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, July 21, 2014
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**

   a. **Tequila Nights Bar and Grill Liquor License Application**

   b. **RESOLUTION – Amending Fees for Certain Administrative Services; Amending R2014-2453**
      RESOLUTION – Repealing R88-331 (Approving Parking Permit Criteria and Establishing Parking Permit Fees)
      RESOLUTION – Amending the Transportation System Development Charge Improvement Fee Structure; Amending R2005-1581, Repealing R2005-1618
      RESOLUTION – Amending Water Service Connection Fees and Related Service Fees; Amending R2006-1724
      ORDINANCE – Repealing Ordinance No. 88-124 (Establishing Water Service Connection Fees)

   c. **City of Keizer Comprehensive Plan Revisions**

   d. **ORDINANCE – Decreasing the Administrative Fee for Vehicles that are Uninsured or Driven by Drivers Without Driving Privileges; Amending Ordinance No. 94-310; Repealing Ordinance No. 2006-539**
      ORDINANCE – Decreasing the Administrative Fee for Vehicles Operated by Persons Under the Influence of Intoxicants; Amending Ordinance No. 95-322; Repealing Ordinance No. 2006-540

6. **ADMINISTRATIVE ACTION**

   a. **Request for Support for New Service District by Citizens for Marion County Extension and OSU Extension**

b. Request for Waiver of Fees for Use of Keizer Rotary Amphitheatre for Riverfair

c. Keizer Rotary Amphitheater Concert Series Funding

d. ORDINANCE –Prohibiting the Discharge of Firearms; Repealing Ordinance No. 88-127

e. RESOLUTION – Authorizing City Manager to Sign Cellular Tower Lease/Option with New Cingular Wireless PCS, LLC for Lease of City Property for Wireless Communication Facility

7. CONSENT CALENDAR

a. RESOLUTION – Authorizing the City Manager to Enter Into Political Subdivision Addendum with US Bank (Commercial Card Solutions Contract)

8. COMMITTEE REPORTS

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 4, 2014
7:00 p.m. – City Council Regular Session

August 11, 2014
5:45 p.m. – City Council Work Session

August 18, 2014
7:00 p.m. – City Council Regular Session

12. ADJOURNMENT

Upon request, auxiliary aids and/or special services will be provided. To request services, please contact us at (503)390-3700 or through Oregon Relay at 1-800-735-2900 at least two working days (48 hours) in advance.

CITY COUNCIL MEETING: July 21, 2014

AGENDA ITEM NUMBER:

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

THROUGH: **CHRIS C. EPPLEY**
CITY MANAGER

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

SUBJECT: **TEQUILA NIGHTS BAR AND GRILL – LIQUOR LICENSE APPLICATION**

BACKGROUND:

On July 2, 2014 the City received an application for a new liquor license for Tequila Nights Bar and Grill, located at 3393 River Road N, Keizer, Oregon. The former name of this establishment was DJ Bar and Grill. The Oregon Liquor Control Commission requires a new application when changing ownership, location, or license type. The new owners/applicants are Ernesto Anaya and Yesenio Anaya-Vallego.

As required by Keizer Ordinance a public hearing was scheduled; notice was published and mailed to all property owners within 200 feet of the proposed establishment. The Keizer Police Department reports a clear background check on the applicants. In addition, the Keizer Planning Department finds the location of the establishment to be properly zoned and has no additional comment on the application.

RECOMMENDATION:

It is recommended the public hearing be opened to allow testimony from the applicants or other interested individuals and upon completion, the hearing be closed. It is further recommended the Council recommend approval of the application under the guidelines as established by ORS 471.178 and the Ordinances of the City of Keizer. This recommendation shall then be forwarded to the Oregon Liquor Control Commission for final approval.

Keizer Police Department

Phone: 503-390-3713 ★ Fax: 503-390-8295 ★ www.keizerpd.com
930 Chemawa Rd NE ★ PO Box 21000 ★ Keizer, OR 97307-1000

City Council Meeting of_____

Agenda Item No._____

To: Mayor and City Council

Via: Chris Eppley, City Manager

From: John Teague, Chief of Police
Rita Powers, Police Support Supervisor RP

Subject: Change of Ownership for DJ Bar & Grill to be known as Tequila Nights Bar & Grill

Issue: Shall the City Council approve the liquor license application due to Change of Ownership of DJ Bar & Grill located at 3393 River Rd. N., Keizer, Oregon 97303?

Applicant Background Check:

The applicants for new ownership, Ernesto Anaya and Yesenio Anaya-Vallejo have no Oregon criminal history.
There have been eleven (11) calls for service at this location over the past year, six (6) of which are considered in conflict with Keizer city Ordinance 2010-623. Four calls were noise complaints, one vandalism incident and one physical assault.

Recommendation
The Keizer Police Department recommends approval of the liquor license application for Tequila Nights Bar & Grill, formerly known as DJ Bar & Grill.

Paid 7-2-14

OREGON LIQUOR CONTROL COMMISSION
LIQUOR LICENSE APPLICATION

Application is being made for:

LICENSE TYPES

- [X] Full On-Premises Sales ($402.60/yr)
  - [X] Commercial Establishment
  - [ ] Caterer
  - [ ] Passenger Carrier
  - [ ] Other Public Location
  - [ ] Private Club
- [ ] Limited On-Premises Sales ($202.60/yr)
- [ ] Off-Premises Sales ($100/yr)
  - [ ] with Fuel Pumps
- [ ] Brewery Public House ($252.60)
- [ ] Winery ($250/yr)
- [ ] Other: _____

ACTIONS

- [ ] Change Ownership
- [X] New Outlet
- [ ] Greater Privilege
- [ ] Additional Privilege
- [ ] Other _____

90-DAY AUTHORITY

[ ] Check here if you are applying for a change of ownership at a business that has a current liquor license, or if you are applying for an Off-Premises Sales license and are requesting a 90-Day Temporary Authority

APPLYING AS:

[ ] Limited Partnership [ ] Corporation [X] Limited Liability Company [ ] Individuals

CITY AND COUNTY USE ONLY

Date application received: 7-2-14

The City Council or County Commission:

_____
(name of city or county)

recommends that this license be:

❑ Granted ❑ Denied

By: _____
(signature) (date)

Name: _____

Title: _____

OLCC USE ONLY

Application Rec'd by: (a)

Date: 7.2.14

90-day authority: ❑ Yes ☑ No

1. Entity or Individuals applying for the license: [See SECTION 1 of the Guide]

① Tequila Nights Bar & Grill LLC ③ _____

② _____ ④ _____

2. Trade Name (dba): Tequila Nights Bar & Grill

3. Business Location: 3393 River RD N (number, street, rural route) Keizer (city) OR (county) MARION (state) 97303 (ZIP code)

4. Business Mailing Address: 3393 River RD N (PO box, number, street, rural route) Keizer (city) OR (state) 97303 (ZIP code)

5. Business Numbers: _____
(phone) (fax)

6. Is the business at this location currently licensed by OLCC? [ ] Yes [X] No

7. If yes to whom: _____ Type of License: _____

8. Former Business Name: D.J. Bar & Grill

9. Will you have a manager? [X] Yes [ ] No Name: Ernesto Anaya
(manager must fill out an Individual History form)

10. What is the local governing body where your business is located? Keizer OR MARION
(name of city or county)

11. Contact person for this application: 971 Ernesto Anaya (name) 971-290-0375 (phone number(s))

4310 Shoreline Dr N (address) Keizer OR 97303 (fax number) (e-mail address)

RECEIVED
OREGON LIQUOR CONTROL COMMISSION
JUN 30 2014
SALEM REGIONAL OFFICE

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:

① Ernesto Anaya Date 6/30/14 ③ _____ Date _____

② _____ Date _____ ④ _____ Date _____

OREGON LIQUOR CONTROL COMMISSION

BUSINESS INFORMATION

Please Print or Type

Applicant Name: Tequila Nights Bar & Grill LLC Phone: 971-240-0325

Trade Name (dba): Tequila Nights Bar & Grill

Business Location Address: 3393 River RD N

City: Keizer Oregon ZIP Code: 97303

DAYS AND HOURS OF OPERATION

Business Hours:

Sunday	11:00 AM	to	2:30 AM
Monday		to	
Tuesday		to	
Wednesday		to	
Thursday		to	
Friday		to	
Saturday	↓	to	↓

Outdoor Area Hours: N/A

Sunday		to	
Monday		to	
Tuesday		to	
Wednesday		to	
Thursday		to	
Friday		to	
Saturday		to	

The outdoor area is used for:

☐ Food service Hours: _____ to _____

☐ Alcohol service Hours: _____ to _____

☐ Enclosed, how _____

The exterior area is adequately viewed and/or supervised by Service Permittees.

