..... 7
ARTICLE 12: DISCIPLINE AND DISCHARGE ..... 9
ARTICLE 13: GRIEVANCE PROCEDURE ..... 9
ARTICLE 14: PROBATIONARY PERIOD ..... 11
ARTICLE 15: GENERAL PROVISIONS ..... 11
ARTICLE 16: INSURANCE AND RETIREMENT ..... 13
ARTICLE 17: SAVINGS CLAUSE, FUNDING & WAIVER ..... 13
ARTICLE 18: PERSONNEL RULES ..... 14
ARTICLE 19: TERMINATION AND RECOGNITION ..... 14

# CITY OF KEIZER

## PREAMBLE

This Agreement is entered into as of the by and between the CITY OF KEIZER, OREGON, hereinafter referred to as the "City" and LABORERS' INTERNATIONAL UNION OF NORTH AMERICA, LOCAL 320, affiliated with OREGON & SOUTHERN IDAHO DISTRICT COUNCIL OF LABORERS, hereinafter referred to as the "Union".

The purpose of this Agreement is to set forth the full and complete Agreement between the parties on those matters pertaining to rate of pay, hours of work, fringe benefits and other conditions of employment.

## SCOPE OF AGREEMENT

This Agreement shall apply to all utility workers employed by the City of Keizer, excluding seasonal and temporary employees and supervisory and confidential employees as defined by ORS 243.650 and any additional exempt positions created by the City.

## ARTICLE 1
## RECOGNITION

The City recognizes the Union as the exclusive bargaining agent as certified by the Employment Relations Board for the purposes of establishing salaries, wages, hours of work and other conditions of employment for all utility workers employed by the City of Keizer Public Works Department, excluding seasonal and temporary employees and supervisory and confidential employees as defined by ORS 243.650 and any additional exempt positions created by the City. Seasonal employees are those hired for 1040 hours or less in a calendar year.

## ARTICLE 2
## UNION SECURITY AND CHECKOFF

**Section 2.1.** Membership or nonmembership in the Union shall be the individual choice of employees covered by this Agreement. However, any employee who chooses not to belong to the Union shall make a payment in lieu of dues to the Union. Such payment shall be equal to and shall in no event exceed periodic Union dues uniformly required. Should such "fair share" be declared unlawful under Oregon law by a court of competent jurisdiction, the preceding sentences shall be inoperative. It is recognized that employees covered by this Agreement may be required in the line of duty to perform duties growing out of or connected with labor disputes, which may arise within the City. The Union agrees that no disciplinary or other action will be taken by the Union against employees covered by this Agreement by reason of any such action or conduct in the line of duty.

**Section 2.2.** The City agrees to deduct from the paychecks of each employee who has so authorized it the regular initiation fee (for new employees) and regular monthly dues uniformly required of members of the Union or monthly "payment in lieu of dues," as the case may be. The amounts deducted shall be transmitted monthly to the Union on behalf of the employees involved. Authorization for such deduction shall be in writing, signed by the employees on forms furnished by the Union. The performance of this service is at no cost to the Union. The Union agrees to hold the City harmless against any and all claims, suits, orders or judgments brought against the City as a result of the provision for dues deductions and "fair share" deductions. While the City will not be held liable for deduction errors, it will make proper adjustments with the Union for errors as soon as it is practicable. In order for both parties to have adequate information on dues deduction, an updated list of the names of all employees in the bargaining unit will be delivered to the Union along with the monthly transmittal of the deductions.

The Union agrees to refund to the City any deductions and dues paid to it in error as soon as it is practicable. Such refunded money shall then be returned to the employee(s) as appropriate. The City agrees to provide to the Union the names of new employees within 30 days of the first day of employment of each new employee represented by this Agreement.

**Section 2.3.** Any employee who objects to Association dues or "fair share" payments on the basis of bona-fide religious tenets or teachings of a church or religious body of which such employee is a member or sincerely held religious beliefs in accordance with applicable law, shall not be required to make dues or "fair share" payments. Any such employee shall pay an amount of money equivalent to regular Association dues to a non-religious charity which has been mutually agreed upon by the employee affected and the Association. The employee must provide written verification of such payments to the City's Finance Department on a monthly basis.

**Section 2.4.** All employees covered by this Agreement shall within 30 days of employment either (1) become a member of the Union, (2) tender to the Union his/her fair share payment in lieu of dues, or (3) come to agreement with the Union on payment to a charitable organization based upon the religious grounds described in Section 2.3.

The Union assumes responsibility for repayment of monies found to be illegally deducted by the City under this Article.

## ARTICLE 3
## MANAGEMENT RIGHTS

The City retains all the customary, usual, and exclusive rights connected with the responsibility to manage the affairs of the Department. The City shall retain the exclusive right to exercise all the customary functions of management, including but not limited to:

1. To determine the governmental services to be rendered to the citizens of the City's service area.

2. To determine financial, budgetary, accounting and organization policies and procedures. Reimbursements that qualify under the Internal Revenue Tax Code will be taxed according to IRS regulations.

3. To oversee personnel policies, procedures and programs promulgated under any ordinance or administrative order of the City establishing personnel rules and regulations not inconsistent with any other term of the Agreement.

4. To manage and direct the workforce, including the right to:
   - To determine the methods, processes and manner of performing work;
   - To establish new positions and to determine their proper classification;
   - To determine the duties and qualifications to be assigned or required and determine job classifications;
   - To hire, promote, demote, transfer and retain employees;
   - To discipline and discharge;
   - To lay off and the right to abolish positions or reorganize departments or divisions;
   - To determine schedules of work;
   - To purchase, dispose and assign equipment or supplies: and
   - To contract or subcontract any work.

This article shall not preclude the Union and the City from either (1) meeting during the period of the contract at the request of either party to discuss procedures for avoiding grievances and other problems and for generally improving relations between the parties; or (2) negotiating on any matter during the negotiation of a successor hereto. Each party shall advise the other at least seven (7) working days prior to such meeting as to the subject matter to be discussed.

The exercise of management rights, except where modified by specific provision of this Agreement or by law, is not subject to negotiation during the term of this Agreement.

## ARTICLE 4
## STRIKES AND LOCKOUTS

**Section 4.1.** The Union and the members of the bargaining unit, as individuals or as a group, will not initiate, cause, permit or participate or join any strike, work stoppage, or slowdown, picketing, or any other restriction of work at any location in the City. Employees in the bargaining unit, while acting in the course of their employment, shall not honor any picket line established in the City by the Union or by any other labor organization when called upon to cross such picket line in the fine of duty. Disciplinary action, including discharge, may be taken by the City against any employee or employees engaged in a violation of this article. Such disciplinary action may be undertaken selectively at the option of the City and shall not preclude or restrict recourse to any other remedies, including an action for damages, which may be available to the City.

**Section 4.2**. In the event of a strike, work stoppage, slowdown, picketing, observance of a picket line or other individual choice or collective employee conduct, the Union will, upon notification, secure an immediate and orderly return to work. This obligation and the obligations set forth in Section I above shall not be affected or limited by the subject matter involved in the dispute giving rise to the stoppage or by whether such subject matter is or is not subject to the grievance procedure of the Agreement.

**Section 4.3.** There will be no lockout of employees in the unit by the City as a consequence of any dispute covered by the terms of this Agreement arising during the period of the Agreement.

## ARTICLE 5
## HOLIDAYS

**Section 5.1 - Eligibility.** All bargaining unit members shall receive regular compensation for each authorized holiday, except when the employee is on leave without pay. All regular part-time and job share employees' compensation shall be prorated based on the number of hours they are regularly scheduled to work.

**Section 5.2 - Holidays Observed.** The following holidays are considered compensable holidays:

- New Year's Day — January 1;
- Martin Luther King Jr.'s Birthday — 3rd Monday in January;
- President's Day — 3rd Monday in February
- Memorial Day — Last Monday in May
- Independence Day — July 4;
- Labor Day — 1st Monday in September
- Veterans' Day — November 11;
- Thanksgiving Day — 4th Thursday in November;
- Day after Thanksgiving Day — 4th Friday in November;
- Christmas Day — December 25;

Whenever a holiday falls on a Sunday, the following Monday shall be recognized as a holiday. If such holiday falls on a Saturday, the preceding Friday shall be recognized as a holiday. An authorized holiday that occurs during vacation or sick leave shall not be charged against such leave.

**Section 5.3 - Rescheduling of a holiday.** When an authorized holiday falls on an employee's regularly scheduled day off, the holiday may be subsequently rescheduled, if possible, to another day within the same pay period, or employee may be compensated in direct wages at the manager's discretion.

**Section 5.4 - Personal Leave.** In addition to the above authorized holidays, employees shall receive 16 hours of Personal Leave per fiscal year. Personal Leave will be granted on July 1st of each fiscal year and must be utilized by June 30th of the same fiscal year.

Personal leave may be taken in one-hour increments. Employees are to request time off with their supervisor in advance. Time off will be granted on the basis for each unit of time off requested, an equal amount of time must be given, (example: for one-hour off, one-hour advance notice must be given, two-hours off, two-hours advanced notice, etc. ). Personal leave may not be carried over to the following fiscal year or credited to another type of leave. Personal leave days are not compensable and are not paid at separation.

## ARTICLE 6
## VACATIONS

**Section 6.1 - Eligibility.** All continuing full-time employees are eligible for vacation time. Continuing employees shall accrue vacation time on a monthly basis. After six months of employment, a continuing employee is eligible to take accrued vacation leave.

**Section 6.2 - Accrual.** The amount of vacation time an employee is entitled to earn depends upon the employee's length of service with the City. Except when a department head or City Manager determines that use of vacation leave is inappropriate, an employee shall use at least forty (40) hours of vacation leave each calendar year. Vacation leave shall accrue per month as follows:

- 10.00 hours commencing with the first month through the 48th month (1-4 years) and will be reflected on the employee's bi-weekly pay stub as 4.62 hours;
- 12.00 hours commencing with the 49th month through 108th month (5-9 years) and will be reflected on the employee's bi-weekly pay stub as 5.54 hours;
- 13.33 hours commencing with the 109th month through the 168th month (10-14 years) and will be reflected on the employee's bi-weekly pay stub as 6.15 hours;
- 16.67 hours after the 168th month (15 years and up) and will be reflected on the employee's bi-weekly pay stub as 7.70 hours.
- Part-time employees shall accrue vacation leave on a prorated basis.

**Section 6.3 - Maximum Accrual.** The maximum number of hours of vacation an employee may accrue is 400 hours.

**Section 6.4 - Pay for Vacation.** An employee may elect to cash in vacation pay with the approval of the department head, either in conjunction with or after taking forty (40) hours of vacation leave.

**Section 6.5 - Effect of Holiday.** When an authorized legal holiday occurs during the vacation period, that day shall be observed as a holiday and not be deducted from earned vacation leave.

**Section 6.6 - Vacation Scheduling.** Vacations may be taken any time during the calendar year with advance approval of the employee's supervisor and based on City needs. For vacation leave greater than three (3) days, employees must provide their supervisors with two (2) weeks written notice of their intention to take vacation leave. Requests for vacation leave less than three (3) days will be granted on the basis for each unit of time off requested, an equal amount of time must be given, (example: for one-hour off, one-hour advance notice must be given, two-hours off, two-hours advanced notice, etc. ). Vacations may be taken in increments of hourly, daily, or weekly.

**Section 6.7 - Concurrent Leaves.** No vacation time will accrue during a period while an employee is on an unpaid leave of absence that exceeds thirty days in duration, or is receiving workers' compensation benefits.

If the leave is for a qualified FMLA or OFLA purpose, all leaves of absence shall be counted against the employee's family leave entitlement.

**Section 6.8 - Effect of Separation.** Employees who have not completed six months employment will not be paid for accrued vacation hours. Employees who separate from the City, either voluntarily or involuntarily, after six months of continuous employment, will be entitled to all accrued unused vacation pay calculated according to the accrual schedule.

## ARTICLE 7
## HOURS OF WORK

Article 7 is intended as a basis for recognizing overtime, and shall not be construed as a guarantee of hours of work per day or per week.

**Section 7.1 - Regular Hours.** The regular hours of work each day shall be consecutive except for interruptions for rest periods and an unpaid meal period.

**Section 7.2 - Workweek.** Currently, a regular work schedule normally incorporates fourteen (14) calendar days. Every reasonable effort will be made by the City to provide a regular schedule and two consecutive days off for employees involved in continuous service operations. The City may change schedules to the extent consistent with operating requirements of the City.

**Section 7.3 - Hours.** Currently, the two-week schedule, for the Street, Storm and Water Division workers, consists of eight nine-hour shifts and one eight-hour shift, with every other Friday off work. The schedule for the Parks Division workers currently consists of five eight-hour shifts per week. The City may change the hours of work to the extent consistent with operating requirements of the City.

In addition to the two-week schedules above, the City reserves the right to select employees to complete the annual water main flushing project based on its determination of relative skills, abilities and operational needs. All employees selected for this project will be reassigned to a night shift, with starting and quitting times to be designated by the City for the duration of the project. No employee will be scheduled to work their normal day shift schedule in addition to their night shift. In the event any employee assigned to the project is absent or otherwise unavailable to perform required project work, the City reserves the right to designate alternate workers to complete the project.

**Section 7.4 - Work Schedules.** All employees shall be scheduled to work on a regular shift, and each shift shall have regular starting and quitting times. Except for emergency situations, as set by the City and during the duration of the emergency, work schedules for any work shift shall not be changed unless the changes are posted. Work schedules will be posted as soon as practical.

**Section 7.5 - Duty Hours.** All employees will be required to complete a 7-day duty shift beginning at 5:00 p.m. Monday and ending the following Monday at 5:00 p.m.

**Section 7.6 - Rest Periods.** All employees shall be granted a 15-minute rest period during each half shift, except in emergency situations. Rest periods shall be taken at approximately the middle of each half-shift. Rest periods shall be taken at the jobsite at which work is being performed or at a City facility.

**Section 7.7 - Meal Periods.** All employees shall be granted a lunch period of not less than one-half hour for 9-hour shift days or more than one hour for 8-hour shift days, except in emergency situations. The lunch period shall be without pay, and shall be taken at approximately the middle of the work shift.

## ARTICLE 8
## SICK LEAVE

**Section 8.1 -Eligibility.** All employees shall accrue sick leave at the rate of eight (8) hours leave for each calendar month of service.

**Section 8.2 - Accrual.** Sick leave accrues from the date of employment and is available for use from the date of hire. Unused sick leave will be carried forward to the next year. Employees shall be entitled to unlimited sick leave accrual. Sick leave cannot be used for vacation. If an employee runs out of sick leave, any additional sick time missed will automatically be deducted from the employee's available accrued leave. If no leave is available, the leave will be without pay.

**Section 8.3 - Donation of Sick and Vacation Leave.** An employee may donate up to 40 hours of unused sick leave or vacation leave per calendar year to a donated leave bank administered by the City as long as they maintain at least 40 hours in both their sick and vacation leave banks on an ongoing basis. To be eligible to apply for donated leave, an employee must**:**

1. have a serious illness or medical condition or be caring for a family member with a serious illness or medical condition that requires a prolonged absence from work (anticipate to be absent from work at least two weeks beyond exhaustion of all leave banks);

2. have exhausted all sick leave, compensatory time, vacation, and holiday time; and

3. not be eligible for disability benefits under PERS or the City's long term disability benefits prior to receipt of any donated sick leave.

Applications for donated leave must be made to Human Resources, in writing, and must describe the serious illness or medical condition necessitating the leave. All applications for donated leave must be approved by the City in advance. Donated sick leave will be based on a two (2) hours for one (1) hour (2:1) exchange. Donated vacation leave will be based on a one (1) hour for one (1) hour (1:1) exchange. Donations will be made without regard to differences in pay rate between the employee donating and the employee receiving the donation and will be paid out at the receiving employee's normal rate of pay.

Employees do not accrue sick leave, vacation pay or other benefits during the time they are on donated leave. Donated time cannot be used to extend the employment of an employee who will not be returning to work.

**Section 8.4 - Sick Leave upon Separation.** No payment for accrued sick leave will be paid upon separation.

**Section 8.5 - Retirement.** Upon retirement of an employee, fifty percent (50%) of unused sick leave shall be credited toward retirement benefits.

**Section 8.6 - Sick Leave without Pay.** Upon written application, a leave of absence without pay for non-job related medical reasons may be granted by the City Manager for the remaining period of disability after earned sick leave and other accrued leaves have been exhausted. At the end of one year, an extension must be requested in writing and approved by the City Manager, who may require that the employee submit a certificate from the attending physician.

**Section 8.7 - Procedure.** Employees are expected to call their immediate supervisor on each occasion of absence from work stating the reason for his/her absence as soon as practically possible. The City may require a written statement from a physician after three days absence. A physician's release will be required when the City has reason to believe the employee's return to work would present a health hazard to either the employee or coworkers in their work place.

## ARTICLE 9
## OTHER PAID LEAVES OF ABSENCE

**Section 9.1 - Jury Duty.** Employees shall be granted leave with pay for serving on a jury. Upon being excused from jury service for any reason an employee shall immediately contact the department head or the immediate supervisor for work assignment for the remainder of his regular workday. Employees shall tender to the City any jury duty pay.

**Section 9.2 - Required Court Appearances.** Leave of absence with pay shall be granted for attendance in any court in connection with an employee's officially assigned duties, provided that the requirement to appear in court in as a result of a subpoena filed with the City. The period of such authorized absence shall include the time required for travel (to the court and return to the employee's wok site or The City of Keizer), whichever is appropriate. This provision does not apply in any case where the Union or the employee is a complainant in a case against the City.

**Section 9.3 - Military Leave With Pay**. A full time employee who has completed his required period of probation and who is a member of the Oregon National Guard or of any reserve component of the Armed Forces of the United States, is entitled to a leave of absence with pay from the duties for a period not exceeding 15 calendar days in any single calendar year. Such leave shall be granted without loss of pay and without impairment of other benefits to which he is entitled, except that such leave shall not be construed as official City business. Military leave with pay may be granted only when an employee receives bona fide military orders to active duty for a temporary period. A copy of the appropriate military orders must be furnished to the City when the employee receives same in order for the City to make whatever shift scheduling will be required during the affected employee's absence. Any employee on military leave with pay shall not be paid for such leave by the City unless the employee returns to his position with the City immediately following expiration of the period for which he was ordered to temporary active duty Leave with pay shall not be granted to employees entering the military service for extended and indefinite periods of active duty.

**Section 9.4 - Bereavement Leave**. All employees in the bargaining unit will be entitled to the same bereavement leave benefits as the unrepresented employees as offered and changed by the City. For purposes of this section, the immediate family includes: Mother, Father, Son, Daughter, Sibling, Husband, Wife, Mother-in-law, Father-in-law, Sister-in-law, Brother-in-law, Grandparent and Grandchild. It also includes domestic partners, as defined in City Policy as well as the Mother, Father, Son, Daughter, Siblings, Grandparents and Grandchildren of such domestic partners.

## ARTICLE 10
## UNPAID LEAVES OF ABSENCE

A regular employee may be granted a leave of absence without pay up to thirty (30) days when, in the judgment of the City, the work of the department will not be seriously handicapped. Requests for such leave must be in writing and establish reasonable justification for the leave and the beginning and ending time of the leave. An employee's position will be held open until the ending time approved in the leave request subject to the operational needs of the City.

## ARTICLE 11
## COMPENSATION

**Section 11.1.** The City agrees to pay bargaining unit members during the term of this Agreement the salaries as per the City of Keizer Salary Matrix.

1. The City Council recognizes that fluctuations in the state's economy will affect the market value of salaries. The salary matrix shall automatically be amended each year of this Agreement in July to reflect these fluctuations by provision of a 2.5% increase effective on July 1 of each year of this Agreement.

2. Salary survey for all classifications will be completed and available in conjunction with contract negotiations, unless otherwise agreed to by both parties 60 days in advance of commencement of bargaining.

3. An employee is eligible to receive a Spanish language differential of 5.0 %. Such differential is available if the employee is required to acquire this skill or if the City Manager determines that the second language is of benefit to the City. Employee must be fluent in the language as determined by the City based on a standard and testing program approved by the City.

4. ADVANCED CERTIFICATION. Upon submittal of evidence that the employee has received certification above their level of classification and approved by management, the employee shall receive an additional fifty-five (55) cents per hour over and above their hourly base pay for holding one certification above their level of classification. This pay shall cease when and if the employee moves into a higher Municipal Utility Worker classification.

**Section 11.2.** Employees shall be reimbursed for non-voluntary official use of an employee's personal automobile at the current IRS rate. The employee must obtain prior authorization before using their personal automobile for official City business. The employee shall provide an official City Reimbursement Request Form to the City prior to payment of reimbursement.

**Section 11.3 - Reading the Pumps**. Employees assigned to read the pumps on weekends and holidays will be paid three hours of overtime.

**Section 11.4 - Callback**. Callback is defined as hours a full-time employee is called back to work. Overtime will be paid for a minimum of two hours on a callback. Because of the possibility of multiple calls in a short period of time, the following is offered as a clarification of the two-hour minimum.

- If the call takes, for example, 1.5 hours to complete, the employee will be paid for 2 hours.

- If, while the employee is in the first two hours of the callback, additional calls are received and are completed within the two hours, the employee will be paid for two hours.

- If the call(s) in the first two hours of the callback takes over two hours to complete, then the employee will be paid for the number of hours worked, rounded up to the next whole hour. For example: for work over two hours, but less than three hours, the employee will be paid for three hours; for work over three hours, but less than four hours, the employee will be paid for four hours; and so on.

**Section 11.5 - On-Call Duty Pay.** Any employee assigned by his supervisor to be On-Call Duty time, after regular business hours, shall be compensated at the rate of $250 for the 7-day period for the first two years of the contract ( July 1, 2012 through June 30, 2014). The rate will increase to $300 for the third year of the contract (July 1, 2014 through June 30, 2015). Scheduled On-Call Duty means that the employee will be required to respond to "pager calls" for work situations requiring the assigned employee's immediate attention.

**Section 11.6 - Emergency Callback.** Staff who are not on regularly scheduled On-Call Duty and are called back to work after their regular scheduled shift day ends will be compensated at the rate of one and one-half times the regular rate of pay for a minimum two (2) hours.

**Section 11.7 - Water Main Flushing Project Pay.** All employees assigned to the project will be paid a premium of two dollars ($2.00) per hour for all work performed on the project. In addition, the City will designate a lead worker for the project. The lead worker shall be paid the two dollars ($2.00) premium, plus five percent (5%) out-of-classification pay computed on the total of his/her regular rate and the two dollar ($2.00) premium.

**Section 11.8 - Overtime.**

1. Except as provided for herein, employees shall be compensated at the rate of one and one-half times the regular rate of pay under the following conditions, but in no event shall such overtime compensation be received twice for the same hours:

    a. All assigned hours worked in excess of nine (9) hours per day in a five day work week, or eight (8) hours per day on the ninth day of the two week schedule, for the Street and Water Division employees, or eight (8) hours per day for the Park Division employees (authorized meal times shall not be counted);

    b. All hours worked in excess of 80 hours in a two-week period.

2. Employees may accumulate compensatory time in lieu of overtime at the rate of one and one-half times the amount of actual time worked in excess of their regular hours and will be entitled to take said time off from work. A maximum of 60 hours may be accumulated, with no time limit on when this time must be used. Any amount accumulated over 60 hours will be paid to the employee on the next regular pay period.

3. All work in excess of the regularly scheduled shift shall be paid at the overtime rate of 1.5 times the regular rate of pay for overtime hours worked.

**Section 11.9 - Form of Compensation.** Compensation for authorized overtime, callback, and all holiday work may be paid or accrued as compensation time at the discretion of the City. All overtime must have prior approval of the department head or designated supervisor.

## ARTICLE 12
## DISCIPLINE AND DISCHARGE

All employees will be subject to the "Standards of Conduct" set forth in the City Personnel Policy Manual. The City may impose disciplinary action including but not limited to oral reprimand, written reprimand, demotion, discipline or discharge based on the circumstances of the incident. No regular employee shall be suspended, demoted, or discharged except for cause, nor shall any such employee be suspended, demoted, or discharged arbitrarily. Any discipline action imposed on any bargaining unit employee may be appealed only through the grievance procedure set forth in Article 13 of this Agreement.

## ARTICLE 13
## GRIEVANCE PROCEDURE

**Section 13.1.** Any grievance or dispute, which may arise between the parties concerning the application, meaning, interpretation or enforcement of this Agreement, shall be resolved in the following manner and sequence. The grievant may be represented by the Union at each step of this procedure.

**Step 1.** The affected employee shall first attempt to resolve the dispute informally with the employee's immediate supervisor within seventy-two (72) hours of its occurrence excluding Saturday and Sunday. The immediate supervisor shall then attempt to resolve the matter within ten (10) working days of their discussion with the employee.

**Step 2.** If the grievance has not been settled between the affected employee and the immediate supervisor, the employee shall present the grievance in writing to the Director of Public Works within ten (10) working days, following the supervisor's response. At this and each subsequent step of the grievance procedure, the written grievance submitted by the employee/Union shall include:

(a) a statement of the grievance and the factual allegations upon which it is based;

(b) the Article and Section(s) of this Agreement alleged to have been violated;

(c) the remedy sought;

(d) the name and signature of the individual(s) submitting the grievance or the signature of an authorized union representative in the event the grievance is filed on behalf of an employee(s); and

(e) The date the informal discussion occurred with the immediate supervisor.

Within ten (10) days of receipt of the grievance, the Director of Public Works will schedule a meeting to discuss the dispute with the grievant/Union and such meeting shall occur within thirty (30) days of the Director's receipt of the grievance. The Director of Public Works shall render a written decision within ten (10) days following the herein-referenced meeting.

**Step 3.** If the grievance has not been settled between the affected employee/Union and the Department Head, the employee/Union shall present the grievance in writing to the City Manager within ten (10) working days, following the Department Head's response.

Within ten (10) days of receipt of the grievance, the City Manager will schedule a meeting to discuss the dispute with the grievant/Union and such meeting shall occur within thirty (30) days of the City Manager's receipt of the grievance. The City Manager shall render a written decision within ten (10) days following the referenced meeting.

**Step 4.** If the grievance is not resolved at Step 3, the City and the Union, by mutual agreement, may move to an optional step of a Labor/Management Committee. If this option is not selected within ten (10) days from the issuance of the Step 3 decision by the City Manager, the parties shall automatically proceed to Step 5, below. The Labor/Management Committee shall consist of two representatives appointed by the Union and two representatives appointed by the City. None of the representatives shall be directly involved in the dispute. The Labor/Management Committee shall hear the matter at a mutually convenient time and it shall issue a written decision within two days after hearing the matter. The majority of the Labor/Management Committee shall determine the decision and the decision will be final and binding on all parties. Each member of the Labor/Management Committee shall be entitled to one vote. In the event that the Labor/Management Committee is deadlocked, that result will be noted in writing and the grievance will be deemed to have been denied, allowing the parties to proceed to Step 5.
Step 5. If the grievance is not resolved at Step 4 above and if the Union wishes to pursue the grievance further, the Union shall file a written notice of intent to arbitrate the grievance with the City within fifteen (15) calendar days of the date the decision of the City Manager was received, not including the date of receipt. The parties shall request a list of seven (7) Oregon and Washington arbitrators from the Employment Relations Board. If the parties cannot mutually agree to an arbitrator, they will alternately strike names and the last one will be the arbitrator

**Section 13.2.** The powers of the arbitrator shall be limited to interpreting this contract and to determine if it has been violated. The arbitrator shall have no power to alter, modify, add to, subtract, or detract from the terms of this contract. The arbitrator shall have no authority to substitute judgment for that of the City where the City has retained the right or discretion to act. If the arbitrator is faced with a question of arbitrability at the arbitration hearing, then the arbitrator shall be obligated to first hear argument and evidence and decide that question. If the arbitrator affirmatively decides the question of arbitrability in favor of arbitration, then the arbitrator may hear argument and evidence of the merits of the grievance. If requested by either the Union or the City, the hearings for a question of arbitrability shall be held separately from any hearing on the grievance merits. Within the scope of authority granted under this contract, the decision of the arbitrator shall be binding upon both parties to this contract. The selected arbitrator shall render a decision within thirty (30) calendar days after the close of the hearing. The costs of the arbitrator shall be borne equally by the Union and the City. Each party shall be responsible for costs of presenting its own case to arbitration. Should arbitration be canceled due to a settlement, the parties will split equally any cancellation fees.

**Section 13.3.** If at any step of the grievance procedure the grievant fails to comply with the time limits or procedures set forth in this Article, the grievance shall be deemed abandoned and nonarbitrable. If at any step of the grievance procedures the City fails to issue a response within the time limits set forth in this Article, the grievance will be deemed to be denied and the grievant and the Union may proceed to the next step of the procedure. Time limits referred to in this Article may be waived or extended by mutual Agreement in writing.

**Section 13.4.** An authorized Union representative and employee(s) who are directly involved in a particular grievance shall be allowed to attend meetings with representatives of the City without loss of regular pay if such meetings occur during their respective duty periods. The Union shall advise the City as to which employee(s) will attend such meeting. It shall be the responsibility of each individual employee to provide advance notice of the meeting to the immediate supervisor.

## ARTICLE 14
## PROBATIONARY PERIOD

**Section 14.1- Purpose**. The probationary period is an integral part of the employee's selection process and provides the City with the opportunity to upgrade and improve the department by observing a new employee's work and training, by aiding new employees in adjustment to their positions and by providing an opportunity to reject the employee.

Every new employee hired into the bargaining unit shall serve a probationary period of twelve (12) full months, after which the employee shall be considered a regular employee and granted seniority back to the date of the most recent date of hiring. The Union recognizes the right of the City to terminate probationary employees for any reason. Termination of a probationary employee shall not be subject to the grievance procedure under Article 13.

**Section 14.2 - Allocation of Probationary Period.** The Union recognizes the right of the City to exercise all functions not specifically modified by this Article with respect to probationary employees, including but not limited to, the shifting of work schedules and job classifications, the assignment of on-the-job training, cross-training or other classifications, the requirement that such employees attend training programs on their off-duty.

**Section 14.3 - Promotional Probationary Period.** Regular full time employees promoted into a higher classification shall serve a promotional probationary period of twelve (12) months. The Union also recognizes the right of the City to demote an employee on promotional probationary status to the previous classification for any reason, without prejudice to the City's position that demotion of a probationary employee to the employee's previous classification is a right which may be exercised at the option of the City. Demotion of an employee on promotional probationary status shall not be subject to the grievance procedure.

## ARTICLE 15
## GENERAL PROVISIONS

**Section 15.1 - Gender.** All references to employees in this Agreement shall designate both sexes, and wherever the male gender is used, it shall be construed to include the female gender.

**Section 15.2 - Bulletin Boards.** The City agrees to allow wall space, not to exceed three (3) feet by four (4) feet, for a bulletin board within the Public Works Shop area to be used exclusively by the Union. The Union shall limit its postings of notices and bulletins to such spaces on the bulletin board. The City may limit this privilege if in its judgment such postings reflect discredit upon the City or its agents.