_____ (Investigator's Initials)

Seasonal Variations: ☐ Yes ☐ No If yes, explain: _____

ENTERTAINMENT

Check all that apply:

- ☐ Live Music
- ☐ Recorded Music
- ☐ DJ Music
- ☐ Dancing
- ☐ Nude Entertainers
- ☑ Karaoke
- ☐ Coin-operated Games
- ☑ Video Lottery Machines
- ☐ Social Gaming
- ☑ Pool Tables
- ☐ Other: _____

DAYS & HOURS OF LIVE OR DJ MUSIC

Sunday		to	
Monday		to	
Tuesday		to	
Wednesday		to	
Thursday		to	
Friday		to	
Saturday		to	

SEATING COUNT

Restaurant: 36 Outdoor: _____

Lounge: 18 Other (explain): _____

Bar 10 Total Seating: 64

OLCC USE ONLY

Investigator Verified Seating: ____(Y) ____(N)

Investigator Initials: _____

Date: _____

I understand if my answers are not true and complete, the OLCC may deny my license application.

Applicant Signature: Ernesto Arenas **Date:** 6/30/14

CITY COUNCIL MEETING: July 21, 2014

AGENDA ITEM NUMBER:_____

TO: **MAYOR CHRISTOPHER AND COUNCIL MEMBERS**

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

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

SUBJECT: **VARIOUS FEE RESOLUTIONS/ORDINANCE**

Council has adopted Resolutions and Ordinances relating to various types of fees over the years. Staff has been reviewing the Resolutions and Ordinances to repeal any outdated fees and provide clarification on the Council's intent on adopted fees, if necessary.

This matter is before the Council tonight to garner citizen comment and to consider revisions to several fees. The first fee for the Council to consider is the charge for public record searches. Resolution R2014-2453 adopted on June 2, 2014 had two records search charges. The first charge was a flat amount of $6.00 for requests taking less than 30 minutes, but more than 15 minutes. The second charge was the staff person's hourly rate for requests taking 30 minutes or more. Interpreting this language became a challenge recently for a request that was to take approximately 45 minutes. The question raised was if the flat $6.00 is charged for the first 30 minutes, should the hourly rate be charged for the remaining 15 minutes or should the hourly rate be charged for the entire 45 minutes? Staff's recommendation is to charge the hourly rate only after the first 30 minutes. The attached Resolution makes this clear.

The second fee for the Council to consider is the parking permit fees related to temporary RV parking. Resolution R88-331 established parking permit fees. Such fee has been amended several times, and the adoption of Ordinance No. 2005-535 removed the fee entirely. It is appropriate to repeal the outdated Resolution R88-331 to reduce confusion relating to fees for issuance of a parking permit.

The third fee for the Council to review is the water service connection fee. Ordinance No. 88-124 was adopted on August 29, 1988 establishing "water service connection" fees. On August 21, 2006, Council adopted Resolution R2006-1724 establishing "water meter set" fees. It is apparent that Resolution R2006-1724 was to replace Ordinance No. 88-124, but Ordinance No. 88-124 was never repealed. Therefore, Ordinance No. 88-124 should be repealed to reduce confusion as to which fees are valid. It is also appropriate to amend

Resolution R2006-1724 to revise the term “water meter sets” to “water service connections” to be consistent with the terms used in the Water Rules and Regulations.

The last fee for Council to consider is the Transportation System Development Charge (SDC) Improvement fee structure. It appears that in 2005, the Council desired to index the SDC fee structure, but the methodology Resolution was amended rather than the fee Resolution. It is apparent that this was an error as the attachment refers to indexing of the SDC fee structure. This error should be corrected and the intent of the Council restated.

I have attached several proposed Resolutions and a proposed Ordinance for your consideration.

RECOMMENDATION:

Open the public hearing and take testimony. Once testimony is taken, close the public hearing and deliberate on the proposed Resolutions and Ordinance. If you have no further questions, adopt the following:

1. Resolution Amending Fees for Certain Administrative Services; Amending Resolution R2014-2453.
2. Resolution Repealing Resolution R88-331 (Approving Parking Permit Criteria and Establishing Parking Permit Fees).
3. Resolution Amending the Transportation System Development Charge Improvement Fee Structure; Amending Resolution R2005-1581; Repealing Resolution R2005-1618.
4. Resolution Amending Water Service Connection Fees and Related Service Fees; Amending Resolution R2006-1724.
5. Ordinance Repealing Ordinance No. 88-124 (Establishing Water Service Connection Fees).

The Council may move the Resolutions as a group if no Councilor objects. The appropriate motion would be to move adoption of Resolutions 1 through 4 in the staff report. The Ordinance must be passed separately and have the title read in full.

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

ESJ/tmh

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2014-_____

AMENDING FEES FOR CERTAIN ADMINISTRATIVE SERVICES;
AMENDING RESOLUTION R2014-2453

WHEREAS, the City Council adopted fees for administrative services by Resolution R2014-2453;

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

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

WHEREAS, it has been determined that the records search fee has caused some confusion;

WHEREAS, the City wishes to revise the fee schedule to clarify the fees for record searches;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that Resolution R2014-2453 is amended by replacement of Exhibit "A" with the attached Exhibit "A" and the fees shall be charged to persons according to the request.

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

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

PASSED this _____ day of _____, 2014.

SIGNED this _____ day of _____, 2014.

_____
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)	Flat fee for records searches taking less than 30 minutes (see above) plus the hourly rate of staff person conducting the research including benefits for any additional time more than 30 minutes
Photocopies	$0.25 per page (1-10) $0.19 per page (11+)
City Recorder Certification	$6.00
DVD/CD reproduction	$15.00 per DVD/CD
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 Photos (DVD Disc)	$12.00
Police Letters of Clearance	$6.00
Police Computer Scan Request	$6.00
Fingerprints	$25.00
Officer Exam Fee	actual cost
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, CITY OF KEIZER, STATE OF OREGON

Resolution R2014-_____

REPEALING RESOLUTION R88-331 (APPROVING PARKING PERMIT CRITERIA AND ESTABLISHING PARKING PERMIT FEES)

WHEREAS, Resolution R88-331 (Approving Parking Permit Criteria and Establishing Parking Permit Fees) adopted a parking permit form and permit fee as required by Ordinance 87-097 (Regulating Parking and Establishing Enforcement Procedures);

WHEREAS, Ordinance 87-097 has been repealed;

WHEREAS, Council adopted Ordinance No. 2005-535 (Regulating Parking and Establishing Enforcement Procedures) on December 12, 2005 establishing parking regulations and permitted parking and removing the permit fee;

WHEREAS, Resolution R88-331 is no longer necessary and should be repealed;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that Resolution R88-331 (Approving Parking Permit Criteria and Establishing Parking Permit Fees) is hereby repealed in its entirety.

///

///

///

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

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

PASSED this _____ day of _____, 2014.

SIGNED this _____ day of _____, 2014.

_____
Mayor

_____
City Recorder

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

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2014-_____

AMENDING THE TRANSPORTATION SYSTEM DEVELOPMENT CHARGE IMPROVEMENT FEE STRUCTURE; **AMENDING RESOLUTION R2005-1581; REPEALING RESOLUTION R2005-1618**

WHEREAS, the City adopted Ordinance No. 2005-518 imposing Keizer Transportation System Development Charges on March 21, 2005;

WHEREAS, the City adopted Resolution R2005-1572 establishing the methodology used to establish transportation system development charges on March 21, 2005;

WHEREAS, the City adopted Resolution R2005-1573 establishing the transportation system development charges on March 21, 2005;

WHEREAS, the City adopted Resolution R2005-1581 repealing Resolution R2005-1573 and establishing the transportation system development charges on April 4, 2005;

WHEREAS, the City considered the indexing of the transportation system development charges and adopted Resolution R2005-1618 on August 1, 2005;

WHEREAS, Resolution R2005-1618 amended R2005-1572 by adoption of an adjustment factor;

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

WHEREAS, the adjustment factor applies to the transportation system development charges rather than the methodology used to establish transportation system development charges;

WHEREAS, City Council wish to clarify that the adjustment factor applies to the transportation system development charges;

WHEREAS, it is appropriate to amend Resolution R2005-1581 to clarify that the intent to index the transportation system development charges beginning July 1, 2006 is confirmed;

WHEREAS, it is appropriate to repeal Resolution R2005-1618 to eliminate any interpretation questions;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that Resolution R2005-1581 is hereby amended by adding the following section at the end of such Resolution:

> BE IT FURTHER RESOLVED that the transportation system development charges shall be adjusted on July 1 of each year following the attached Adjustment Factor (2005).