**Section 15.3 - Nondiscrimination/Employee Rights.** The City agrees to post on the bulletin board described in Section 15.2, the rights of employees to be free from discrimination based upon protected classifications and the rights of the employees to form, join, and participate in activities of a labor organization.

**Section 15.4 - Seniority.** Seniority shall be the employee's length of continuous service within the bargaining unit dating from the last date of hire. Seniority shall be broken or terminated if any employee quits, is discharged for cause, is laid off and fails to report to work within three days after being recalled or voluntarily waives an opportunity to return to work from lay off, is laid off from work for any reason for more than nine months (except that in the case of an industrial accident and employee's seniority rights shall continue for only one year), while on leave of absence, accepts another employment without permission, or is retired.

**Section 15.5 - Union Representative.** Authorized representatives of the Union shall be allowed reasonable access to members of the bargaining unit during normal City business hours so long as there is no interruption of the City's work and so long as the employees are on an authorized break period or lunch period. The Union's representatives are expected to announce their presence to a supervisory employee of the City. No Union representative shall contact a bargaining unit member while on duty without the express, prior approval of the City. In addition, the Union's representatives shall be allowed reasonable access to the City's conference rooms, when they are not otherwise in use by the City, for a place to meet with bargaining unit members before or after the normal workday. Special exceptions to these restrictions may be granted at the discretion of the City.

**Section 15.6 - Layoff and Recall.**

**1. Layoff:** In the event a reduction in personnel is determined to be necessary by the City, length of service shall be the determining factor in such layoff, providing the skill, competency, ability and past performance of employees are substantially equal in the opinion of the City.

**2. Recall:** In the event a recall is determined to be necessary to the City, length of service shall be the determining factor in such recall providing the skill, competency, ability and past performance of employees are substantially equal in the opinion of the City. An employee's refusal to accept an offered position from layoff obviates the City's responsibility to make further offers. For the purposes of recalling employees, notice of recall from a layoff period exceeding five regular City work days shall be by certified mail, return receipt requested, sent to the employee at his last known address of record as furnished by the employee to the City. For layoff periods of less than five days, a personal visit by a City representative or a telephone call will suffice.

**Section 15.7 - Outside Employment.** Employees shall not accept outside employment that will interfere with their employment with the City.

**Section 15.8 - Authorized Travel, Training and Conference Attendance.** All employees in the bargaining unit will adhere to the same Travel Policy as provided to the unrepresented employees of the City. The City shall pay the tuition and instructional material costs for any employee required by the City to attend a course of instruction.

The City will pay for any special certifications and exams required by the City that pertains to their work.

**Section 15.9 - Clothing**. Where the City presently furnishes protective and/or work clothing, it shall continue such practice. Each employee shall receive a clothing allowance of $400 at the beginning of each fiscal year (July 1). Employees will be required to launder and maintain uniforms. Uniforms must be worn whenever an employee is on duty. Required protective clothing will be provided.

**Section 15.10 -Personal Use of Cellular Telephones.** All employees in the bargaining unit will adhere to the same Technical Resources Policy as provided to the unrepresented employees of the City.

## ARTICLE 16
## INSURANCE AND RETIREMENT

The City agrees to provide a contribution to a package of employee benefits program for all employees covered under this Agreement.

**Section 16.1 - Insurance.**
Effective July 01, 2012, the City will pay ninety-five percent (95%) of the premium to provide medical and dental insurance coverage for full-time employees who are participating in the City's current Health Net Plan #101097 and Guardian Dental Plan. Employees participating in those plans shall be responsible for paying the remaining five (5%) percent of the premium, irrespective of level of coverage. Employees who elect to be covered by lower cost medical and/or dental plans made available by the City shall receive contributions from the City up to the same amount as required for employees participating in Health Net Plan #101097 and Guardian Dental Plan as stated above. Any premium costs in excess of that amount shall be the employee's responsibility.

For regular part-time employees, the City will split the cost of employee-only medical and dental insurance using the same 95%/5% split as describe above.

All employee contributions shall be paid through payroll deductions.

The City will continue to provide an IRC Section 125 flexible spending account plan.

**Section 16.2**. The City will pay the full premium, for the long-term disability insurance program covering employees in high-risk positions (municipal utility workers). The City will pay the full premium for the $60,000 life insurance benefit for all regular full-time members of the bargaining unit.

**Section 16.3 - Retirement.** All employees in the bargaining unit will be afforded the same retirement plan options as are provided to the unrepresented employees of the City.

## ARTICLE 17
## SAVINGS CLAUSE, FUNDING & WAIVER

**Section 17.1 - Savings Clause.** Should any portion of this Agreement be declared invalid by any court of competent jurisdiction or any agency of the state acting under specific authority of statue, all other provisions of this Agreement shall remain in full force and effect for the duration of this Agreement. It is the intent of the parties that this Agreement shall stand notwithstanding the invalidity of any part.

**Section 17.2 - Funding.** The parties recognize the revenue needed to fund wages and benefits provided by this Agreement must be approved by established budget procedures and, in certain circumstances, by vote of the citizens of the City. All such wages and benefits are therefore contingent upon sources of revenue and, where applicable, voter budget approval. The City has no intention of cutting wage rates and benefits specified in this Agreement because of budgetary limitations, but it cannot and does not guarantee any level of employment in the bargaining unit covered by this Agreement. The City agrees to include in its budget request(s) amounts sufficient to fund the wages and benefits provided by this Agreement, but it makes no guarantee as to passage of such budget requests or voter approval thereof This Section 2 and City action thereunder shall not be subject to the grievance procedure.

**Section 17.3 - Waiver.** The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter appropriate for collective bargaining, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the City and the Union, for the life

of this Agreement, each voluntarily and unqualifiedly waives the right and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter, even though such subjects or matters may not have been within the knowledge or contemplation of either or both of the parties at the time they negotiated or signed this agreement All terms and conditions of employment not covered by this Agreement shall continue to be subject to the City's direction and control.

## ARTICLE 18
## PERSONNEL RULES

The Union agrees to accept the personnel rules and regulations adopted by the City. It is expressly understood that in the event of any conflict between the collective bargaining agreement and the personnel rules, the Agreement shall prevail; provided, however, that every effort shall be made to carry out the purposes of this agreement and the City Personnel Policy Manual.

## ARTICLE 19
## TERMINATION AND RECOGNITION

**Section 19.1 - Length of Contract.** This Agreement shall commence on July 01, 2012 and shall remain in full force and effect until the 30th day of June, 2015.

Either party to this agreement may initiate negotiation for renewal, amendment and or revision of this agreement ninety (90) days prior to termination of this agreement.

**Section 19.2 - Mutual Reopeners.** Any specified Article or Articles of this Agreement may be opened at any time upon mutual written agreement of both the City and the Union during the life of the Agreement.

**Executed on _____**

**CITY OF KEIZER, OREGON**

_____

Chris Eppley Date
City Manager

_____

Bill Lawyer Date
Public Works Director

**LABORERS' INTERNATIONAL UNION OF NORTH AMERICA LOCAL 320**

_____

Business Manager 320 Date

**OREGON AND SOUTHERN IDAHO DISTRICT COUNCIL OF LABORERS'**

_____

Business Manager Date

_____

Local 320 Shop Steward Date

**COUNCIL MEETING: August 6, 2012**

**AGENDA ITEM NUMBER: _____**

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

**THROUGH:** **CHRIS EPPLEY**
**CITY MANAGER**

**FROM:** **SUSAN GAHLSDORF, CPA**
**FINANCE DIRECTOR**

**SUBJECT:** **AUTHORIZATION FOR SUPPLEMENTAL BUDGETS AND AN INTERFUND BORROWING.**

**ISSUE and FISCAL IMPACT:**

ORS 294 provides that a supplemental budget may be adopted when an occurrence or condition which had not been ascertained at the time of the preparation of a budget for the current year which requires a change in financial planning.

The Community Center Fund has unanticipated revenue from Rental Fees collected in FY11-12 which will increase working capital carryforward for FY12-13. One of the City's two small vacuum cleaners is broken and beyond repair requiring the need to purchase a new vacuum.

The General Fund has unanticipated revenue from Civil Forfeitures collected in FY12-13. Civil Forfeitures funds must be used to increase or supplement the resources of the receiving department and are not to be used to replace or supplant the department's appropriations. Specific permissible uses include law enforcement investigations, training, equipment, travel and transportation. The City has identified a need for additional weapons costing $3,500.

Staff anticipates applications for up to four new subdivisions above those projected in the FY12-13 budget. This will increase Land Use Fee revenues by $5,400, Hearings Officer expenses by $4,000 and Public Notice expenses by $1,400 which includes unanticipated zoning changes (urban transition).

The City finalized its Labor Agreement with Local 320 after the FY12-13 budget was adopted. The new agreement provides for Personnel Services costs above that anticipated in the budget. There is sufficient contingency in the Street Fund, Water Fund and Storm Water Fund to cover these Personnel Services costs.

Staff has reached agreement with the Picullel's on the cost differential owed on the "Berning Contract" dated February 20, 1993. The amount due and payable under this agreement is $75,000. Such agreement had not been reached prior to the FY12-13 Adopted Budget. The City currently does not have sufficient funds in the Sewer Reserve Fund to pay this expense and will need to borrow up to $37,800 from the Transportation Improvement Fund until future revenues are received. The aforementioned subdivision developments could bring in as much as $15,000 in Sewer Acreage Fees in FY12-13. However, this revenue is not certain; if it does transpire, the amount borrowed from the Transportation Fund will be reduced or repaid accordingly. There are currently no loans owed to the Transportation Fund from any other City Fund.

ORS 294.468 provides for capital improvement Interfund loans for up to ten years at an interest rate equal to the local government investment pool rate immediately prior to the adoption of the resolution authorizing the loan. The Pool rate is currently one-half of one-percent. The maximum amount of interest due in ten years for the full amount borrowed would be less than $2,000.

Whereas the City anticipated the 17th Avenue Pump station project would be completed in FY11-12. The project fell behind schedule and needs to be completed in FY12-13. Appropriations laps at year end, therefore ending fund balance at June 30, 2012 is higher than anticipated. Ending Fund balance becomes working capital carryforward on July 1, 2012 and appropriation needs to be approved for costs associated with completion of this project estimated at $50,000.

**RECOMMENDATION:** Staff recommends the City Council approve the attached Resolutions authorizing an interfund loan and budget adjustments as described above.

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2012-_____

AUTHORIZATION FOR SUPPLEMENTAL BUDGET
VACUUM, WEAPONS, HEARINGS OFFICER, PUBLIC WORKS PERSONNEL SERVICES, BERNING AGREEMENT PAYMENT & PUMP STATION PROJECT

WHEREAS ORS 294 provides that a supplemental budget may be adopted when an occurrence or condition which had not been ascertained at the time of the preparation of a budget for the current year which requires a change in financial planning.

WHEREAS the City has unanticipated revenue from Rental Fees collected in FY11-12 which will increase working capital carryforward for FY12-13. One of the City's two small vacuum cleaners is broken and beyond repair requiring the need to purchase a new vacuum.

WHEREAS the City has unanticipated revenue from Civil Forfeitures collected in FY12-13. Civil Forfeitures funds must be used to increase or supplement the resources of the receiving department and are not to be used to replace or supplant the department's appropriations. Specific permissible uses include law enforcement investigations, training, equipment, travel and transportation. The City has identified a need for additional weapons in FY12-13.

WHEREAS the City anticipates applications for up to four new subdivisions above those projected in the FY12-13 budget. This will increase Land Use Fee revenues and Hearings Officer and Public Notice expenses. Unanticipated zoning changes (urban transition) will also increase public notice costs.

WHEREAS the City finalized it's Labor Agreement with Local 320 after the FY12-13 budget was adopted. The new agreement provides for Personnel Services costs above that anticipated in the budget. There is sufficient contingency to cover these Personnel Services costs.

WHEREAS the City has reached agreement with the property owners on the cost differential owed on the "Berning Agreement" dated February 20, 1993. Such agreement had not been reached prior to the FY12-13 Adopted Budget. The City currently does not have sufficient funds in the Sewer Reserve Fund to pay this expense and will need to borrow the funds from the Transportation Improvement Fund until future revenues are received.

WHEREAS the City anticipated the 17th Avenue Pump station project would be completed in FY11-12. The project fell behind schedule and needs to be completed in FY12-13. Appropriations laps at year end, therefore ending fund balance at June 30, 2012 is higher than anticipated. Ending Fund balance becomes working capital carryforward on July 1, 2012 and appropriation needs to be approved for costs associated with completion of this project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Keizer, that the following appropriations be made for fiscal year ending June 30, 2013:

| | Adopted/ Amended Budget | Adjustment | | Revised Budget |
|---|---|---|---|---|
| | | Increase | Decrease | |
| **Community Center Fund** | | | | |
| Resources | 180,800 | 2,200 | | 183,000 |
| Capital Outlay | 7,600 | 2,200 | | 9,800 |
| **General Fund** | | | | |
| Resources | 9,924,500 | 8,900 | | 9,933,400 |
| Police Operations | 5,425,900 | 3,500 | | 5,429,400 |
| Community Development | 456,700 | 5,400 | | 462,100 |
| **Street Fund** | | | | |
| Personnel Services | 258,200 | 1,300 | | 259,500 |
| Contingency | 151,500 | | 1,300 | 150,200 |
| **Water Fund** | | | | |
| Personnel Services | 1,079,100 | 3,600 | | 1,082,700 |
| Contingency | 111,000 | | 3,600 | 107,400 |
| **Storm Fund** | | | | |
| Personnel Services | 627,500 | 1,300 | | 628,800 |
| Contingency | 53,900 | | 1,300 | 52,600 |
| **Sewer Reserve Fund** | | | | |
| Resources | - | 37,800 | | 37,800 |
| Capital Outlay | 30,200 | 37,800 | | 68,000 |
| **Transportation Fund** | | | | |
| Capital Outlay | 1,440,000 | | 37,800 | 1,402,200 |
| Transfers Out | - | 37,800 | | 37,800 |
| **Water Facility Fund** | | | | |
| Resources | 991,500 | 50,000 | | 1,041,500 |
| Capital Outlay | 475,000 | 50,000 | | 525,000 |

PASSED this _____ day of _____, 2012

SIGNED this _____ day of _____, 2012

_____
Mayor

_____
City Recorder

**CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON**

**Resolution R2012-_____**

**AUTHORIZATION OF INTERFUND LOAN TO THE SEWER RESERVE FUND FROM THE TRANSPORTATION IMPROVEMENT FUND**

**WHEREAS, the Sewer Reserve Fund needs up to $37,800 pay a contractual obligation on the Berning Agreement;**

**WHEREAS, the Transportation Improvement Fund has approximately $1,000,000 cash available and the City does not anticipate spending all of these funds for several years. ORS 294.468 provides for loans from one fund to another when made within compliance with state statutes.**

**NOW, THEREFORE BE IT RESOLVED that the Council authorizes an interfund capital loan to the Sewer Reserve Fund up to $37,800 from the Transportation Improvement Fund.**

**NOW, THEREFORE BE IT RESOLVED that all monies borrowed during the period authorized be repaid by June 30, 2022 including simple interest at the established Oregon State Investment Pool interest rate at one-half of one-percent per annum.**

**PASSED this _____ day of _____, 2012.**

**SIGNED this _____ day of _____, 2012.**

_____

**Mayor**

_____

**City Recorder**

**CITY COUNCIL MEETING: August 6, 2012**

**AGENDA ITEM NUMBER:_____**

**TO:** **MAYOR CHRISTOPHER AND COUNCIL MEMBERS**

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

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

**SUBJECT:** **REQUEST FOR WAIVER OF FEES FOR USE OF KEIZER ROTARY AMPHITHEATRE FOR MOVIE IN THE PARK**

At the July 16, 2012 City Council meeting, waiving of the Keizer Rotary Amphitheatre fees for projecting a moving picture on September 7, 2012 was requested by KRA. This item was set for tonight's meeting to give staff time to determine what action is necessary, if any.

The fees involved for an event of this type would be a Permit Application Fee in the amount of $52.00 and Reservation Fees. If the event is not for profit, the Reservation Fees are $73.00 for two hours and $37.00 per hour for each additional hour up to a maximum of $367.00 per day. If the event is for profit, the Reservation Fees are $110.00 for three hours and then $37.00 per hour for each additional hour or ten percent of the ticket sales, whichever is greater. In addition, there is a fee of $10.00 for a half day or $21.00 for a full day for events that require electrical power.

It is appropriate for Council to consider the matter of the fees and make a minute motion to reject the waiver, waive some of the fees, or waive all of the fees for the movie event on September 7, 2012 at the Keizer Rotary Amphitheatre.

**RECOMMENDATION:**

The City Council should consider the matter and make a minute motion to formalize its intent.

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

ESJ/tmh

**CITY COUNCIL MEETING: August 6, 2012**

**AGENDA ITEM NUMBER: _____**

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

**FROM: MACHELL DEPINA**
**HUMAN RESOURCES DIRECTOR**

**SUBJECT: CITY ATTORNEY CONTRACT**

## ISSUE

On March 13, 2008, E. Shannon Johnson and the City of Keizer entered into an employment contract, which has been extended each subsequent year. By mutual agreement, the City of Keizer and City Attorney E. Shannon Johnson have negotiated changes and extension of this contractual arrangement by development of a new City Attorney Employment Contract.

The above-referenced contract has been reviewed and recommended by the Personnel Policy Committee. It has also been confirmed as agreeable to the City Attorney.

## RECOMMENDATION

It is recommended the City Council pass a motion authorizing the Mayor and Council President to execute a new City Attorney Employment Contract with Christopher C. Eppley (attached as Exhibit "A").

It is also recommended the City Council declare that the terms, conditions and benefits set forth in the City Attorney Employment Contract in no way whatsoever constitute precedent for future City Attorney compensation.

If you have any questions regarding the staff report, please contact me by phone at 503-856-3417 or by email at depinam@keizer.org.

Thank you.

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2012-_____

AUTHORIZING THE MAYOR AND COUNCIL PRESIDENT TO EXECUTE NEW CITY ATTORNEY EMPLOYMENT CONTRACT

WHEREAS, E. Shannon Johnson and the City of Keizer entered into that certain Employment Contract dated March 13, 2008;

WHEREAS, the City Council and E. Shannon Johnson have mutually agreed to certain amendments and extension of such Employment Contract;

WHEREAS, the City Council and E. Shannon Johnson wish to enter into a new Employment Agreement;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that the Mayor and Council President are authorized to execute that certain Employment Contract, a copy of which is attached as Exhibit "A" and by this reference incorporated herein.

BE IT FURTHER RESOLVED by the City Council of the City of Keizer that the City Council declares that the terms, conditions and benefits set forth in the attached Employment Contract in no way whatsoever constitute any precedent for future City Attorney compensation.

PASSED this _____ day of _____, 2009.

SIGNED this _____ day of _____, 2009.

_____
Mayor

_____
City Recorder

EMPLOYMENT CONTRACT
BETWEEN
E. SHANNON JOHNSON
AND THE
CITY OF KEIZER
MARION COUNTY, OREGON

THIS AGREEMENT is made and entered into this _____ day of _____, 2012, by and between CITY OF KEIZER, hereinafter referred to as the "City," and E. SHANNON JOHNSON, hereinafter referred to as "City Attorney."

SECTION 1. TERM.

**This Agreement shall commence on July 1, 2012, and terminate on June 30, 2013.** Pursuant to Section 10 of this Contract, City Council may give written notice of one (1) year contract extensions. Such notice shall not require formal contract amendment. This agreement supersedes and replaces the previous employment contract.

Nothing in this Contract shall prevent, limit or otherwise interfere with the right of the City or City Attorney to terminate this Agreement at any time subject only to the provisions herein relating to termination.

SECTION 2. SALARY.

The City shall pay City Attorney at a monthly salary rate pursuant to the salary matrix adopted by the City and at such Range and Step as determined by the Council. The salary rate will be reviewed annually and may be adjusted by the Council without formal amendment of this Contract. Unless different action is taken by the Council, the salary shall automatically be increased by one Step, including applicable cost-of-living adjustment. If this Contract is renewed, such step increase/cost-of-living increase shall be effective July 1 each year. Such salary rate may only be reduced if the reduction is proportionate to salary reductions which are part of a uniform plan affecting all non-represented city employees. City Attorney shall receive the same cost of living adjustments received by the Department heads during the period of this Agreement.

SECTION 3. DUTIES.

City Attorney agrees to perform the functions and duties of City Attorney as specified in the job description for City Attorney, and to perform such other duties and functions as the City Council shall assign from time to time.

SECTION 4. PROFESSIONAL GROWTH OF CITY ATTORNEY.

The City encourages the continuing professional growth of City Attorney through City Attorney's participation in:

(a) Continuing Legal Education seminars and courses that are relevant to the City Attorney's job duties; and

(b) Informational meetings with other persons whose particular skills or backgrounds would serve to improve the capacity of City Attorney to perform City Attorney's professional responsibilities for the City.

Upon prior approval by the City Council, City Attorney's reasonable expenses for continuing legal education necessary to maintain active membership in the Oregon State Bar will be paid by the City, in accord with the City's normal policies and practices.

SECTION 5. EVALUATION.

At least once each fiscal year, the City Council and City Attorney shall meet for the purpose of evaluating the performance of City Attorney and expressing, in writing, recommendations and observations. The evaluation will be in accord with and take into consideration the responsibilities of City Attorney as listed in the current job description for the City Attorney. The meeting shall be held as provided by Oregon law. The City Attorney will be responsible for scheduling this meeting.

SECTION 6. CONTRACT OBLIGATIONS AND LEAVE TIME.

This Contract is for employment on a full-time basis. City Attorney shall be required to render 12 months of full and regular service to the City during each year of this Contract, except that the City Attorney shall be entitled to paid time off (holidays, vacations, sick leave, etc.) with accrual, accumulation, and limitations as set forth in City policies, as may be modified from time to time, unless stated differently in this Contract.

SECTION 7. FRINGE BENEFITS.

The City Attorney shall receive the fringe benefit package as is provided by City policies, as may be modified from time to time by the City. City Attorney will participate in and accrue retirement benefits consistent with other non-represented employees in similar job classifications. The City recognizes that job constraints and schedule may regularly prevent City Attorney from enjoying the full benefit of accrued vacation leave in any given year or for more than one year in a row. The City Attorney may, therefore, sell back up to 2-weeks of vacation per each fiscal year to the City at his then current rate of pay providing he has used at least 2 weeks of vacation during the same fiscal year. This is to be approved by the Mayor, is dependent on the availability of funds and requires identification of an official Acting City Attorney for the duration of the vacation.

SECTION 8. GENERAL EXPENSES.

The City recognizes that certain expenses of a nonpersonal and job affiliated nature are incurred by the City Attorney and the City hereby agrees to reimburse City Attorney for expenses reasonably incurred upon receipt of duly executed expense vouchers, receipts, statements or personal affidavits in accordance with federal, state, and local laws as specified in the policies of the City. In addition, City shall provide a cell phone for City Attorney's exclusive use.

SECTION 9. DUES AND SUBSCRIPTIONS.

Upon City Council approval, the City will pay the professional dues and subscriptions of the City Attorney appropriate for the City Attorney's position and requirements for maintaining active membership in the Oregon State Bar, as well as local bar associations and organizations necessary and desirable for the City Attorney's continued professional participation, growth, and advancement, and to improve the City Attorney's performance of the duties as City Attorney. The City Attorney will report to the City Council on each professional organization for which the City pays dues and subscription services.

SECTION 10. EXTENSION OF CONTRACT.

This Contract is for the term set forth above in Section 1. This Contract may be extended for additional terms of one (1) year each by written notice provided by the City Council to City Attorney on or before December 31 of each year of this Contract. Any modification to the terms and conditions of any such extension shall be by mutual agreement of the City Council and City Attorney. An affirmative vote of the City Council is required to extend this Contract. If such notice is not given on or before December 31 of each year of this Contract, the parties acknowledge that this Contract will terminate on June 30 of the following calendar year.

SECTION 11. DISABILITY OF CITY ATTORNEY.

Notwithstanding anything in this Contract to the contrary, the City is hereby given the option to terminate this Contract in the event that City Attorney shall become permanently or indefinitely disabled during the term of this Contract or any extension thereof. ”Disability” means a condition that incapacitates City Attorney from performing City Attorney's essential duties under this Contract on a regular and continuing basis. Such option shall be exercised by the City giving ten (10) days' written notice to City Attorney by certified mail and addressed to City Attorney at the City's offices or at such other address as City Attorney shall furnish in writing to the City.

During any such period of disability and until final termination, City Attorney's compensation shall be the amount provided in the disability insurance policy to be provided by the City. Upon final termination of this Contract, City Attorney's compensation will continue to be provided by the terms of the disability insurance policy.

In no event shall the amount paid to City Attorney exceed the full pay of City Attorney including insurance benefits.

If a question exists concerning the capacity of City Attorney to return to City Attorney's duties, the City may require City Attorney to submit to a medical examination, to be performed by a doctor licensed to practice medicine. The City shall designate a qualified physician who shall conduct the examination. The examination shall be done at the expense of the City. The physician shall limit the report to the issue of whether City Attorney has a permanent or indefinite disability as defined herein.

SECTION 12. DISCHARGE FOR CAUSE.

The City may terminate this contract at any time for cause, and the City will have no outstanding obligations under this contract except as described in this Section. Discharge for cause may include: neglect of duty, breach of contract, inefficiency, insubordination, conduct involving moral turpitude, inadequate performance, repeated or serious violation of City policies, dishonesty of any kind, or failure to comply with such reasonable requirements as the City may prescribe. Other reasons may constitute cause for dismissal, but such other reasons, for the purposes of this Contract, will be interpreted to include or cover only those reasons which are of the same general nature or level of severity as those reasons which are set forth above.

Notice of the City's consideration of discharge for cause shall be given in writing. Such notice shall include a statement of the reasons constituting potential cause and shall be given not less than ten (10) days prior to the effective date of the discharge.
City Attorney shall be entitled to appear before the City Council to discuss the reasons constituting potential cause prior to the effective date of the discharge. Such meeting may be conducted in executive session as provided by Oregon law. City Attorney shall be provided a written decision describing the results of the meeting. Should the City Council discharge the City Attorney for cause, the City shall tender any accrued vacation pay owing to City Attorney.

SECTION 13. NO CAUSE TERMINATION OF AGREEMENT.

The City may discharge City Attorney and terminate this Contract other than as provided in Sections 11 or 12, upon giving written termination notice. If the Agreement is terminated without cause, the City shall tender a lump sum severance pay equal to six (6) months of the City Attorney’s salary at the City Attorney’s then-current rate of pay.

City shall continue to cover City Attorney under the then-current health insurance benefits for either: a) six (6) months from the date of the termination notice, b) the termination date in Section 1 (as extended), or c) until such time as City Attorney obtains coverage through other employment, whichever is less. City shall also tender payment for any vacation time accrued as of the date of the termination notice.

SECTION 14. PROFESSIONAL LIABILITY.

The City agrees that it shall defend, hold harmless, and indemnify the City Attorney from any and all demands, claims, suits, actions and legal proceedings brought against the City Attorney in his individual capacity, or in his official capacity as agent and employee of the City,

provided the incident arose while the City Attorney was acting within the scope of his employment and excluding criminal litigation and as such liability coverage is within the authority of the City to provide under state law. Except that, in no case, will individual Council Members be considered personally liable for indemnifying the City Attorney against such demands, claims, suits, actions and legal proceedings.

If, in the good faith opinion of the City Attorney or the City, conflict exists with regard to the defense of such a claim between the legal position of the City Attorney and the legal position of the City, either party may cause the City Attorney to engage separate legal counsel from that retained by the City. In the event such separate legal counsel is retained, the City shall indemnify the City Attorney for the costs of that counsel.

The City shall not, however, be required to pay any costs of any legal proceedings in the event the City and the City Attorney have adverse interest in such litigation or in the event such costs are incident to criminal investigation or litigation. The City does not have the responsibility of indemnifying the City Attorney for legal costs or expenses associated with any action brought against the City Attorney by the City.

SECTION 15. RESIDENCY.

While employed by the City, City Attorney shall reside within a 30-minute commute to Keizer City Hall.

SECTION 16. ATTORNEY FEES.

In the event of any suit or action hereon, the prevailing party in such suit or action shall be entitled to reasonable attorney fees to be fixed by the trial court, if any appeal is taken from the decision of the trial court, such further sum as may be fixed by the appellate court as reasonable attorney fees in the appellate court, together with the prevailing party's costs and disbursements incurred therein.

SECTION 17. APPLICABLE LAW.

This Contract is to be construed under the laws of the State of Oregon.

SECTION 18. LIFE INSURANCE POLICY.

City shall provide, at City's expense, a term life insurance policy in the face amount of up to $250,000.00, insuring City Attorney's life. Such policy shall be purchased and maintained upon acceptable determination of insurability. City Attorney shall be responsible for any taxes and withholdings in connection with such life insurance policy.

IN WITNESS WHEREOF, the City, pursuant to the authority of its City Council, has caused two originals of this Contract to be signed in the name of the City by the Mayor of the City, and City Attorney has signed on the day and year first above mentioned.

CITY:

City of Keizer

By:_____
Mayor

By:_____
Council President

CITY ATTORNEY:

_____
E. Shannon Johnson

**CITY COUNCIL MEETING: August 6, 2012**

**AGENDA ITEM NUMBER: _____**

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

**FROM: MACHELL DEPINA**
**HUMAN RESOURCES DIRECTOR**

**SUBJECT: CITY MANAGER CONTRACT**

## ISSUE

On March 3, 2009, Christopher C. Eppley and the City of Keizer entered into an employment contract, which has been extended each subsequent year. By mutual agreement, the City of Keizer and City Manager Christopher C. Eppley have negotiated changes and extension of this contractual arrangement by development of a new City Manager Employment Contract.

The above-referenced contract has been reviewed and recommended by the Personnel Policy Committee. It has also been confirmed as agreeable to the City Manager.

## RECOMMENDATION

It is recommended the City Council pass a motion authorizing the Mayor and Council President to execute a new City Manager Employment Contract with Christopher C. Eppley (attached as Exhibit "A").

It is also recommended the City Council declare that the terms, conditions and benefits set forth in the City Manager Employment Contract in no way whatsoever constitute precedent for future City Manager compensation.

If you have any questions regarding the staff report, please contact me by phone at 503-856-3417 or by email at depinam@keizer.org.

Thank you.

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2012-_____

AUTHORIZING THE MAYOR AND COUNCIL PRESIDENT TO EXECUTE NEW CITY MANAGER EMPLOYMENT CONTRACT

WHEREAS, Christopher C. Eppley and the City of Keizer entered into that certain Employment Contract dated March 3, 2009;

WHEREAS, the City of Keizer and Christopher C. Eppley have mutually agreed to certain amendments and extension of such Employment Contract;

WHEREAS, the City of Keizer and Christopher C. Eppley wish to enter into a new Employment Contract;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that the Mayor and Council President are authorized to execute that certain Employment Contract, a copy of which is attached as Exhibit "A" and by this reference incorporated herein.