BE IT FURTHER RESOLVED that Resolution R2005-1618 shall be repealed in its entirety.

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

BE IT FURTHER RESOLVED that the effective date of this Resolution nunc pro tunc is August 1, 2005.

PASSED this _____ day of _____, 2014.

SIGNED this _____ day of _____, 2014.

_____
Mayor

_____
City Recorder

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

EXHIBIT A - ADJUSTMENT FACTOR (2005)

Notwithstanding any other provision, the dollar amounts of the SDC shall be adjusted on July 1 of each year (beginning July 1, 2006) to account for changes in the costs of acquiring and constructing transportation facilities. The adjustment factor shall be based on the change in average market value of undeveloped land in the City, according to the records of the County Tax Assessor, and the change in construction costs according to the Engineering News Record (ENR) Northwest (Seattle, Washington) Construction Cost Index; and shall be determined as follows:

	Change in Average Market Value X 0.50
+	Change in Construction Cost Index X 0.50
=	System Development Charge Adjustment Factor

The System Development Charge Adjustment Factor shall be used to adjust the Transportation System Development Charge, unless it is otherwise adjusted by the City Council based on a review of revenues and rates or adoption of an updated methodology.

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2014-_____

AMENDING WATER SERVICE CONNECTION FEES AND RELATED SERVICE FEES; **AMENDING RESOLUTION R2006-1724**

WHEREAS, the City of Keizer assumed responsibility for the operation of the water system of the Keizer Water District on July 1, 1985;

WHEREAS, the Council established water meter set fees and related service fees on August 21, 2006 by Resolution R2006-1724;

WHEREAS, the rules and regulations use the term "service connection" rather than the term "meter set";

WHEREAS, to avoid confusion, Council desires to amend Resolution R2006-1724 to revise the terms to be consistent with the Water Rules and Regulations;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that Resolution R2006-1724 shall be amended as follows:

1. The title of Resolution R2006-1724 shall be amended to "Establishing Water Service Connection Fees and Related Service Fees."

2. References throughout Resolution R2006-1724 to "water meter sets" shall be amended to "water service connections."

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

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

PASSED this _____ day of _____, 2014.

SIGNED this _____ day of _____, 2014.

_____
Mayor

_____
City Recorder

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

BILL NO. ____ A BILL ORDINANCE NO. 2014-_____

FOR

AN ORDINANCE

REPEALING ORDINANCE NO. 88-124 (ESTABLISHING WATER SERVICE CONNECTION FEES)

WHEREAS, the City Council adopted water service connection charges by Ordinance No. 88-124 on August 29, 1988;

WHEREAS, the City Council established water meter set fees by the adoption of Resolution No. R2006-1724 on August 21, 2006;

WHEREAS, Ordinance No. 88-124 is no longer necessary and should be repealed;

NOW, THEREFORE, the City of Keizer ordains as follows:

Section 1. REPEAL OF ORDINANCE NO. 88-124. Ordinance No. 88-124 is hereby repealed in its entirety

Section 2. EFFECTIVE DATE. This Ordinance shall take effect thirty (30) days after its passage.

PASSED this _____ day of _____, 2014.
SIGNED this _____ day of _____, 2014.

_____
Mayor

_____
City Recorder

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

COUNCIL MEETING: July 21, 2014

AGENDA ITEM NUMBER: _____

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

THROUGH: **CHRIS EPPLEY, CITY MANAGER**
NATE BROWN, COMMUNITY DEVELOPMENT DIRECTOR

FROM: **SAM LITKE, SENIOR PLANNER**

SUBJECT: **ENVIRONMENTAL AND PUBLIC SERVICES RELATED COMPREHENSIVE PLAN REVISIONS**

Attachments:

- Draft Comprehensive Plan revisions

ISSUE:

The proposed text amendment will revise the city's comprehensive plan to include environmental and public services findings and policies. The Planning Commission voted unanimously to support the proposed text amendments.

DISCUSSION:

Last year the City Council adopted an update of the city's comprehensive plan which was in large part related to the work done on the Economic Opportunities Analysis and Housing Needs Analysis, and included other select revisions that were determined to be out of date. When those revisions were brought before the Planning Commission and City Council, the environmental and public services related materials were not included due to time constraints. The attached document contains revisions that were developed by Public Works staff.

Major changes are found are pages1 thru 16 and are related to storm drainage and environmental issues. Changes on pages 60 to 64 relate primarily to water and sanitary sewer issues. These changes are focused on storm drainage and water/sanitary sewer updates. The Comp plan will continue to need updating of many other issues as specific work on various issues occur in the future.

The major policy modifications implemented by these changes:

- Labish Ditch is changed from a not protected waterway to a protected waterway—together with Claggett Creek.
- Property owners are now required to provide stream protection instead of "encouraged".

- Groundwater underground-injected stormwater facilities have no detrimental effects for normal applications.
- Stormwater is regulated as a point source of pollutants.
- No longer will we "encourage the dredging of the Willamette River".
- Incorporates the updated Water Master Plan as part of the Comp Plan.
- Incorporates the most recent Master Sewer Plan as part of the Comp Plan.

RECOMMENDATION:
Open the public hearing to consider the proposed amendments and direct staff to prepare an ordinance with findings to adopt the proposed revisions.

City of Keizer Comprehensive Plan

City Council Adoption: January 19, 1987
Last Updated December 16, 2013

LCDC Acknowledgement:
Salem Area Comprehensive Plan May 20, 1982
Keizer Amendment February 10, 1987
Keizer Amendment February 3, 2003

Keizer Periodic Review Ordinances:
December 5, 1994 and July 17, 1995

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VI. APPENDIX 1

I. INTRODUCTION

A. PURPOSE

The Keizer Comprehensive Plan is a long-range plan for guiding conservation and development in the City of Keizer to the year 2033. The goal of the plan is to accommodate the conservation and development of Keizer's resources, neighborhoods and lands in a timely, orderly and efficient manner consistent with the needs and aspirations of present and future city residents. It is also the plan's goal to ensure that Keizer is an active participant in the Salem/Keizer region, and the actions and activities of regional significance are coordinated with all appropriate local governments. (2013)

It is the intent of this plan to specify the goals and policies unique to the situation and opportunity in Keizer. It recognizes, however, the hard work of citizens, local officials and professionals who prepared the Salem Area Comprehensive Plan. Much of this work is still appropriate for Keizer; many of the findings, goals and policies listed in the SACP can be found in this document. But other policies were developed for Keizer only, by Keizer citizens and officials for the City of Keizer. These policies make this plan specific to Keizer, and will result in a future community unique to the region.

B. ORGANIZATION

The Keizer Comprehensive Plan contains three chapters in addition to this brief introduction. Chapter II describes the data and concepts that underlie the plan. It summarizes from more detailed analysis contained in technical working papers, which are briefly summarized in the Appendix to the Plan.

Chapter III is the heart of the plan. It has seven sections:

1. Significant Natural and Cultural Features
2. Urban Growth and Growth Management
3. Land Use and Economic Development
4. Plan Diagram and Special Land-Use Policies
5. Public Facilities to Support Development
6. Procedures for Plan Administration and Review
7. Agricultural Lands (2013)

Each section lists goals and policies and the findings that support them. Findings consist of the results of all the analysis contained in the Technical Appendices, and the opinions of Keizer citizens and officials. Policies consist of specific actions Keizer will use to reach its goals. Any inconsistencies between Chapter I and II and the policies in Chapter III are unintentional. If inconsistencies exist, the policies in Chapter III should rule.

Chapter IV is the glossary of the comprehensive plan. It contains a list of accompanying plan documents and incorporates these documents by reference in the Keizer Comprehensive Plan.

C. REQUIREMENTS FOR COMPREHENSIVE PLANNING IN OREGON

During 1973, the Oregon Legislature adopted Senate Bill 100 (ORS Chapter 197), which provided for the coordination of local comprehensive plans to meet state standards and review. The act established the Land Conservation and Development Commission (LCDC) and directed the commission to adopt statewide planning goals and guidelines, which they did. The legislature directed that these goals and guidelines be used by state agencies, cities, counties, and special districts in preparing, adopting, revising and implementing their comprehensive plans.

The City of Salem, with participation by Marion County, Polk County and Mid-Willamette Valley Council of Governments prepared and adopted the Salem Area Comprehensive Plan. This plan was acknowledged by LCDC in May 1982. The City of Keizer incorporated that same year and chose to follow the appropriate policies in the Salem Area Comprehensive Plan until it prepared a new comprehensive plan.

Planning is an organized attempt at community foresight. It seeks to guide the future conservation and development of an area within a framework of goals and policies consistent with the desires of the community and physical, legal, and economic constraints on development. In balancing the often conflicting desires and requirements for conservation and development, the plan may add yet additional constraints. But the findings of fact that Keizer assembles and interprets, coupled with state requirements, still leave the City with several alternatives about how to proceed on dozens of issues concerning conservation and development. This plan describes that alternative Keizer has chosen.

D. RELATIONSHIP TO SALEM AREA COMPREHENSIVE PLAN

GENERAL HISTORY

The City of Salem, together with Marion and Polk Counties, prepared, adopted and submitted for acknowledgment, the Salem Area Comprehensive Plan (SACP), prior to the incorporation of the City of Keizer. The City of Keizer incorporated a previously unincorporated portion of the Salem/Keizer Urban Area into a new city and became the local jurisdiction responsible for planning and land use decisions within that portion of the area governed by the SACP which falls within its city limits. The Cities of Salem and Keizer, along with Marion and Polk Counties chose to amend the SACP to integrate Keizer into the planning process for the Salem/Keizer Urban Area by recognition of its jurisdiction in the text of the SACP and by providing procedures for amendment of the plan by each of the four jurisdictions.

The City of Keizer has adopted its own Comprehensive Plan (KCP) as a post-acknowledgment amendment to the Salem Area Comprehensive Plan. Marion County has also adopted the KCP as it applies to that portion of the Keizer Urban Area outside the City of Keizer. The relationship between the SACP and the KCP and the authority each has over certain areas within the UGB is set forth later in this plan as well as within the text of the SACP. The KCP incorporates all elements of the SACP that apply to the Keizer Urban Area.

II. OVERVIEW OF THE FINDINGS AND CONCEPTS ON WHICH THE PLAN POLICIES ARE BASED

A. HISTORICAL DEVELOPMENT

Keizer has grown from a largely agricultural community in the early 1950's to the fourteenth largest city in Oregon. In the 1960's and 1970's, Keizer grew rapidly from south to north along both sides of North River Road. This arterial links the suburban residential neighborhoods in Keizer to employment and shopping opportunities in central Salem. North River Road and Wheatland Road also provide access to the agricultural lands in northern Marion County. (2012)

Public sewer, water, and fire districts provide basic public services and facilities to this growing area. Until Keizer incorporated in 1982, Marion County managed its land uses, and it was included within the Urban Growth Boundary and the Salem Area Comprehensive Plan, adopted in 1979 and acknowledged by LCDC in 1982.

As of July 1, 2012, Keizer had a population of 36,735. The city provides sanitary sewers, water, ~~drainage~~ stormwater facilities, parks, streets, police and general government. The Keizer Rural Fire Protection District and Marion County Fire District No. 1 provide fire protection, and the Salem-Keizer School District 24J provides public education. (2013)

B. EXISTING CONDITIONS

1. POPULATION (2012

In June 2011 a regional Housing Needs Analysis (HNA) was completed. This was a two year planning study that included both Keizer and Salem and unincorporated areas within the combined urban growth boundary (UGB). The regional HNA was funded by the Department of Land Conservation and Development and was managed by the Mid-Willamette Valley Council of Governments. The project consultant, EcoNorthwest, was responsible for collecting, analyzing the data, and preparing the planning document. The study utilized local staff in a technical advisory committee and also local elected officials in a regional policy committee. (2012)

The regional HNA used the mid-range of Marion County's coordinated population projections as a basis for its analysis. The county's projection was developed using PSU methodology and calculated that number to allow a slight allowance for the constrained nature of Keizer's portion of the UGB. Marion County assigned a regional population projection to Salem and Keizer jointly. This was a 2030 projected population of 299,980 for the two cities. The study included a low, medium, and high population growth range with a mid-range forecast of 49,486 for Keizer, 204,320 for Salem and the remainder for the area inside the UGB and outside of either Salem or Keizer in both Marion and Polk counties. (2013)

A 20 year population projection is the basis of a local HNA. A 20 year population forecast of 48,089 for the future population of the City of Keizer is realistic and appropriate number which is professionally established by Portland State University. This number is slightly less than the mid-range number contained in the Marion County coordinated population projection study. The Marion County projection is the basis for the regional HNA. The effect of revising this number slightly is that there will

be slight differences between the regional and the Keizer HNA. However, this number is the best professional estimate of the growth of Keizer. (2012)

The table below indicates that the city has almost doubled in size since its incorporation in 1983. The largest decade in terms of growth was during the 1990's when Keizer grew by almost 50% and had it largest annual average growth rate of 4.6% throughout the decade. The projected growth for the upcoming 20-year planning period reflects an annual growth of 1.6%. This compares to average annual growth of 3.1% since the city's incorporation, but that factors in the large growth periods of the 1990's and early 2000's. (2012)

	1983*	1990	2000	2010	Projected 2032
Population	19,654	21,768	33,203	36,478	48,089
increase		2,114	10,435	4,275	11,611
Percent increase		10.7%	47.9%	13.2%	31.8%
Average growth rate		1.5%	4.8%	1.3%	1.4%

* Incorporation of city (2012)

a. Keizer has a growing population. (2012)

- Keizer added more than 14,000 people, a 66% increase in population, at an average annual rate of 2.7% over the 1990 to 2009 period.
- Keizer grew at a faster rate than the Salem Metropolitan Service Area (SMSA) (1.8% per year) or Oregon (1.6% per year) over the 1990 to 2009 period mostly due to the large growth rates in the period of 1990 to early 2000's. (2013)

b. Keizer's population is growing older. (2012)

- In Keizer, people aged 45 and older grew by more than 2,100 people (a 19% increase) between 2000 and 2008. Keizer's population over 45 years old grew at a slower rate than the same age group in Salem.

c. Keizer is becoming more ethnically diverse. (2012)

- Keizer's Hispanic/Latino population grew by more than 5,300 people over the 1990 to 2008 period. Hispanics accounted for 18% of the overall city population.
- Keizer's Hispanic/Latino population grew by 433% between 1990 and 2008, outpacing the State average (252% increase) or the regional average (265% increase).

2. EMPLOYMENT (2012)

Three trends dominate employment growth in the Salem/Keizer region. First, government continues to provide nearly one-third of the employment for the SMSA

despite minor decreases since 1980 and strong long-term growth in other sectors. Second, there is an increasing proportion of employment in the services and in retail trade. Most of these gains have been during the last ten years as Salem's importance as a regional retail and distribution center grew. Third, agricultural and manufacturing (e.g., lumber, wood products, and food processing) have a decreasing share of the employment in the local economy. This decrease is a result of growth in other manufacturing industries from increasing mechanization and decreasing employment in extractive industries (e.g., machinery, printing, other durable goods). (2013)

Despite the recessionary halt in population and employment growth since 2008, the long-run trends are strong. Population and employment growth have been faster in the northwest, Oregon, and the region than in the nation as a whole. (2013)

Oregon and the Salem-Keizer region have both had steady, long-term growth in population and employment over the last 25 years. Notwithstanding the more noticeable short-term gains and losses, the long-term forces generating this growth will continue to act locally and regionally. Keizer's economy must be understood in the context of these regional trends. Employment in Keizer was noted to be 6,820 in 2012 according to the EOA. (2013)

3. HOUSING

In 2013, single family dwellings, attached and detached, accounted for over 10,200 units, or 70% of all housing stock. Duplexes accounted for 324 units (2%); there were 544 mobile homes that accounted for slightly less than 4% of housing types; and the 3,400 multi-family units made up 24% of the housing inventory. Since the last comprehensive update in the late 1980s the number of housing units has almost doubled across all categories. Approximately 60% of all housing units were owner-occupied. When only single family units are considered, then approximately 87% were owner-occupied with the remaining single family units used as rentals. (2013)

GENERAL DEMOGRAPHIC PROFILE
KEIZER, OREGON

POPULATION, HOUSEHOLDS, FAMILIES, AND YEAR-ROUND HOUSING UNITS					
	2000 (Census)	2010 (Census)	Growth Rate 00-10	2013 (Proj.)	Growth Rate 10-13
Population[1]	32,203	36,478	1.3%	36,864	0.4%
Households[2]	12,110	13,703	1.2%	13,824	0.3%
Families[3]	8,642	9,498	0.9%	9,582	0.3%
Housing Units[4]	12,774	14,445	1.2%	14,531	0.2%
Group Quarters Population[5]	280	364	2.7%	368	0.4%
Household Size	2.64	2.64	0.0%	2.64	0.0%

PER CAPITA AND AVERAGE HOUSEHOLD INCOME					
	2000 (Census)	2010 (Est.)	Growth Rate 00-10	2013 (Proj.)	Growth Rate 10-13
Per Capita ($)	$20,119	$24,645	2.0%	$26,192	2.0%
Average HH ($)	$53,425	$64,272	1.9%	$67,937	1.9%
Median HH ($)	$45,052	$53,042	1.6%	$55,705	1.6%

SOURCE: Claritas, Census, and Johnson Reid

[1] Population is based on the certified 2012 estimate from PSU Population Research Center, projected forward one year using the 2010 - 2012 growth rate (0.4%)

[2] 2013 Households = 2013 population/2013 HH Size

[3] Ratio of 2013 Families to total HH is kept constant from 2010.