BE IT FURTHER RESOLVED by the City Council of the City of Keizer that the City Council declares that the terms, conditions and benefits set forth in the attached Employment Contract in no way whatsoever constitute any precedent for future City Manager compensation.

PASSED this _____ day of _____, 2012.

SIGNED this _____ day of _____, 2012.

_____
Mayor

_____
City Recorder

EMPLOYMENT CONTRACT
BETWEEN
CHRISTOPHER C. EPPLEY
AND THE
CITY OF KEIZER
MARION COUNTY, OREGON

THIS AGREEMENT is made and entered into this _____ day of _____, 2012, by and between CITY OF KEIZER, hereinafter referred to as the "City," and CHRISTOPHER C. EPPLEY, hereinafter referred to as "City Manager."

SECTION 1. TERM.

**This Agreement shall commence on July 1, 2012, and terminate on June 30, 2013.** Pursuant to Section 12 of this Contract, City Council may give written notice of one (1) year contract extensions. Such notice shall not require formal contract amendment. This agreement supersedes and replaces the previous employment contract.

Nothing in this Contract shall prevent, limit or otherwise interfere with the right of the City or City Manager to terminate this Agreement at any time subject only to the provisions herein relating to termination.

SECTION 2. SALARY.

The City shall pay City Manager at a monthly salary rate pursuant to the salary matrix adopted by the City and at such Range and Step as determined by the Council. The salary rate will be reviewed annually and may be adjusted by the Council without formal amendment of this Contract. Unless different action is taken by the Council, the salary shall automatically be increased by one Step, including applicable cost-of-living adjustment. If this Contract is renewed, such step increase/cost-of-living increase shall be effective July 1 each year. Such salary rate may only be reduced if the reduction is proportionate to salary reductions which are part of a uniform plan affecting all non-represented city employees. City Manager shall receive the same cost of living adjustments received by the Department heads during the period of this Agreement.

SECTION 3. DUTIES.

City Manager agrees to perform the functions and duties of City Manager as specified in the Keizer City Charter and as specified in the job description for City Manager, and to perform such other duties and functions as the City Council shall assign from time to time.

SECTION 4. PROFESSIONAL GROWTH OF CITY MANAGER.

The City encourages the continuing professional growth of City Manager through City Manager's participation in:

(a) Seminars and courses offered by public or private educational institutions including the International City/County Management Association (ICMA); and

(b) Informational meetings with other persons whose particular skills or backgrounds would serve to improve the capacity of City manager to perform City Manager's professional responsibilities for the City.

Upon prior approval by the City Council, City Manager's reasonable expenses for such continuing professional growth activities will be paid by the City, in accord with the City's normal policies and practices. The City Council will give due consideration to City Manager's paid attendance at the annual ICMA conference.

SECTION 5. EVALUATION.

At least once each fiscal year, the City Council and City Manager shall meet for the purpose of evaluating the performance of City Manager and expressing, in writing, recommendations and observations. The evaluation will be in accord with and take into consideration the responsibilities of City Manager as listed in the City Charter. The meeting shall be held as provided by Oregon law. The City Manager will be responsible for scheduling this meeting.

SECTION 6. CONTRACT OBLIGATIONS AND LEAVE TIME.

This Contract is for employment on a full-time basis. City Manager shall be required to render 12 months of full and regular service to the City during each year of this Contract, except that the City Manager shall be entitled to paid time off (holidays, vacations, sick leave, etc.) with accrual, accumulation, and limitations as set forth in City policies, as may be modified from time to time, unless stated differently in this Contract.

SECTION 7. FRINGE BENEFITS.

The City Manager shall receive the fringe benefit package as is provided by City policies, as may be modified from time to time by the City. The City Manager is a member of the Public Employees Retirement System. The City will pay both the employer's contribution and the City Manager's contribution (PERS "pickup"). The City recognizes that job constraints and schedule may regularly prevent City Manager from enjoying the full benefit of accrued vacation leave in any given year or for more than one year in a row. The City Manager may, therefore, sell back up to 2-weeks of vacation per each fiscal year to the City at his then current rate of pay providing he has used at least 2

weeks of vacation during the same fiscal year. This is to be approved by the Mayor, is dependent on the availability of funds and requires identification of an official Acting City Manager for the duration of the vacation.

SECTION 8. AUTOMOBILE.

The City Manager shall be given a vehicle allowance in the amount of $350.00 per month. Such allowance shall be in lieu of any mileage reimbursement. City Manager shall pay all necessary and appropriate withholdings on such amount.

SECTION 9. GENERAL EXPENSES.

The City recognizes that certain expenses of a nonpersonal and job affiliated nature are incurred by the City Manager and the City hereby agrees to reimburse City Manager for expenses incurred upon receipt of duly executed expense vouchers, receipts, statements or personal affidavits in accordance with federal, state, and local laws as specified in the policies of the City. In addition, City shall provide a cell phone for City Manager's exclusive use.

SECTION 10. DUES AND SUBSCRIPTIONS.

Upon City Council approval, the City will pay the professional dues and subscriptions of the City Manager appropriate for the City Manager's continuation and full participation in national, regional, state, and local associations and organizations necessary and desirable for the City Manager's continued professional participation, growth, and advancement, and to improve the City Manager's performance of the duties as City Manager. The City Manager will report to the City Council on each professional organization for which the City pays dues and subscription services.

SECTION 11. CIVIC MEMBERSHIP.

The City recognizes the desirability of representation in and before local civic and other organizations and the City Manager is authorized to become a member of civic clubs or organizations for which, upon City Council approval, the City shall pay membership expenses, excluding the cost of meals. City Manager shall report to the City Council on each such membership.

SECTION 12. EXTENSION OF CONTRACT.

This Contract is for the term set forth above in Section 1. This Contract may be extended for additional terms of one (1) year each by written notice provided by the City Council to City Manager on or before December 31 of each year of this Contract. Any modification to the terms and conditions of any such extension shall be by mutual agreement of the City Council and City Manager. An affirmative vote of the City

Council is required to extend this Contract. If such notice is not given on or before December 31 of each year of this Contract, the parties acknowledge that this Contract will terminate on June 30 of the following calendar year.

SECTION 13. DISABILITY OF CITY MANAGER.

Notwithstanding anything in this Contract to the contrary, the City is hereby given the option to terminate this Contract in the event that City Manager shall become permanently or indefinitely disabled during the term of this Contract or any extension thereof. Disability means a condition that incapacitates City Manager from performing City Manager's essential duties under this Contract on a regular and continuing basis. Such option shall be exercised by the City giving ten (10) days' written notice to City Manager by certified mail and addressed to City Manager at the City's offices or at such other address as City Manager shall furnish in writing to the City.

During any such period of disability and until final termination, City Manager's compensation shall be the amount provided in the disability insurance policy to be provided by the City. Upon final termination of this Contract, City Manager's compensation will continue to be provided by the terms of the disability insurance policy.

In no event shall the amount paid to City Manager exceed the full pay of City Manager including insurance benefits.

If a question exists concerning the capacity of City Manager to return to City Manager's duties, the City may require City Manager to submit to a medical examination, to be performed by a doctor licensed to practice medicine. The City shall designate a qualified physician who shall conduct the examination. The examination shall be done at the expense of the City. The physician shall limit the report to the issue of whether City Manager has a permanent or indefinite disability as defined herein.

SECTION 14. DISCHARGE FOR CAUSE.

The City may terminate this contract at any time for cause, and the City will have no outstanding obligations under this contract except as described in this Section. Discharge for cause may include: neglect of duty, breach of contract, inefficiency, insubordination, conduct involving moral turpitude, inadequate performance, repeated or serious violation of City policies, dishonesty of any kind, and failure to comply with such reasonable requirements as the City may prescribe. Other reasons may constitute cause for dismissal, but such other reasons, for the purposes of this Contract, will be interpreted to include or cover only those reasons which are of the same general nature or level of severity as those reasons which are set forth above.

Notice of the City's consideration of discharge for cause shall be given in writing. Such notice shall include a statement of the reasons constituting potential cause and shall

be given not less than ten (10) days prior to the effective date of the discharge. City Manager shall be entitled to appear before the City Council to discuss the reasons constituting potential cause prior to the effective date of the discharge. Such meeting may be conducted in executive session as provided by Oregon law. City Manager shall be provided a written decision describing the results of the meeting. Should the City Council discharge the City Manager for cause, the City shall tender any accrued vacation pay owing to City Manager.

SECTION 15. NO CAUSE TERMINATION OF AGREEMENT.

The City may discharge City Manager and terminate this Contract other than as provided in Sections 13 or 14, upon giving written termination notice. If the Agreement is terminated without cause, the City shall tender a lump sum severance pay equal to six (6) months of the City Manager's salary at the City Manager's then-current rate of pay.

City shall continue to cover City Manager under the then-current health insurance benefits for either: a) six (6) months from the date of the termination notice, b) the termination date in Section 1 (as extended), or c) until such time as City Manager obtains coverage through other employment, whichever is less. City shall also tender payment for any vacation time accrued as of the date of the termination notice.

SECTION 16. PROFESSIONAL LIABILITY.

The City agrees that it shall defend, hold harmless, and indemnify the City Manager from any and all demands, claims, suits, actions and legal proceedings brought against the City Manager in his individual capacity, or in his official capacity as agent and employee of the City, provided the incident arose while the City Manager was acting within the scope of his employment and excluding criminal litigation and as such liability coverage is within the authority of the City to provide under state law. Except that, in no case, will individual Council Members be considered personally liable for indemnifying the City Manager against such demands, claims, suits, actions and legal proceedings.

If, in the good faith opinion of the City Manager or the City, conflict exists with regard to the defense of such a claim between the legal position of the City Manager and the legal position of the City, either party may cause the City Manager to engage separate legal counsel from that retained by the City. In the event such separate legal counsel is retained, the City shall indemnify the City Manager for the costs of that counsel.

The City shall not, however, be required to pay any costs of any legal proceedings in the event the City and the City Manager have adverse interest in such litigation or in the event such costs are incident to criminal investigation or litigation. The City does not have the responsibility of indemnifying the City Manager for legal costs or expenses associated with any action brought against the City Manager by the City.

SECTION 17. RESIDENCY.

While employed by the City, City Manager shall reside within the City limits of Keizer.

SECTION 18. ATTORNEY FEES.

In the event of any suit or action hereon, the prevailing party in such suit or action shall be entitled to reasonable attorney fees to be fixed by the trial court, if any appeal is taken from the decision of the trial court, such further sum as may be fixed by the appellate court as reasonable attorney fees in the appellate court, together with the prevailing party's costs and disbursements incurred therein.

SECTION 19. APPLICABLE LAW.

This Contract is to be construed under the laws of the State of Oregon.

SECTION 20. LIFE INSURANCE POLICY.

City shall provide, at City's expense, a term life insurance policy in the face amount of up to $250,000.00, insuring City Manager's life. Such policy shall be purchased and maintained upon acceptable determination of insurability. City Manager shall be responsible for any taxes and withholdings in connection with such life insurance policy.

IN WITNESS WHEREOF, the City, pursuant to the authority of its City Council, has caused two originals of this Contract to be signed in the name of the City by the Mayor of the City, and City Manager has signed on the day and year first above mentioned.

CITY: CITY MANAGER:

City of Keizer

By:_____ _____
Mayor Christopher C. Eppley

By:_____
Council President

**COUNCIL MEETING: July 16, 2012**

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

**THROUGH: CHRIS EPPLEY**
**CITY MANAGER**

**FROM: SUSAN GAHLSDORF, CPA**
**FINANCE DIRECTOR**

SUBJECT: AMENDMENT TO FEE RESOLUTION

**BACKGROUND AND ISSUE:**
The City's master resolution for Administrative Fees needs updating. Since the resolution was adopted in 2006, the Police Department has changed the technology from which they create police reports. Previously all Traffic Accident reports and CRASH reports were generated differently than Police Incident Reports. Now, all reports are generated the same and staff propose charging a flat fee ($12 currently) and a cost per page for reports over ten pages (currently $.25)

**RECOMMENDATION:** Staff recommends that Council approve the attached fee resolution as amended.

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2012-_____

ESTABLISHING FEES FOR CERTAIN ADMINISTRATIVE SERVICES; **REPEALING RESOLUTION R2007-1826**

WHEREAS, the City of Keizer is called upon from time-to-time to provide an opportunity to inspect, compile and/or copy certain public records;

WHEREAS, the City is called upon from time-to-time to provide information and/or copies of certain public records;

WHEREAS, ORS 93.643 provides that the City shall give constructive notice of its interest in real property either through recording the interest with the county where the property is located or in an electronic medium that is accessible on-line during regular business hours;

WHEREAS, the City Recorder is called upon from time-to-time to certify the accuracy of certain copies of public records;

WHEREAS, the City incurs certain costs for handling checks written against bank accounts with insufficient funds;

WHEREAS, the City may establish fees reasonably calculated to reimburse it for its actual cost in making records available;

WHEREAS, the City Council established fees on November 19, 2007 with the adoption of Resolution No. R2007-1826;



Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

WHEREAS, the Police Department's computer system previously produced two different types of police reports;

WHEREAS, under the new computer system, there is only one type of police report produced;

WHEREAS, there is no longer a need for two categories to be on the fee schedule for police reports;

WHEREAS, the City wishes to replace the fee schedule to eliminate confusion regarding police reports;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that the fees attached hereto as Exhibit "A" shall be charged to persons according to the request.

BE IT FURTHER RESOLVED the fees may be waived for any member of the City Council, boards and commissions, neighborhood associations, media, local government agencies, crime laboratories, prosecuting court, DMV, authorized victims assistance caseworkers, Housing Authority, authorized senior services caseworkers, Services for Children & Families, Mental Health Division, Salem Hospital, and where the public interest in waving such fees outweigh the cost of furnishing the document. Fee waivers must be approved by Management except fees for police records may also be waived by the Police Records Supervisor.



Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

BE IT FURTHER RESOLVED by the City Council of the City of Keizer, that the fees in identified herein shall automatically be adjusted every three years using the Portland Consumer Price Index for Wage Earners beginning July 2015.

BE IT FURTHER RESOLVED that Resolution R2007-1826 is hereby repealed in its entirety.

PASSED this _____ day of _____, 2012.

SIGNED this _____ day of _____, 2012.