[4] 2013 housing units are the 2010 Census total plus new units permitted from '10 through '12 (source: HUD State of the Cities Data System)

[5] Ratio of 2012 Group Quarters Population to Total Population is kept constant from 2010.

(2013)

4. LAND USE

Keizer contains approximately 4,400 acres inside the city limits. Lands designated for residential uses comprise the largest use category with approximately 70% of the land area, followed by commercial use (18%), public (7%) and industrial lands (5%). (2013)

5. BUILDABLE LANDS

A buildable lands inventory for both the employment and residential land needs was updated in the BLI that was developed by the Mid-Willamette Valley Council of Governments as part of the Regional Economic Opportunities Analysis and the Regional Housing Needs Analysis. The BLI has found the following supply of Buildable Lands: (2013)

Figure 1. SUMMARY OF EXISTING EMPLOYMENT
BUILDABLE LANDS INVENTORY

Zoning		Total Acreage
AI	Agricultural Industrial	22.2
Cg	Commercial General	4.7
Cm	Commercial Mixed Use	16.4
CO	Commercial Office	0.4
CR	Commercial Retail	2.7
IBP	Industrial Business Park	29.3
IG	Industrial General	12
MU	Mixed Use	34.9
TOTAL		122.5

(2013)

6. NATURAL RESOURCES AND WILLAMETTE GREENWAY

There are ~~few~~ natural resources in the Keizer urban area that require protection or conservation. There are cultural and historic sites located within Keizer. The Willamette Greenway boundary includes a narrow, steeply sloped band along the Willamette River, and almost all property adjacent to the boundary has been developed for single-family uses. There are vegetated riparian corridors along perennial and intermittent waterways in Keizer that warrant protection including open space along Claggett Creek. The City contains jurisdictional wetlands that provide valuable resources to the community. ~~The resource and open space values along Claggett Creek warrant protection.~~ (2013)

7. PUBLIC FACILITIES, SERVICES AND TRANSPORTATION

Water, sanitary sewer, ~~drainage~~ stormwater facilities, streets, parks and police services are provided by the City of Keizer. The Keizer Rural Fire District and the Marion County Fire District #1 provide fire protection within each respective district. K-12 education is provided by the Salem-Keizer School District. The following points describe the conditions for these essential services: (2013)

a. Groundwater is the city's primary water supply. Protection of the quality and quantity of the groundwater aquifer is a high priority. (2013)

b. Adequate water supply is provided to the urbanized portions of the city. Water service is available to serve undeveloped areas within the city limits. (2013)

c. Adequate sanitary sewer service is provided to the urbanized portions of the city. Sewer service is available to all major undeveloped areas, and a master plan for sanitary sewers has been prepared. (2013)

d. Sanitary sewer treatment is provided by the City of Salem under a service agreement with the City of Keizer, (2013)

e. ~~Drainage facilities within the developed portion of the city are inadequate. Inadequate dry wells and sumps pose potential pollution problems for Claggett Creek and the aquifer~~. Stormwater facilities include the municipal separate storm sewer system (MS4) and underground injection control (UIC) devices; more commonly known as drywells. Not all portions of the City are served by stormwater facilities, and some existing portions of the system are undersized. (2013)

f. The City is responsible for a dike constructed along the east bank of the Willamette River in southwest Keizer. The dike was a joint city/Army Corps of Engineer's project designed to reduce the threat of flooding along the Willamette River. (2013)

g. Lands needed for park lands both developed and undeveloped are considered to be slightly less than national standards and will require 42 additional acres to meet future needs (2013)

h. Transportation facilities and public transportation services (such as Salem Area Mass Transit District) in Keizer as identified in the city's Transportation System Plan are considered to be adequate to handle existing travel demands. The city is working with the state on the development of an Interchange Management Area Plan that addresses the need for future improvements to the I-5 interchange that will be needed to accommodate future growth. (2013)

C. EXPECTED FUTURE GROWTH

1. RELATIONSHIP OF THE KEIZER COMPREHENSIVE PLAN TO SALEM AREA COMPREHENSIVE PLAN AND REGIONAL URBAN GROWTH BOUNDARY

The Keizer Comprehensive Plan specifies the goals and policies unique to the situation and opportunities in Keizer. While Keizer is located within the Salem-Keizer metropolitan area and shares a common urban growth boundary with Salem, this Comprehensive Plan establishes goals and policies which are specific to Keizer. The regional housing supply has direct bearing on the availability of land for residential land supply within the city and will be a factor in meeting the needs of the City of Keizer. The city must address the needed mix of housing types to achieve its vision of a diverse and vibrant community. The economic aspirations of the city will be implemented to specifically address the employment imbalance existing in the City of Keizer. (2013)

Keizer shares its UGB with Salem through a voluntary joint agreement. The Regional Comprehensive Plan Coordination Association includes Keizer, Salem, Turner, Marion and Polk Counties and established the Salem Keizer Area Planning Advisory Committee (SKAPAC). The SKAPAC included goals and process designed to guide the jurisdictions in developing a coordinated regional response to legislative land use decisions while not impinging on the local legislative authority. The Keizer comprehensive plan recognizes the value of such an approach and believes that the involved jurisdictions must continually evaluate and update this agreement to adequately meet the changing nature of growth and development of the region. (2013)

A regional EOA involving the joint participation of Keizer, Salem, and Turner was developed in 2011. This regional planning analysis was done consistent with Statewide planning Goal 9 and was the foundation of this local EOA. (2013)

This regional Economic Opportunities Analysis (EOA) for the Salem-Keizer metropolitan area describes the EOA as “an analysis of the community's economic patterns, potentialities, strengths, and deficiencies as they relate to state and national trends” and states that “a principal determinant in planning for major industrial and commercial developments should be the comparative advantage of the region within which the developments would be located.” The data and analysis presented are intended to serve as the foundation for the preparation of local EOAs for the cities of Keizer, Salem and Turner. The report includes regional assessments of land supply and economic opportunities, but does not include local determination of whether individual cities have enough land in the urban growth boundary (UGB) to accommodate identified economic opportunities over the required 20-year planning horizon. (2013)

The key regional issues identified in the EOA are:

- **Keizer has a population/employment imbalance.** In 2008, this imbalance was measured as one job in the City for every 7 residents. In 2012, that number was at one job for every 5.4 residents. Though there have been significant gains recently, this imbalance is still much higher than the state average (2.2 jobs per resident), or the City of Salem (1.7 jobs per resident). Keizer wants to improve the ratio of population to employment, which will require faster employment growth relative to population. The City does not have sufficient land to accommodate this level of employment growth. Keizer will need additional acres of high-value employment land to achieve its vision. (2013)

- **A regional imbalance of opportunity sites exists.** The region has a significant inventory of high-value land; all of which is located in Salem, mostly in Mill Creek. If the regional supply continues to be located exclusively in Salem, the existing imbalance of population and employment in Keizer will be perpetuated. (2013)
- **One location to address the regional imbalance and create a long-term supply of sites is north of the Chemawa/I-5 interchange.** However, preliminary analysis of infrastructure suggests that significant resources will be required for improvements to the interchange before substantial new development can occur. Developing infrastructure improvements for opportunity sites will require regional coordination and cooperation to plan for, and fund infrastructure upgrades in areas for high value employment. (2013)
- **Increasing the regional supply of high value employment land in the metropolitan area will require development of major off-site infrastructure (e.g., transportation and wastewater facilities).** The cost of servicing high value employment sites suggests making the land "project-ready" for development and may require public subsidy of infrastructure. A key policy issue for the participating jurisdictions to address is whether public subsidy to create new opportunity sites is a good investment. (2013)
- **The regional supply of land creates issues related to timing and coordination of planning activities.** Because Keizer has a limited supply of employment sites, it has an urgency to address land deficiencies in the short-term. (2013)
- **The EOA identified a deficit of general commercial land that must be addressed through local planning processes.** Options for addressing the general commercial land deficit include accommodating general commercial demand within the existing UGB and include tools such as redesignation of industrial or other lands, redevelopment of sites with existing but low-density commercial development, mixed-use development, or infill of underused commercial sites. State law requires that jurisdictions consider these options prior to considering an expansion of the UGB to meet these land deficiencies. (2013)