_____
Mayor

_____
City Recorder



Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

EXHIBIT “A”

| | |
|---|---|
| Return Check Fee (NSF Check) | $25.00 |
| Electronic Lien Search Request | $25.00 |
| Three Return Checks within one year | $81.00 |
| Records search (requests taking less than 30 minutes) | $6.00 (after first 15 minutes. First 15 minutes no charge.) |
| Records search (requests taking 30 minutes or more) | Hourly rate of staff person conducting the research including benefits. |
| Photocopies | $0.25 per page (1-10)<br>$0.19 per page (11+) |
| City Recorder Certification | $6.00 |
| Video Tape/DVD reproduction | $31.00 per tape/DVD |
| CD reproduction | $16.00 per CD |
| Agenda, City Calendar mailing, Property Address list | $37.00 per year |
| Bound Documents (10-50 pages) | $12.00 |
| Bound Documents (50 plus) | $19.00 |
| Pre-printed maps 8.5” x 11” | $0.43 sheet |
| Pre-printed maps 11” x 17” | $6.00 sheet |
| Pre-printed maps over 11” x 17” | $12.00 sheet |
| Custom Printed Maps 8.5” x 11” | $2.50 sheet |
| Custom Query Maps 8.5” x 11” | $12.00 sheet |
| Custom Printed Maps over 8.5” x 11” | $19.00 sheet |

| | |
|---|---|
| Custom Query Maps over 8.5” x 11” | $43.00 sheet |
| GIS Mapping Data Files-Existing Layer | $81.00 megabyte or portion |
| GIS Mapping Data Files-Custom Query | $124.00 megabyte or portion |
| Police Incident Report (one copy at no charge to crime victims, excluding traffic accidents) | $12.00 (+$.25 per page over 10 pages) |
| Photos | $12.00 plus cost of duplication |
| Police Letters of Clearance | $6.00 |
| Police Computer Scan Request | $6.00 |
| Faxes (based on local rates) | |
| Long Distance (cover sheet free) | |
| 1st page | $2.49 |
| Each additional page | $1.49 |
| Local (cover sheet free) | |
| 1st page | $1.49 |
| Each additional page | $1.09 |

**CITY COUNCIL MEETING: August 6, 2012**

**AGENDA ITEM NUMBER:_____**

**TO:** **MAYOR CHRISTOPHER AND COUNCIL MEMBERS**

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

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

**SUBJECT:** **APPOINTING MUNICIPAL COURT JUDGE PRO TEM**

The City Charter and Ordinance establishing the Municipal Court provide for Municipal Court Judge Pro Tems in the event that the Presiding Municipal Court Judge cannot fulfill his duties for any reason. The Presiding Municipal Court Judge makes recommendations to the Keizer City Council and the City Council makes the appointments.

There is only one Municipal Court Judge Pro Tem remaining that has been appointed by the Council. Occasionally, both the Presiding Municipal Court Judge and the appointed Municipal Court Judge Pro Tem are unavailable at the same time. Therefore, it is appropriate that additional Municipal Court Judge Pro Tems be appointed.

I have attached resumes from John H. Case, Stephanie Wilson and Kevin J. Kinney. As required under the City Charter and Ordinance, Municipal Court Judge A. Carl Myers is recommending Stephanie Wilson and Kevin J. Kinney be appointed as Municipal Court Judge Pro Tems and that John H. Case be reappointed as Municipal Court Judge Pro Tems.

**RECOMMENDATION:**

Adopt the attached Resolution appointing Municipal Court Judge Pro Tems.

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

ESJ/tmh

**John H. Case**

FEIBLEMAN & CASE
ATTORNEYS

The Geer House
1815 Commercial St. S • Salem, OR 97302
503-399-9218 • Fax 503-589-0159
www.feibleman-law.com

## AREAS OF PRACTICE/EXPERIENCE

Practice emphasizing Family Law.
Admitted, Oregon State Bar, 1997
Admitted, U.S. Federal District Court for the District of Oregon, 2000.

## EDUCATION

Willamette University College of Law - Juris Doctor, Cum Laude, 1997.
Appellate Oral Argument winner
Articles Editor, Willamette University College of Law Review.

University of Oregon, B.S., Political Science, 1993.

## JUDICIAL AND ALTERNATIVE DISPUTE RESOLUTION

Municipal Court Judge, City of Keizer, (1999 to present)
Mediator, Private and Court appointed (2007 to present)
Arbitrator, Court appointed (2006 to present)

## ORGANIZATIONS, ACTIVITIES, COMMITTEES AND AWARDS

Member, American Academy of Matrimonial Lawyers (AAML)
Member, Oregon Academy of Family Law Practitioners, (OAFLP)(1997 to present)
Member, Oregon State Bar Family Law Executive Committee (2004 to 2006)
Oregon State Bar Family Law Legislative Liason, (2002 - 2004)
Member, Oregon State Family Law Advisory Committee, Child support sub-committee (2004 to 2007)
Member, Oregon State Bar Family Law Section Annual Family Law CLE Conference Committee, (2005 and 2006)
Member, Oregon State Child Support Guidelines Committee (2002- 2009)
Vice President, Marion County Bar Association (2004)
Treasurer, Marion County Bar Association (2000)
Member, Marion County Bar Association Board of Directors, (2000 to 2005)
Member, Marion County Bar Association, (1997 to present)
Member, Salem Inns of Court, (1997 to 2002)
Member, Board of Directors, Girl Scouts Santiam Council, (1998 to 2000)
Young Executive Board of Directors, Boys and Girls Club (1999 to 2001)
Member, Board of Directors, Willamette Chapter of American Red Cross (2001 to 2002)
Member, Board of Directors, Blindskills Inc.(2003- 2004)
Judge, Salem Peer Court, (1999 to present)
American Bar Association (1997 to 2002)
Oregon Trial Lawyers Association (1997 to 2001)
Marion County Family Law Advisory Committee Member, (2007 to 2011)
Guest Lecturer, Willamette University College of Law, Family Law Class, (2007 to Present)
Mentor, Willamette University College of Law, (2001-2002)
Member, Oregon Judicial Department Confidential Information Committee, Family Law

(2009)
Member, Marion County Court Practices and Procedures Committee (2008 to present).
Recipient of the 2001 Arno Denecke Memorial Pro Bono Lawyer of the Year Award
Recipient of the 2008 Pro Bono Law Firm of the Year Award.

## PUBLICATIONS AND SPEAKING EVENTS

Author, "Electronic Eavesdropping and Wiretapping", American Journal of Family Law, Winter, 2001.

Research and writing assistance for "Divorce Taxation Aspects of Property Transfers, Alimony and Child Related Exemptions, Credits and Deductions", Oregon State Bar CLE, Salishan Lodge, October, 2005.

Research and writing for "Dissipation of Marital Assets and Income: The Resurrection of Fault in a 'No Fault' Era", FAIR SHARE, Vol. 17, No. 10, October, 1997.

Speaker, American Academy of Matrimonial Lawyers CLE, Spring, 2002, "Electronic Eavesdropping and Wiretapping"

Speaker, Oregon Academy of Family Law Practitioners, "Dissipation of Marital Assets and Income" 2000.

Speaker, Child Support CLE, Multnomah County Bar Association, Spring, 2003.

# Stephanie Farley Wilson

4760 Fillmore St. N. Keizer, Oregon 97303 (503) 584-1043 stephanie.f.wilson@gmail.com

## LEGAL & PROFESSIONAL EDUCATION

Willamette University College of Law, Salem, Oregon
Juris Doctor, May 2007
- Honors, Legal Research and Writing
- First Place, Moot Court First Year Appellate Competition
- Student Assistant, Professor Helen Mazur-Hart
- Judges Chair, Moot Court Board Executive Committee
- Order of Barristers

## UNDERGRADUATE EDUCATION

Northern Arizona University, Flagstaff, Arizona. May 2004
Bachelor of Science, *cum laude,* Journalism & Political Science
Minor: Spanish
G.P.A. in Major: 3.71; Cumulative G.P.A. 3.55
- Honors: Yavapai-Apache Student Ambassador
- NAU Emerging Scholar
- Dean's List
- Activities: Ritual Chair, Chi Omega
- Member, Phi Alpha Delta
- Secretary, Order of Omega
- Student Reporter, *The Lumberjack*

Universidad de Granada, Granada, Spain, Summer 2002
Spanish Immersion Program

## WORK EXPERIENCE

Attorney **Feibleman and Case, P.C.** Salem, Oregon 10/07-Present
Associate attorney in small law firm focusing primarily on Family Law. Participates in numerous trials, settlement conferences and motion arguments. Counsels clients throughout difficult periods in their lives, providing advice and guidance. Extensive drafting of memorandums, legal briefs for both the Court of Appeals and Supreme Court, and other legal documents.

Law Clerk **Department of Justice** Salem, Oregon 05/05-05/07
Assisted in trial preparation and drafting legal documents. Created petitions for the termination of parental rights and motions and orders for release of information. Composed database from records of potential witnesses. Interviewed a variety of witnesses for discovery purposes. Compiled exhibits to be used during trial. Appeared before judges regarding child support issues, preliminary hearings and trials without the parent.

Internship **Law Office of John G. Gliege** Flagstaff, Arizona 12/03-07/04
Created matrix for case testimony. Assisted in trial preparation and drafted legal documents. Organized case files. Interviewed clients for discovery purposes. Scheduled appointments and interviews for depositions. Assisted in hiring and training new staff. Received performance-based pay raise.

Internship **Law Office of David Bednar** Flagstaff, Arizona 01/04-05/04
Sorted and filed legal documents. Completed research for criminal proceedings. Drafted legal documents, including motions and responses. Answered questions regarding potential representation.

## ADDITIONAL INFORMATION

- Enjoys reading, fishing, traveling, hiking, snowboarding and her family.

*2913 Portland Road • Newberg, OR 97132 • 503-538-8318 • kevin@kinneylawyers.com*

# Kevin J. Kinney

## Profile

Kevin J. Kinney is President and founding partner of Kinney & Associates PC, a full service law firm. Kevin was born in Reno, Nevada and moved to Oregon in 1995. He graduated from the University of Nevada-Reno with a degree in Business Administration. He attended Thomas L. Cooley Law School in Lansing, Michigan. While in law school, he participated in law review. Kevin serves as Municipal Court Judge for the City of McMinnville, and has done so for eleven years. Since 2008, he has served as board member of OMJA. He collects comics and wine with a passion. He is married to Nancy and they have two children.

## Specialties

Divorce/Separation, Child Custody, Personal Injury and Criminal Defense

## Professional Experience

| | | |
|---|---|---|
| *2011— Present* | *Kinney and Associates PC* | *Newberg, Oregon* |
| President | | |
| *2000— Present* | *City of McMinnville* | *McMinnville, Oregon* |
| Municipal Court Judge | | |
| *2007— 2011* | *Gunn Cain & Kinney LLP* | *Newberg, Oregon* |
| Partner | | |
| *1997— 2011* | *Kevin J. Kinney, P.C.* | *McMinnville, Oregon* |
| President | | |

## Education

| | | |
|---|---|---|
| *Graduated 1989* | *University of Nevada-Reno* | *Bachelor of Science* |
| *Graduated 1995* | *Thomas M. Cooley Law School* | *Juris Doctor, Cum Laude* |

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2012-_____

APPOINTING MUNICIPAL COURT JUDGE PRO TEMS

WHEREAS, the City Council by Resolution has previously appointed Municipal Court Judge Pro Tems;

WHEREAS, John H. Case is the only remaining appointed Municipal Court Judge Pro Tem willing to serve;

WHEREAS, the City Council desires to remove all previous appointed Municipal Court Judge Pro Tems;

WHEREAS, the City Charter and Ordinance No. 89-144 allow the Presiding Municipal Court Judge to make recommendations to the Council on the appointment of Municipal Court Judge Pro Tems;

WHEREAS, based upon the recommendation of Municipal Court Judge A. Carl Myers, the Keizer City Council has determined that John H. Case, Stephanie Wilson, and Kevin J. Kinney are qualified to be Municipal Court Pro Tems and are willing to serve in that position;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that John H. Case, Stephanie Wilson, and Kevin J. Kinney are appointed as Keizer Municipal Court Judge Pro Tems pursuant to the City Charter and Ordinance No. 89-144.



Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

BE IT FURTHER RESOLVED that until further City Council Resolution, the appointment of John H. Case, Stephanie Wilson, and Kevin J. Kinney as Keizer Municipal Court Judge Pro Tems shall remain in full force and effect.

PASSED this _____ day of _____, 2012.

SIGNED this _____ day of _____, 2012.

_____
Mayor

_____
City Recorder



Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

**COUNCIL MEETING: August 6, 2012**

**AGENDA ITEM NUMBER: _____**

**TO:** **MAYOR CHRISTOPHER AND COUNCIL MEMBERS**

**THROUGH:** **CHRIS EPPLEY**
**CITY MANAGER**

**FROM:** **SUSAN GAHLSDORF, CPA**
**FINANCE DIRECTOR**

**SUBJECT: Summary of Judge's Evaluation**

**BACKGROUND:**

On July 16, 2012 the City Council met with Municipal Court Judge A. Carl Myers as provided for in Resolution R2010-2027 (Municipal Judge Evaluation Process). Council requested the Judge summarize his opinion of how the Keizer Municipal Court is operating and to express any concerns he may have. He had no concerns and then summarized the arraignment and hearings processes and schedules. Council members asked the Judge various questions. His responses were satisfactory to the Council.

Resolution R2010-2027 states that the City Council will express in writing any recommendations and observations. Therefore, I have prepared a Resolution authorizing the Mayor to send a letter to the Judge satisfying this requirement.

**FISCAL IMPACT:** There is no net fiscal impact to this action.

**RECOMMENDATION:** Staff recommends the council adopt the attached Resolution.

If you have any questions in this regard, please contact me. Thank you.

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2012-_____

REGARDING EVALUATION OF KEIZER MUNICIPAL COURT JUDGE

WHEREAS, Resolution R2010-2027 (Municipal Judge Evaluation Process) outlines the process for evaluating the Keizer Municipal Court Judge;

WHEREAS, an evaluation is to be held at least once every two years for evaluating the performance of the Judge;

WHEREAS, the City Council met with A. Carl Myers on July 16, 2012 for the purposes of performing an evaluation and the Council has determined that A. Carl Myers' performance is satisfactory;

WHEREAS, Resolution R2010-2027 has a provision that the City Council express in writing any recommendations and observations;

WHEREAS, the Council wishes to authorize the Mayor to send the written recommendations and observations to A. Carl Myers on behalf of the Council;

NOW, THEREFORE,

///

///

///

///



Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

BE IT RESOLVED by the City Council of the City of Keizer that the Mayor is authorized to send the attached written recommendations and observations to A. Carl Myers on behalf of the Council.

PASSED this _____ day of _____, 2012.

SIGNED this _____ day of _____, 2012.

_____
Mayor

_____
City Recorder



Keizer City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, Oregon 97307
503-856-3433

August 7, 2012

Honorable A. Carl Myers
1815 Commercial St SE
Salem, OR 97302

Re: *Evaluation*

Dear Judge Myers:

The City Council met with you on July 16, 2012 for the purpose of evaluating your performance as Keizer Municipal Court Judge. Questions were asked by the Council and answered by you. Yours responses were satisfactory to the Council.

In accordance with Resolution R2010-2027 (Municipal Judge Evaluation Process), the Council is to express in writing any recommendations and observations that is has concerning your performance as Keizer Municipal Court Judge. The City Council does not have any recommendations and your performance is satisfactory.

If you have any questions, please contact us. Thank you.

Sincerely,

Lore Christopher,
Mayor

**COUNCIL MEETING:_____**

**AGENDA ITEM NUMBER:_____**

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

**THROUGH:** **CHRIS EPPLEY**
**CITY MANAGER**

**FROM:** **SUSAN GAHLSDORF, CPA**
**FINANCE DIRECTOR**

**SUBJECT:** **SURPLUS PROPERTY REPORT FY11-12**

**BACKGROUND:**

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

**ISSUE:**

I have consulted with all Departments within the City and with Keizer 23 management and have reviewed receipts for the year to identify the property disposed of, the method of sale and revenue from sales.

Attachment #1 identifies the specific items disposed of at the Police Department through PropertyRoom.Com. These lists include items in the Evidence Locker seized as part of regular Police business. The total revenue from the sale of these items was $1,011.85 for the year and was credited to the General Fund.

Throughout the year, City staff collects and sort various scrap metal items such as old meters, water system parts, pipe, old signs etcetera. These items are sold to Cherry City Metals. Total revenue from the sale of scrap metal was $1,297.06 for the year and was credited to the Water Fund.

According to City Staff, there was no computer equipment, vehicles, real property, heavy equipment or other items disposed of in fiscal year 2011-12 other than those identified above.

**RECOMMENDATION:**

Staff recommends the City Council approve this report as part of the Consent Calendar or provide staff direction on following up with outstanding issues and questions if any.