The regional EOA documented the conditions that may affect economic development in the Salem-Keizer metropolitan area. These included:

- Jobs that pay, on average, 70% of the national wage.
- An unemployment rate that is two percentage points above the national average.
- A manufacturing base that accounts for 7% of regional employment, compared with a statewide average of 11%.
- Commuting patterns that import one-third of the regions workers and exports 20% of area residents to other cities.
- Small cities that serve as bedroom communities; Keizer has seven persons for every job and Turner has about five persons per job.
- A smaller share of residents in the region with a Bachelor's degree or higher (21%) compared to the State average (28%).
- Availability of more than 500 acres of serviced high-quality industrial land.
- A tighter supply of higher-quality commercial land. (2013)

Staff and elected officials from the five jurisdictions (Salem, Keizer, Turner, Marion and Polk Counties) participating in this project worked together to develop a set of

regional economic development goals and objectives. The goals and objectives provide a regional framework and assist the local jurisdictions in developing their own economic development policies. The goals of the regional strategy are to:

- Coordinate regional economic development.
- Provide land to allow expansion of existing businesses and to attract new businesses to the region.
- Provide infrastructure to support business development.
- Provide opportunities for employment growth for a variety of employers throughout the region. (2013)

The methodology that was used in the Regional EOA was to distinguish between land needed by businesses with special land requirements versus land needed for general employment. The following classifications were developed:

- General employment land – the most flexible employment land category. It includes land that is zoned for a variety of employment uses such as industrial, commercial and institutional. The inventory includes a variety of site sizes and locations.
- High value or unique attribute employment land – land with special characteristics that make it highly desirable as an employment development site or unique and difficult to replicate attributes that are important to particular users. (2013)

The sufficiency of general employment land to accommodate 20-years of growth was determined through comparison of the supply of general industrial and commercial land with demand for general industrial and commercial (including retail). Key conclusions of the general land analysis are:

- The three areas (Keizer, Salem and Turner) have a supply of nearly 660 acres of general industrial land and a need for about 300 gross acres of general industrial land. Thus, the region has a surplus of about 360 acres of general industrial land. (2013)

- The three areas have a supply of about 320 acres of general commercial land and a need about 920 gross acres of general commercial land (office and retail). Thus, the region has a deficit of about 600 acres of general commercial land. (2013)

- The Salem-Keizer metropolitan area has a sufficient supply of general industrial land to meet general industrial employment growth over the 20-year period. (2013)

- The metropolitan area lacks general commercial land to meet expected commercial and retail growth, which is related to projected population growth. (2013)

The need for employment lands derives from the regional and local economic development objectives. Those objectives build from a broader vision that can be generally summarized as “create more stable, high-paying jobs.” The regional EOA summarized Keizer’s objectives as follows: (2013)

- Keizer aspires to provide more opportunities for a range of good paying jobs for people living in Keizer, which would result in faster growth in employment

than in population growth. Keizer's vision for providing new employment opportunities is to capture professional services and associated uses in a "campus" setting, primarily but not exclusively related to medical office, research and education. These services may include a hospital and/or educational facilities, which are expected to provide Keizer with growth opportunities that fit the City's locational advantages. (2013)

The regional EOA concluded that:

- Keizer does not have enough high value employment land to meet the City's economic development objectives over the planning period. Keizer wants to balance the ratio of population to employment, which will require growth of businesses in Keizer. To achieve that vision, the city will need to add between 9,000 and 11,500 new jobs during the 2013-2033 planning period. If about 6,000 and 8,500 of the new employees locate on high value land, Keizer would need about 200 acres of high value employment land. (2013)

D. CONCEPTS FOR DIRECTING GROWTH

New development in Keizer will be of two forms: infill development within existing neighborhoods and commercial areas, and new development in vacant areas that will require the extension of major public facilities onto lands that are currently outside of the urban growth boundary. This will require further consideration to amend the UGB consistent with all state requirements. The concepts directing growth in these two areas differ substantially. (2013)

The results of citizens' comments obtained through public outreach regarding how Keizer should look and grow during the next 20 years have identified these guidelines for detailed planning analysis and policy development in a manner that is consistent with statewide land use planning requirements. (2013)

1. Policies which encourage stabilization, infill, and improvement should be emphasized for existing residential neighborhoods and commercial areas in Keizer. (2013)

2. Adequate lands should be made available for future industrial and commercial development that seek to realize the identified economic vision and goals, and that will allow for a mix of housing types. Keizer should place a high priority on providing public facilities to newly developing areas and on encouraging affordable housing. (2013)

3. The area around the Willow Lake Sewage Treatment Plant is designated a special policy area, and policies have been developed to address the unique characteristics of that area. These policies establish a special policy area in which uses that will be affected by noise and odor originating from the treatment plant are limited. (2013)

4. Open space areas along Claggett Creek, Labish Ditch, intermittent drainages, and the Willamette River should be preserved ~~wherever possible~~. (2013)

5. The floodplain permit process should be used to ensure that flooding problems within the 100-year floodplain are addressed before major new developments are approved. (2013)

These guidelines form the foundation of the plan's goals, policies, and land-use designation described in Chapter III. (2013)

III. FINDINGS AND POLICIES

In this chapter, there are findings supporting each plan element listed, along with goals and policies outlining the city's intentions in managing its natural and man-made resources. Findings are facts derived from technical analysis, and public opinion on important issues. Goals and policies are derived from the statewide goals, and are general, and site or topic specific. (2013)

This chapter contains seven sections, each concerned with a specific topic area. Significant Natural and Cultural Features addresses agricultural, natural resources and open spaces, environmental quality, energy conservation, Willamette Greenway, resource conservation, historic resources, and 100-year flood plain. Findings for each topic area are followed by goals and more specific policies. (2013)

The next section, Urban Growth and Growth Management, describes the future growth forecasts for Keizer, the need for land to accommodate the growth, and the availability of suitable land within the city. An urban growth boundary is described, as are policies, which will manage the growth over time.

The third section is Land Use and Economic Development. Here are general policies for all land uses, housing and economic development. The fourth section, Plan Diagram and Special Land Use Policies, explains the land use plan diagram, the various land use designations, and special site-specific policy areas.

Public Facilities to Support Development includes transportation, sanitary sewer, water, drainage, parks and recreation and schools. Policies in this section are intended to ensure that adequate levels of service are provided to existing and future Keizer residents.

The Procedures for Plan Administration and Review section, describes Keizer's policies for continued citizen involvement, coordination with other levels of government, and plan revision and implementation. (2013)

The last section, Agricultural Lands, sets forth findings and policies for lands in the Exclusive Farm Use (EFU) and Special Agriculture (SA) zones. (2013)

A. SIGNIFICANT NATURAL AND CULTURAL FEATURES

1. FINDINGS

a. Agricultural Lands

1) Within the city limits there are three areas that have an agricultural designation. One is a area in the northwest corner of the city adjacent to the Willow Lake Treatment Plant where several properties are designated Agricultural Industrial (AI); one 10 acre parcel that is zoned Exclusive Farm Use (EFU), although this is not considered to be an EFU qualifying zone as defined in ORS; and, approximately 27 acres near the Keizer Rapids Park is designated Special Agriculture (SA) which is a EFU qualifying zone. Each of these zones allows for farm uses and other uses consistent with each respective zone. The remainder of the City is within the urban growth boundary, and are thus committed to future urban uses. (2013)

b. Forest Lands

1) There are no significant forest lands within the City of Keizer. The city's EFU (Exclusive Farm Use), SA (Special Agriculture), UT (Urban Transition), and AI (Agricultural Industrial) zones all allow for commercial forest production, although none of these zones have any commercial forest production sites. The city recognizes the important role its urban forest plays in the urban environment. (2013)

c. Open Spaces, Scenic and Historic Areas and Natural Resources.

1) Inventories undertaken for Keizer as part of the Salem Area Comprehensive Plan have identified the following potentially sensitivity resources:

(a) Open Spaces - City parks, the Willamette River, ~~and~~ Claggett Creek, Labish Ditch, intermittent drainage corridors, McNary Golf Course, flood plains at the northwestern edge of the city and school grounds. The recent addition of the Keizer Rapids Park has provided additional access to the Willamette River and opportunities for open space along the river. The regional park serves a vital function to the recreational and health needs of the city and region. (2013)

(b) Fish and Wildlife - Approximately 9,000 linear feet of Willamette River corridor, Claggett Creek, Labish Ditch, and the flood plain areas.

(c) Vegetation - Willamette River, Labish Ditch and Claggett Creek riparian corridors, and jurisdictional wetlands~~.~~

(d) Groundwater Resources - The Troutdale formation and the recent alluvium of the Willamette River floodplain. All groundwater is a potential drinking water source and a resource to recharge and cool surface water.

(e) Aggregate Resources - There are two existing aggregate sites near Chemawa Road and the Willamette River outside the City and the UGB. No future sites exist within the city limits.

2) There are two ~~main creeks~~ perennial waterways ~~–~~that run through Keizer. (2013)

~~(a) Labish Ditch is a man-made drainage ditch, mostly void of natural vegetation. There exists one 1, 000-foot stretch of native woodland west of Gubser Elementary School. In personal communication with the Marion County Planning Department~~

~~(11/23/81 and 11/24/81), the Oregon Fish and Wildlife Department and Salem Parks and Recreation Agency reported that they had identified no significant wildlife habitat. The primary value of the trees is visual and the tradeoff in their preservation is visual value to existing residents vs. value of the land for housing. An in-depth analysis of this issue by the City of Salem* led to the following findings regarding Labish Creek:~~

a)Labish Ditch was constructed to drain Lake Labish. The construction of the ditch, which occurred in the early 1900s was the result of an Oregon Legislative action that allowed drainage of some waterbodies for the purpose of expanding agricultural land. The portion of the waterway within the County continues to be maintained as a ditch while the portion that lies within, or adjacent to the City functions as a natural waterway. There are 5500 linear feet of waterway within the City of Keizer and an additional 5000 feet of waterway that includes Keizer on one side and Marion County on the other. ~~In personal communication with Oregon Department of Fish and Wildlife in 2008~~. The following findings are found regarding the Labish Ditch Waterway:~~.~~

1) B~~b~~ecause there is no fish barrier at the confluence of Claggett Creek and Labish Ditch within the City, Labish provides habitat for those native aquatic species found in Claggett Creek.
2) Labish Ditch is considered ~~as~~ a tributary of Claggett Creek and is therefore subject to in-water work periods. The primary value of the trees and vegetation within the riparian corridor is related to water quality and habitat issues.

~~(1) There are alternative areas, which provide equivalent or greater open space values, including Gubser School (within 300 feet), open farmland (1, 000 feet north) and Claggett Creek near McNary Golf Course (0.5 miles west).~~

~~(2) This portion of Labish Ditch is not within the 100-year floodplain.~~

~~(3) The area is well served by transportation and other public facilities.~~

(3~~4~~) ~~Prohibiting this area from residential development would be an inefficient use of buildable land, well served by public facilities, particularly in light of the availability of alternative open spaces~~. Development along Labish Ditch can ~~should~~ take place only with preservation of the riparian corridor and elevated bank stabilization measures.

(4) ODFW has determined that the portion of Labish Ditch within or adjacent to the City of Keizer is subject to the same requirements as Claggett Creek.

~~In summary, Labish Ditch is a man-made creek with only 1, 000 feet of natural woodland. The values of this open space are not as great as the need for housing in this location.~~

5) ~~In summary, a~~ Although portions of Labish Ditch were artificially constructed, the section of waterway that abuts, or transects the City, functions as a natural drainage. The waterway may be utilized by native resident fish such as cut throat trout, sculpin, speckled dace, and shiners.

Historic management of the Ditch has resulted in eroded banks, some undercutting, and high velocity flows in wet weather. Restoration, retention of vegetation, and effective stabilization should be emphasized on Labish Ditch.

b) Claggett Creek has also been analyzed with the following findings:

(1) The portion of Claggett Creek within Keizer includes nearly 16,000 linear feet and lies within the 100-year floodplain and portions of it lie within the 500-year floodplain as well.

(2) The Claggett Creek corridor is currently protected by a flood plain overlay zone.

(3) ~~There is no anadromous fishery in Claggett Creek, but there may be a trout fishery present below McNary Golf Course.~~ODFW states that Claggett Creek may be utilized by native resident fish such as cut throat trout, sculpin, speckled dace, and shiners.

(4) A variety of vegetation exists in the Claggett Creek corridor, which provides important urban habitat for resident and nonresident songbirds, migratory waterfowl, and wildlife such as raccoon and muskrat.

(5) The variety of topography in the Claggett Creek corridor offers opens spaces for organized recreation (between Dearborn and Chemawa); limited access ~~swamp~~ wetland and riparian habitat for wildlife (Chemawa to Lockhaven and downstream of McNary Golf Course); and combined open space and riparian habitat for controlled public access and wildlife (Dearborn to the Salem Parkway).

3) The existing floodplain overlay zone and zoning ordinance setback requirements adequately protect these resource values. Examples of requirements include: 1) all subdivision proposals must have adequate drainage to reduce flood hazard, 2) new residential construction much be confined to instances where lowest floor of houses is two feet above base flood level, 3) zoning ordinance provides a 25 foot building setback from the mean high water mark of streams; and 4) no development is permitted within a floodway without an engineer's study showing that the development will result in no net rise of the waterway. (2013)

4) A letter of map amendment was issued by FEMA in October 2002 that removed a significant portion of west Keizer from the 100 year floodplain. This was a result of the construction of the dike along the Willamette River. (2013)

5) Keizer is located on a relatively flat plain, and thus the only scenic views are from existing residential areas toward the Willamette River. Agricultural areas to the north and west of Keizer outside of the UGB offer a scenic setting as does the McNary Golf Course and the Claggett Creek corridor within the City.

6) The Cultural and Historic Resources survey conducted for the Salem Area Comprehensive Plan listed no resources within the City of Keizer. (2013)

7) The State Historic Preservation Office in 2013 indicated that 29 buildings in Keizer have been inventoried to determine whether they have any cultural or historic significance. Of this inventory, 2 properties were public, 4 were commercial and the remaining 23 sites were residential properties. This inventory further indicated that 18 properties were not eligible or non-contributing with regard to historic designation; 8 properties were determined to be eligible contributing (2 were in public use, 5 were in residential use, and 1 in a commercial type activity); and 3 were designated as eligible significant (all residential). The Fort Wallace site and the Keizer School were both found to be eligible contributing owing to their historical contributions to the community's history. (2013)

8) ~~In 1998 a local wetlands inventory was conducted as part of the Salem Keizer Region Local Wetland Inventory~~. ~~This inventory documented that the majority of wetland soils that were observed in Keizer were located in the areas adjacent to Claggett Creek. Other isolated pockets of wetland soils were noted to be in portions of what is now Keizer Rapids Parks, areas near Staats Lake and some of the other drainage areas in the community. The inventory is intended to be used as a tool to determine whether additional information needs to be submitted by an applicant seeking to develop property. Also, properties not identified in the inventory may in fact be determined to have wetlands and any development of the site will need to be in accordance with all applicable state and or federal regulations.~~ (2013)

The Salem/Keizer Local Wetland Inventory (LWI) was completed in 1998. Field tests were conducted for the inventory along Claggett Creek, which resulted in the verification that there are wetland soils adjacent to this waterway. Aerial photography was utilized to assess other areas of the City without field testing. This process revealed isolated pockets of wetland soils in portions of what is now Keizer Rapids Park, areas near Staats Lake and some of the other drainage areas in the community. No field testing was conducted along Labish Ditch or for the majority of the wetlands identified at Keizer Rapids Park. The inventory is intended to be used as a tool to determine whether additional information needs to be submitted by ~~an~~ applicants seeking to develop property. All properties not identified in the inventory may in fact be determined to have wetlands and any development of the site will need to be in accordance with all applicable local, state, and federal laws.

d. Environmental Quality

1) In the 1970s, the Salem-Keizer area was tested for compliance with the newly established carbon monoxide (CO) and ozone standards. At that time, CO and ozone concentrations were above the standards, and the area was officially designated by EPA as non-attainment. In 2004, EPA formally designated the entire state of Oregon in attainment for ozone. The Oregon Environmental Quality Commission (EQC) adopted an Ozone Maintenance Plan for Portland and Salem on February 22, 2007. (2013)