PROPERTY ROOM.COM

**Report Date:** 07/15/2011

***For inventory and sales activity between 6/1/2011 and 6/30/2011***

CKPD889 [Log out]

# Summary Activity Report

**Department:** 0889 - City of Keizer Police Dept(2mos)

**Sales:** $402.47
**Fuel Surcharge:** ($37.20)
**Check Amount:** $365.27

**Manifest Date:** 05/09/2011 **Manifest Number:** 05092011

| Page | Line | SKU | Description | Winning Bid | Status | Cummulative Amount | Prior Payments | Amount Due | Case ID | Agency Reference | Complete | * |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 1 | 0889-000468 | leatherman tool | | Group/UnGroup | | | | | 99-1637 | | |
| 1 | 2 | 0889-000469 | garrity flashlight | | Group/UnGroup | | | | | | | |
| 1 | 3 | 0889-000470 | 10" lcd sharp tv | | Testing | | | | | 02-3783 | | |
| 1 | 4 | 0889-000471 | ring | $56.00 | Shipped | $26.81 | $0.00 | $26.81 | | 04-4458 | | |
| 1 | 5 | 0889-000472 | 2 sunglasses rayban in case | | Group/UnGroup | | | | | 04-6235 | | |
| 1 | 6 | 0889-000473 | master mechanic socket set | | Pending Auction Processing | | | | | 04-6236 | | |
| 1 | 7 | 0889-000474 | pool cue | | Verify Combined Shipments | | | | | 04-9587 | | |
| 1 | 8 | 0889-000475 | tasco binoculars 15 x 35 in soft case | | Pending Auction Processing | | | | | 04-9587 | | |
| 1 | 9 | 0889-000476 | dell 15" flat screen | | Testing | | | | | 04-13664 | | |
| 1 | 10 | 0889-000477 | galileo telescope | | Ready for Will-Call | | | | | 05-941 | | |
| 1 | 11 | 0889-000478 | tripod for telescope | | Destroyed | | | | | 05-941 | | |
| 1 | 12 | 0889-000479 | 2 cobra walkie talkies | | Ready for Will-Call | | | | | 05-1396 | | |
| 2 | 13 | 0889-000480 | toshiba laptop computer | | Testing | | | | | 05-4708 | | |
| 2 | 14 | 0889-000481 | dent puller | | Pending Auction Processing | | | | | 05-9963 | | |
| 2 | 15 | 0889-000482 | 2 canon camcorders | | Group/UnGroup | | | | | 05-10064 | | |
| 2 | 16 | 0889-000483 | 3 spkrs sets | | Destroyed | | | | | 05-10064 | | |
| 2 | 17 | 0889-000484 | samari sword | | Ready for Will-Call | | | | | 05-12955 | | |
| 2 | 18 | 0889-000485 | uniden scanner w/charger | | Ready for Will-Call | | | | | 05-14295 | | |
| 2 | 19 | 0889-000486 | colt knife w/sheath | | Group/UnGroup | | | | | | | |
| 2 | 20 | 0889-000487 | pliers | | Group/UnGroup | | | | | 06-4955 | | |
| 2 | 21 | 0889-000488 | 2 motorola walkie talkies | $1.00 | Shipped | $0.24 | $0.00 | $0.24 | | 06-5079 | | |
| 2 | 22 | 0889-000489 | bolt cutter | | Pending Auction Processing | | | | | 06-5079 | | |
| 2 | 23 | 0889-000490 | tool set | | Pending Auction Processing | | | | | 06-11138 | | |
| 2 | 24 | 0889-000491 | necklace | $15.25 | Regrouped | $7.35 | $0.00 | $7.35 | | 06-11719 | | |
| 3 | 25 | 0889-000492 | cd case | | Group/UnGroup | | | | | 07-1977 | | |
| | | 0889- | | | | | | | | | | |

| | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 3 | 26 | 000493 | cd case | | Group/UnGroup | | | | | 07-1977 | |
| 3 | 27 | 0889-000494 | bose mp3 player | $28.00 | Shipped | $13.31 | $0.00 | $13.31 | | 07-1977 | |
| 3 | 28 | 0889-000495 | ring | $15.25 | Regrouped | $7.35 | $0.00 | $7.35 | | 07-4694 | |
| 3 | 29 | 0889-000496 | magnavox dvd player | | Pending Auction Processing | | | | | 07-11497 | |
| 3 | 30 | 0889-000497 | radio shack scanner | $21.00 | Shipped | $9.94 | $0.00 | $9.94 | | 09-5952 | |
| 3 | 31 | 0889-000498 | radio shack scanner | $60.87 | Shipped | $29.32 | $0.00 | $29.32 | | 09-5963 | |
| 3 | 32 | 0889-000499 | 2 rings | $15.25 | Regrouped | $7.35 | $0.00 | $7.35 | | 09-7354 | |
| 3 | 33 | 0889-000517 | 5 misc jewelry | $191.25 | Regrouped | $91.60 | $0.00 | $91.60 | | 09-10327 | |
| 3 | 34 | 0889-000518 | sony handicam | | Testing | | | | | 10-1012 | |
| 3 | 35 | 0889-000519 | 9" audiovox dvd player | $16.00 | Shipped Non-Ups | $7.64 | $0.00 | $7.64 | | 10-6437 | |
| 3 | 36 | 0889-000520 | 12" cross russian orthodox gold | $22.00 | Shipped | $10.40 | $0.00 | $10.40 | | 10-1227 | |
| 4 | 37 | 0889-000521 | mtn bike | $13.25 | Regrouped | $6.38 | $0.00 | $6.38 | | 06-1018 | |
| 4 | 38 | 0889-000522 | 2 wheel scooter | $13.25 | Regrouped | $6.38 | $0.00 | $6.38 | | 10-1169 | |
| 4 | 39 | 0889-000523 | raleigh mtn bike | $18.00 | Regrouped | $8.67 | $0.00 | $8.67 | | 10-3458 | |
| 4 | 40 | 0889-000524 | womens schwinn mtn bike | $18.00 | Regrouped | $8.67 | $0.00 | $8.67 | | 10-7184 | |
| 4 | 41 | 0889-000525 | womens next mtn bike | $18.00 | Regrouped | $8.67 | $0.00 | $8.67 | | 09-7184 | |
| 4 | 42 | 0889-000526 | schwinn 20" girls bike | $13.25 | Regrouped | $6.38 | $0.00 | $6.38 | | 10-7761 | |
| 4 | 43 | 0889-000527 | sherpa citi 21 spd bike | $13.25 | Regrouped | $6.38 | $0.00 | $6.38 | | 10-8911 | |
| 4 | 44 | 0889-000528 | diamondback 21 spd bike | $18.00 | Regrouped | $8.67 | $0.00 | $8.67 | | 10-8912 | |
| 4 | 45 | 0889-000529 | bmx bike | $13.25 | Regrouped | $6.38 | $0.00 | $6.38 | | 10-8981 | |
| 4 | 46 | 0889-000530 | trek mtn bike mens | $165.01 | Shipped Non-Ups | $79.49 | $0.00 | $79.49 | | 10-9737 | |
| 4 | 47 | 0889-000531 | bmx bike | $13.25 | Regrouped | $6.38 | $0.00 | $6.38 | | 10-10326 | |
| 4 | 48 | 0889-000532 | d force bmx bike | $13.25 | Regrouped | $6.38 | $0.00 | $6.38 | | 10-10355 | |
| 5 | 49 | 0889-000533 | normal 24" 21 spd bike | $18.00 | Regrouped | $8.67 | $0.00 | $8.67 | | 10-834 | |
| 5 | 50 | 0889-000534 | magna mtn bike | $18.00 | Regrouped | $8.67 | $0.00 | $8.67 | | 10-11528 | |
| 5 | 51 | 0889-000535 | next mtn bike womens | $13.25 | Regrouped | $6.38 | $0.00 | $6.38 | | 10-12117 | |
| 5 | 52 | 0889-000536 | mongoose mtn bike | $18.00 | Regrouped | $8.67 | $0.00 | $8.67 | | 11-00431 | |
| | | | **Totals:** | **$838.88** | | **$402.47** | **$0.00** | **$402.47** | | | |

Copyright (c) 2010 PropertyRoom.com, Inc. All Rights Reserved.

PROPERTY ROOM.COM

**Report Date:** 08/15/2011

***For inventory and sales activity between 7/1/2011 and 7/31/2011***

ckpd889 [Log out]

# Summary Activity Report

**Department:** 0889 - City of Keizer Police Dept(2mos)

**Sales:** $127.60
**Fuel Surcharge:** ($0.00)
**Check Amount:** $127.60

**Manifest Date:** 05/09/2011 **Manifest Number:** 05092011

| Page | Line | SKU | Description | Winning Bid | Status | Cummulative Amount | Prior Payments | Amount Due | Case ID | Agency Reference | Complete | * |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 1 | 0889-000468 | leatherman tool | $2.13 | Regrouped | $0.99 | $0.00 | $0.99 | | 99-1837 | | |
| 1 | 2 | 0889-000469 | garrity flashlight | $2.13 | Regrouped | $0.99 | $0.00 | $0.99 | | | | |
| 1 | 3 | 0889-000470 | 10" lcd sharp tv | $21.00 | Shipped | $9.91 | $0.00 | $9.91 | | 02-3783 | | |
| 1 | 5 | 0889-000472 | 2 sunglasses rayban in case | $2.13 | Regrouped | $0.99 | $0.00 | $0.99 | | 04-6235 | | |
| 1 | 6 | 0889-000473 | master mechanic socket set | $22.00 | Shipped | $10.35 | $0.00 | $10.35 | | 04-6236 | | |
| 1 | 7 | 0889-000474 | pool cue | $41.93 | Shipped | $19.95 | $0.00 | $19.95 | | 04-9587 | | |
| 1 | 8 | 0889-000475 | tasco binoculars 15 x 35 in soft case | $1.00 | Shipped | $0.21 | $0.00 | $0.21 | | 04-9587 | | |
| 1 | 9 | 0889-000476 | dell 15" flat screen | $27.99 | Shipped Non-Ups | $13.43 | $0.00 | $13.43 | | 04-13664 | | |
| 1 | 10 | 0889-000477 | galileo telescope | $11.00 | Shipped Non-Ups | $5.23 | $0.00 | $5.23 | | 05-941 | | |
| 1 | 12 | 0889-000479 | 2 cobra walkie talkies | $1.00 | Shipped Non-Ups | $0.40 | $0.00 | $0.40 | | 05-1396 | | |
| 2 | 13 | 0889-000480 | toshiba laptop computer | | Destroyed | | | | | 05-4708 | | |
| 2 | 14 | 0889-000481 | dent puller | $31.00 | Shipped | $14.75 | $0.00 | $14.75 | | 05-9963 | | |
| 2 | 15 | 0889-000482 | 2 canon camcorders | $2.13 | Regrouped | $0.99 | $0.00 | $0.99 | | 05-10064 | | |
| 2 | 17 | 0889-000484 | samari sword | $31.00 | Shipped Non-Ups | $14.86 | $0.00 | $14.86 | | 05-12955 | | |
| 2 | 18 | 0889-000485 | uniden scanner w/charger | $32.00 | Shipped | $15.36 | $0.00 | $15.36 | | 05-14295 | | |
| 2 | 19 | 0889-000486 | colt knife w/sheath | $2.13 | Regrouped | $0.99 | $0.00 | $0.99 | | | | |
| 2 | 20 | 0889-000487 | pliers | $2.13 | Regrouped | $0.99 | $0.00 | $0.99 | | 06-4955 | | |
| 2 | 22 | 0889-000489 | bolt cutter | $16.00 | Shipped | $7.41 | $0.00 | $7.41 | | 06-5079 | | |
| 2 | 23 | 0889-000490 | tool set | $11.00 | Shipped | $5.00 | $0.00 | $5.00 | | 06-11138 | | |
| 3 | 25 | 0889-000492 | cd case | $2.13 | Regrouped | $0.99 | $0.00 | $0.99 | | 07-1977 | | |
| 3 | 26 | 0889-000493 | cd case | $2.13 | Regrouped | $0.99 | $0.00 | $0.99 | | 07-1977 | | |
| 3 | 29 | 0889-000496 | magnavox dvd player | $6.00 | Shipped Non-Ups | $2.81 | $0.00 | $2.81 | | 07-11497 | | |
| 3 | 34 | 0889-000518 | sony handicam | | Destroyed | | | | | 10-1012 | | |
| | | | **Totals:** | **$269.92** | | **$127.60** | **$0.00** | **$127.60** | | | | |

Copyright (c) 2010 PropertyRoom.com, Inc. All Rights Reserved.

PROPERTY ROOM.COM

**Report Date:** 04/15/2012

***For inventory and sales activity between 3/1/2012 and 3/31/2012***

CKPD889 [Log out]

# Summary Activity Report

**Department:** 0889 - City of Keizer Police Dept(2mos)

**Sales:** $540.56
**Fuel Surcharge:** ($37.20)
**Check Amount:** $503.36

**Manifest Date:** 02/07/2012 **Manifest Number:** 02072012

| Page | Line | SKU | Description | Winning Bid | Status | Cummulative Amount | Prior Payments | Amount Due | Case ID | Agency Reference | Complete | * |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 1 | 0889-000843 | xbox | | Regrouped | | | | 04-8655 | | | |
| 1 | 2 | 0889-000844 | xbox games | | Regrouped | | | | 04-8655 | | | |
| 1 | 3 | 0889-000845 | PS one | | Regrouped | | | | 04-8655 | | | |
| 1 | 4 | 0889-000846 | dvd, xbox games | | Regrouped | | | | 04-8655 | | | |
| 1 | 5 | 0889-000847 | leatherman tool | | Regrouped | | | | 05-554 | | | |
| 1 | 6 | 0889-000848 | flashlight | | Regrouped | | | | 05-554 | | | |
| 1 | 7 | 0889-000849 | crow bar | | Regrouped | | | | 05-1679 | | | |
| 1 | 8 | 0889-000850 | cd player | | Regrouped | | | | 05-8893 | | | |
| 1 | 9 | 0889-000851 | cd player | $36.00 | Shipped Non-Ups | $17.27 | $0.00 | $17.27 | 05-8893 | | | |
| 1 | 10 | 0889-000852 | flashlight | | Regrouped | | | | 05-9971 | | | |
| 1 | 11 | 0889-000853 | scanner | $80.00 | Shipped | $38.43 | $0.00 | $38.43 | 05-10560 | | | |
| 1 | 12 | 0889-000854 | flashlights | | Regrouped | | | | 05-10560 | | | |
| 2 | 13 | 0889-000855 | motorola talkabout two way radio | | Regrouped | | | | 05-10560 | | | |
| 2 | 14 | 0889-000856 | jacket | | Destroyed | | | | 06-6376 | | | |
| 2 | 15 | 0889-000857 | weatherproof security cameras | $51.00 | Shipped | $24.38 | $0.00 | $24.38 | 06-6701 | | | |
| 2 | 16 | 0889-000858 | dvd player | | Destroyed | | | | 06-9962 | | | |
| 2 | 17 | 0889-000859 | flashlight | | Regrouped | | | | 05-11490 | | | |
| 2 | 18 | 0889-000860 | computer speakers | | Regrouped | | | | 06-12744 | | | |
| 2 | 19 | 0889-000861 | modem | | Regrouped | | | | 06-12744 | | | |
| 2 | 20 | 0889-000862 | monitor | $46.01 | Shipped Non-Ups | $22.10 | $0.00 | $22.10 | 06-12744 | | | |
| 2 | 21 | 0889-000863 | sony walkman | | Regrouped | | | | 10-8170 | | | |
| 2 | 22 | 0889-000864 | kitchen knives | | Regrouped | | | | 10-8170 | | | |
| 2 | 23 | 0889-000865 | inverter | $21.00 | Shipped | $9.98 | $0.00 | $9.98 | 11-3400 | | | |
| 2 | 24 | 0889-000866 | binoculars | $76.00 | Shipped | $36.65 | $0.00 | $36.65 | 11-3400 | | | |
| 3 | 25 | 0889-000867 | chain saw | $46.56 | Shipped | $21.92 | $0.00 | $21.92 | 11-3400 | | | |

| | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 3 | 26 | 0889-000868 | power washer | $170.00 | Shipped Non-Ups | $85.00 | $0.00 | $85.00 | 11-34000 | | | |
| 3 | 27 | 0889-000869 | trimmer | $45.00 | Shipped Non-Ups | $21.53 | $0.00 | $21.53 | 11-3400 | | | |
| 3 | 28 | 0889-000870 | tom tom gps | $31.00 | Shipped | $14.83 | $0.00 | $14.83 | 11-3400 | | | |
| 3 | 29 | 0889-000871 | misc tools | $66.55 | Shipped | $31.92 | $0.00 | $31.92 | 11-6563 | | | |
| 3 | 30 | 0889-000872 | torque wrench snap on | $165.60 | Shipped | $79.97 | $0.00 | $79.97 | 11-7304 | | | |
| 3 | 31 | 0889-000873 | lantern | $26.01 | Shipped | $12.36 | $0.00 | $12.36 | 11-78630 | | | |
| 3 | 32 | 0889-000874 | hand drill and drill bits | | Regrouped | | | | 11-8307 | | | |
| 3 | 33 | 0889-000875 | bike TAG 1016 | $9.43 | Regrouped | $4.52 | $0.00 | $4.52 | | | | |
| 3 | 34 | 0889-000876 | bike 1017 | $9.43 | Regrouped | $4.52 | $0.00 | $4.52 | | | | |
| 3 | 35 | 0889-000877 | bike 1018 | $9.43 | Regrouped | $4.52 | $0.00 | $4.52 | | | | |
| 3 | 36 | 0889-000878 | bike 1023 | $9.43 | Regrouped | $4.52 | $0.00 | $4.52 | | | | |
| 4 | 37 | 0889-000879 | bike 1026 | $115.00 | Shipped | $54.91 | $0.00 | $54.91 | | | | |
| 4 | 38 | 0889-000880 | bike 1027 | $9.43 | Regrouped | $4.52 | $0.00 | $4.52 | | | | |
| 4 | 39 | 0889-000881 | bike 1028 | $9.43 | Regrouped | $4.52 | $0.00 | $4.52 | | | | |
| 4 | 40 | 0889-000882 | bike 1029 | $9.43 | Regrouped | $4.52 | $0.00 | $4.52 | | | | |
| 4 | 41 | 0889-000883 | phillips portable dvd player | $46.01 | Shipped Non-Ups | $22.10 | $0.00 | $22.10 | 10-5992 | | | |
| 5 | 42 | 0889-000537 | rear seats for cahrger | | Destroyed | | | | | | | |
| 5 | 43 | 0889-000538 | rear seats for tahoe | | Destroyed | | | | | | | |
| 5 | 44 | 0889-000539 | rear door panels for tahoe | | Destroyed | | | | | | | |
| 5 | 45 | 0889-000540 | door speakers for 2010 tahoe | | Regrouped | | | | | | | |
| 5 | 46 | 0889-000541 | trunk for 2007 honda motorsycle | $11.00 | Shipped Non-Ups | $5.19 | $0.00 | $5.19 | | | | |
| 5 | 47 | 0889-000542 | upper fork support for 2007 honda ST1300 motorcycle | $6.00 | Shipped Non-Ups | $2.78 | $0.00 | $2.78 | | | | |
| 5 | 48 | 0889-000543 | polaroid cloe up adaptor w/ bag | | Regrouped | | | | | | | |
| 5 | 49 | 0889-000544 | radio battery | | Destroyed | | | | | | | |
| 5 | 50 | 0889-000545 | ford cvpi jack | | Regrouped | | | | | | | |
| 5 | 51 | 0889-000546 | 256 mb ddr sdram | | Regrouped | | | | | | | |
| 5 | 52 | 0889-000547 | motivational posters | $16.11 | Shipped Non-Ups | $7.58 | $0.00 | $7.58 | | | | |
| | | | **Totals:** | **$1,120.85** | | **$540.56** | **$0.00** | **$540.56** | | | | |

Fleet

Admin

Copyright (c) 2010 PropertyRoom.com, Inc. All Rights Reserved.

PROPERTY ROOM.COM

**Report Date:** 05/15/2012

***For inventory and sales activity between 4/1/2012 and 4/30/2012***

ckpd889 [Log out]

# Summary Activity Report

**Department:** 0889 - City of Keizer Police Dept(2mos)

**Sales:** $15.62
**Fuel Surcharge:** ($0.00)
**Check Amount:** $15.62

**Manifest Date:** 02/07/2012 **Manifest Number:** 02072012

| Page | Line | SKU | Description | Winning Bid | Status | Cummulative Amount | Prior Payments | Amount Due | Case ID | Agency Reference | Complete | * |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 1 | 0889-000843 | xbox | $1.55 | Regrouped | $0.74 | $0.00 | $0.74 | 04-8655 | | | |
| 1 | 2 | 0889-000844 | xbox games | $1.55 | Regrouped | $0.74 | $0.00 | $0.74 | 04-8655 | | | |
| 1 | 3 | 0889-000845 | PS one | $1.55 | Regrouped | $0.74 | $0.00 | $0.74 | 04-8655 | | | |
| 1 | 4 | 0889-000846 | dvd, xbox games | $1.55 | Regrouped | $0.74 | $0.00 | $0.74 | 04-8655 | | | |
| 1 | 5 | 0889-000847 | leatherman tool | $1.55 | Regrouped | $0.74 | $0.00 | $0.74 | 05-554 | | | |
| 1 | 6 | 0889-000848 | flashlight | $1.55 | Regrouped | $0.74 | $0.00 | $0.74 | 05-554 | | | |
| 1 | 7 | 0889-000849 | crow bar | $1.55 | Regrouped | $0.74 | $0.00 | $0.74 | 05-1679 | | | |
| 1 | 8 | 0889-000850 | cd player | $1.55 | Regrouped | $0.74 | $0.00 | $0.74 | 05-8893 | | | |
| 1 | 10 | 0889-000852 | flashlight | $1.55 | Regrouped | $0.74 | $0.00 | $0.74 | 05-9971 | | | |
| 1 | 12 | 0889-000854 | flashlights | $1.55 | Regrouped | $0.74 | $0.00 | $0.74 | 05-10560 | | | |
| 2 | 13 | 0889-000855 | motorola talkabout two way radio | $1.55 | Regrouped | $0.74 | $0.00 | $0.74 | 05-10560 | | | |
| 2 | 17 | 0889-000859 | flashlight | $1.55 | Regrouped | $0.74 | $0.00 | $0.74 | 05-11490 | | | |
| 2 | 18 | 0889-000860 | computer speakers | $1.55 | Regrouped | $0.74 | $0.00 | $0.74 | 06-12744 | | | |
| 2 | 19 | 0889-000861 | modem | $1.55 | Regrouped | $0.74 | $0.00 | $0.74 | 06-12744 | | | |
| 2 | 21 | 0889-000863 | sony walkman | $1.55 | Regrouped | $0.74 | $0.00 | $0.74 | 10-8170 | | | |
| 2 | 22 | 0889-000864 | kitchen knives | $1.55 | Regrouped | $0.74 | $0.00 | $0.74 | 10-8170 | | | |
| 3 | 32 | 0889-000874 | hand drill and drill bits | $1.55 | Regrouped | $0.74 | $0.00 | $0.74 | 11-8307 | | | |
| 5 | 45 | 0889-000540 | door speakers for 2010 tahoe | $1.55 | Regrouped | $0.74 | $0.00 | $0.74 | | | | |
| 5 | 48 | 0889-000543 | polaroid cloe up adaptor w/ bag | $1.55 | Regrouped | $0.74 | $0.00 | $0.74 | & FLEET | | | |
| 5 | 50 | 0889-000545 | ford cvpi jack | $1.55 | Regrouped | $0.74 | $0.00 | $0.74 | AD MIN | | | |
| 5 | 51 | 0889-000546 | 256 mb ddr sdram | $1.55 | Regrouped | $0.74 | $0.00 | $0.74 | | | | |
| | | | **Totals:** | **$32.58** | | **$15.62** | **$0.00** | **$15.62** | | | | |

Copyright (c) 2010 PropertyRoom.com, Inc. All Rights Reserved.

**CITY COUNCIL MEETING: August 6, 2012**

**AGENDA ITEM NUMBER:_____**

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

**THROUGH:** **CHRIS EPPLEY**
**CITY MANAGER**

**FROM:** **TRACY L. DAVIS, MMC**
**CITY RECORDER**

**SUBJECT:** **KEIZER POINTS OF INTEREST COMMITTEE**

**ISSUE:**

On November 30, 2011, the Keizer Points of Interest Committee term of Julie Thomas (position #3) and Jim Wood (position #4) expired. A media release was distributed and applications were received from Debbie Miller and Richard Ernst.

At the July 30, 2012, meeting of the Volunteer Coordinating Committee, the applications were reviewed and a recommendation was made to fill positions 3 and 4. The Volunteer Coordinating Committee recommends Debbie Miller for position #3 and Richard Ernst for position #4, both to serve the remainder of the three-year terms, expiring November 2014.

**RECOMMENDATION:**

It is recommended the City Council accept the recommendation of the Volunteer Coordinating Committee and appoint Debbie Miller to position #3 and Richard Ernst to position #4, both to serve the remainder of the three-year terms, expiring November 2014.

**CITY COUNCIL MEETING: August 6, 2012**

**AGENDA ITEM NUMBER:_____**

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

**THROUGH:** **CHRIS EPPLEY**
**CITY MANAGER**

**FROM:** **TRACY L. DAVIS, MMC**
**CITY RECORDER**

**SUBJECT:** **KEIZER FESTIVALS AND EVENTS SERVICES TEAM (K-FEST) COMMITTEE**

**ISSUE:**

On July 27, 2012, Barbara Bigham resigned from her position on the Keizer Festivals and Events Services Team (K-FEST) Committee due to health reasons. At the June 21, 2012 Volunteer Coordinating Committee meeting two candidates (Jodi McBride and Shelly Campbell) were interviewed for a single vacant position and Jodi McBride was selected. With the resignation of Ms. Bigham, staff contacted Shelly Campbell and she indicated she is still interested in serving on this committee.

At the July 30, 2012 meeting of the Volunteer Coordinating Committee, it was recommended Shelly Campbell be appointed to position #3 to fill the unexpired term on the Keizer Festivals and Events Services Team Committee.

**RECOMMENDATION:**

It is recommended the City Council accept the recommendation of the Volunteer Coordinating Committee and appoint Shelly Campbell to position #3 to fill the unexpired term on the Keizer Festivals and Events Services Team (K-FEST) Committee.

**CITY COUNCIL MEETING: August 6, 2012**

**AGENDA ITEM NUMBER:_____**

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

**THROUGH:** **CHRIS EPPLEY**
**CITY MANAGER**

**FROM:** **TRACY L. DAVIS, MMC**
**CITY RECORDER**

**SUBJECT:** **KEIZER RAPIDS PARK HOST**

**ISSUE:**

In 2006, the City of Keizer created a volunteer park host role to provide hosting and maintenance duties at Keizer Rapids Park. The host role was modeled after the Oregon State Park Host program. On October 1, 2012 the current Park Host agreement with Shane & Maleah Witham will expire. A media release was distributed and applications were received from Jared Caruth, Tim Coburn, Kenneth Matt LeDuc, Brent & Alison Robinett, Joe & Aleta Uta'atu, Shane & Maleah Witham, and Stephan Wurzburg.

At the July 30, 2012 meeting of the Volunteer Coordinating Committee, the applications were reviewed and candidates interviewed on their background and interest in serving as the park host. The Committee recommended the appointment of Shane and Maleah Witham to serve as Keizer Rapids Park Host for a three-year period. The Committee also recommended Tim Coburn as the first alternate and Brent and Alison Robinett as the second alternate should Mr. and Mrs. Witham not be able to fulfill the three year commitment.

**RECOMMENDATION:**

It is recommended the City Council accept the recommendation of the Volunteer Coordinating Committee and appoint Shane and Maleah Witham to serve as the Keizer Rapid Park Host until September 30, 2015.

# City of Keizer
## *Park Host*

*This description of Park Host Definition and Duties does not constitute an employment agreement between the City of Keizer and the volunteer and is subject to change by the City as the needs of the City change.*

**Volunteer Position: Park Host** **Effective Date: June 30, 2012**

## OVERVIEW

**The Park Host(s) will:**

- Receive on-site housing at Keizer Rapids Park at no charge.
- All utilities are the responsibility of the Park Host.
- The term of the position will be for 3 years with a possibility of 2 additional 1 year term extensions
- Provide 20 to 40 hours per week of volunteer services
- Receive background check, orientation, training, and an identification badge.
- Work under signed agreements with applicable volunteer insurance coverage.
- Understand and explain rules that apply to park users. This is in an advisory role only and does not include enforcement of park rules.
- Be expected to personally follow park regulations and abide by City of Keizer rules and regulations.
- Work independently at the Keizer Rapids Park.
- Vacate the house and park upon written notice from the City of Keizer.

## EXPECTATIONS OF PARK HOST

- Live in the house located on park grounds and maintain house and outbuildings.
- Have a sign identifying them as Park Host at their site
- Obtain and show proof of personal property insurance
- Coordinate with the City, improvements to existing trails and campground.
- Attend assigned meetings related to park development and operations.
- Communicate with the City supervisor on a regular basis and immediately relay any problems or concerns.
- Perform routine services such as:
  1. Provide an on-site security *presence* protecting the buildings and property from vandalism and theft by routinely patrolling the grounds.
  2. Notify appropriate emergency responders when emergencies arise or activities within park area warrant this action.
  3. Represent the City of Keizer, serving as a contact point for visitors.
  4. Greet visitors in a friendly manner and make them feel welcome.
  5. Be available for special events, coordinating with the City.
  6. Coordinate volunteer workgroups for events such as clean-up, service projects, etc.
  7. Mow, weed, landscape, and/or garden the area around house.
  8. Pick up park litter on a regular basis and after acts of vandalism.
  9. Operate and maintain a variety of equipment.
  10. Other related duties as assigned.

**CITY COUNCIL MEETING: August 6, 2012**

**AGENDA ITEM NUMBER:_____**

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

**THROUGH:** **CHRIS EPPLEY**
**CITY MANAGER**

**FROM:** **TRACY L. DAVIS, MMC**
**CITY RECORDER**

**SUBJECT:** **KEIZER WATER MASTER PLAN UPDATE TASK FORCE**

**ISSUE:**

On July 16, 2012, the Keizer City Council established a Task Force to review and provide input during the development of the water master plan update to ensure the best finished product. The Keizer Water Master Plan Update Task Force consists of seven members to be appointed by the Mayor. The following appointments are recommended:

- Business Sector Representative – Rob Miller
- Development Sector Representative – James Hauge
- Citizen at Large – Jerry McGee
- Water Industry Peer Representatives – Mike Kurtz (Suburban East Salem Water District) and Doug Priest (City of Salem)
- Keizer City Council representatives – (to be announced by the Mayor)

**RECOMMENDATION:**

It is recommended the Mayor appoint the recommended members to the Keizer Water Master Plan Update Task Force.