In the SKATS region, the carbon monoxide (CO) standard has not been violated for 20 years, and CO concentrations are now approximately half of the NAAQS for CO. Consequently in June 2007, the Oregon EQC re-designated SKATS as a CO Maintenance Area. The EQC also adopted a Limited CO Maintenance Plan for the SKATS region in June 2007. This plan was approved by the federal Environmental Protection Agency (EPA) and became effective on March 2, 2009 [73 Federal Register 79655, Dec 30, 2008]. (2013)

~~The construction of the garbage burning plant at Brooks just northeast of Keizer suggest that continuous air quality monitoring in the City should be undertaken.~~ (2013)

2) ~~As documented in the 1982 report, "Conformance of the Salem Area Comprehensive Plan with State Land Use Goals", the major water quality problems in the Salem/Keizer area are associated with the Willow Lake sewage treatment plant and sedimentation and erosion. Additionally, significant levels of nitrate and coliform bacteria have been identified in Claggett Creek and concerns have been expressed regarding pollution of the groundwater aquifer by dry wells.~~
According to DEQ, the major water quality problems in the Salem/Keizer urban area are associated with urbanization. Pollutants of particular concern include bacteria, mercury (associated with

sedimentation and erosion), temperature, and dissolved oxygen. Heavy metals, associated with transportation, and pesticides are growing areas of concern in regard to water quality.

3) Because the city obtains all of its water supply from underground sources, the city is concerned about maintaining the water quality of this resource and seeks to avoid expensive alternatives or future remediation measures. ~~Negative impacts are possible from underground storage tanks, storm drainage, chemical spills, residential on-site sewage disposal systems, and other similar land uses from both spills from city sites as well as from spills that are outside the city limits but which may enter the underground water supply.~~ The city closely monitors water quality from its well sources consistent with state and federal testing requirements. The city coordinates closely with DEQ on the states leaking underground storage tank program which has identified 183 tanks that have been replaced within the city limits as well as groundwater contamination sites in the city that DEQ staff investigate. (2013) In preparation for obtaining a Water Pollution Control Facilities (WPCF) permit to legally operate publically owned UICs, the City commissioned a two-year groundwater protectiveness study to determine the effects of underground-injected stormwater runoff from city-owned properties and rights-of-way. Using Keizer-specific data, an extensive modeling effort was completed in the fall of 2013. The findings concluded that *normal* stormwater inputs have no detrimental effect on groundwater beneficial uses. *However, the findings also stated that in order to maintain protectiveness, all~~ny~~ newly installed stormwater injection devices must be placed at least 120 feet from existing water wells and injection points must have at least 3 feet of vertical separation from seasonal high groundwater.* ~~DEQ has reviewed and approved these findings.~~ (Kohlbecker, M., "Groundwater Protectiveness Demonstrations and Risk Prioritization for Underground Injection Control (UIC) Devices, City of Keizer, Oregon", GSI Water Solutions Inc., Portland, OR, Nov. 2013)

4) A DEQ and Marion County Health Department survey in 1984 identified a concern relating to a significant number of failing septic systems in the northern portion of the city. Since then sanitary sewers have since been installed in this area and the problems associated with failing septic systems have been corrected. The installation of sanitary sewer lines, along with waterlines, have allowed for numerous properties to be developed and to connect to full city services. There are no known wide spread problems that would require extensive extension of city services. There is a very small percentage (1-2%) of homes within the city that still use private septic systems. As these systems fail and require upgrading, it is the city's policy that properties that are within 300 feet of sanitary sewer lines then connect to that line. Over time, the number of private septic systems within the city is decreasing and the likelihood of groundwater contamination from these sources is also decreasing. (2013)

5) Noise measurements and forecasting undertaken for the March 1982 Conformance Report led to the conclusion that the principal noise

generator in the Salem area is the automobile. Several studies have been conducted in the Keizer area since 1982 in association with road widening. Specifically, measurements were made along North River Road and the Salem Parkway. Some specific locations along major arterials were found to be above state guidelines, but overall there is a minimal noise problem. No noise problems were identified on smaller streets.

6) In the late 1980s and early 1990s, the issue of odors from the Willow Lake Treatment Plant resulted in an agreement between the City of Salem (operator of the treatment facility) and Keizer for the creation of a special Noise/Odor Impact Overlay zone to be added to the development code. This both limits certain type of development near the treatment facility and also requires an easement/waiver as a result of allowed developments. There have also been technological improvements and operation changes in the subsequent years that have lowered the levels of odors being emitted from the operation of the treatment plant. (2013)

7) In recent years, concerns over garbage waste and land fill capacity has resulted in greater opportunities for waste reduction. Keizer residents are given the opportunity to reduce their household waste volumes through recycling and composting collection containers by the two garbage haulers in the city. While the city does not have a waste management plan, Marion County has taken the lead on the establishment of this plan and envisions a 51.5% waste reduction rate through the planning period to be an achievable rate. (2013)

8) The city ~~has begun to develop~~ has developed ~~storm water~~ stormwater requirements aimed to reduce the amount of runoff from sites being developed that are consistent with state and federal regulations. These requirements seek to treat ~~storm water~~ stormwater on-site ~~wherever practical~~ as a means to reduce the ~~storm water~~ stormwater outflow ~~into the creeks and river.~~ (2013) to waterways.

9) DEQ has determined that the City is a designated management agency for the Willamette Basin T~~t~~otal Maximum Daily Load (TMDL) for its stormwater discharges to the Willamette River from Labish Ditch, Claggett Creek, and nonpoint sources. The City of Keizer TMDL Implementation Plan was approved by DEQ in April 2008. The Plan was revised and approved in 2012. The pollutants of concern to the receiving waters, the Willamette River, are bacteria, temperature, and mercury. Additional pollutants will be added based on monitoring in subsequent years. Heavy metals and pesticides are likely to be included in the relatively near future.

10) The City of Keizer is a National Pollutant Discharge Elimination System (NPDES) permit holder. The federal Clean Water Act designates that stormwater be regulated as a point source. The City of Keizer is identified as a Phase II jurisdiction because of its location within the Salem/Keizer urban area. In Oregon, DEQ is the authorized

agent for the Environmental Protection Agency (EPA) who administers the stormwater regulations in the Clean Water Act. Keizer was issued NPDES permit #102904 in March 2007. The NPDES permit, and implementation of the Stormwater Management Plan referenced in the permit, allow the City to discharge stormwater directly to local waterways. Failure to implement the Management Plan or remain in compliance with the permit can result in fines and/or third party lawsuits.

11) The United States Congress enacted Underground Injection Control (UIC) rules in 1974 under the federal Safe Drinking Water Act. The EPA administers these rules under Title 40 of the Code of Federal Regulations (CFR) parts 144-148. In Oregon, the EPA has delegated the regulation of UICs to DEQ. OAR 340—044 regulated all groundwater as a potential source of drinking water and require municipalities with more than 50 UICs to operate under a Water Pollution Control Facilities (WPCF) permit. The City was issued WPCF permit #103068 in October 2013. The WPCF permit requires development of a UIC Management Plan, a systemwide assessment, and a monitoring plan. Those documents were approved by DEQ in August 2013 and are referenced as approved in the permit. Keizer's UIC Management Plan includes a robust list of Best Management Practices (BMPs) designed to minimize impact to groundwater from stormwater runoff, illicit discharges or other inputs to UIC facilities. Compliance with the WPCF permit provisions constitutes compliance with current state and federal regulations regarding municipal stormwater UICs, including the applicable portions of the Safe Drinking Water Act.

e. Natural Hazards

1) Based upon a detailed inventory of hazards by the Oregon Department of Geology and Mineral Industries there are two major types of natural hazards that were estimated to affect Keizer. These were the result of flooding associated with the Willamette River and/or flooding of the river and impacts on feeder streams such as Claggett Creek, and impacts associated with an earthquake. While there is no known fault line under the city, it is estimated that damage would occur from shaking of soft soils. While the city is generally quite flat there is one area of steep slopes in the northwest quadrant, however no specific hazards associated with landslides was noted on the inventory. This is not to say that any potential development on steep hillside might not be at risk and may require special engineering studies and unique construction methods. (2013)

2) A dike/riverwall was constructed along the Willamette River in 1965 to protect the area along the river from flooding. Responsibility for maintenance and enforcement of dike standards lies with the City in conjunction with the Army Corps of Engineers which certified the design and construction of the dike / riverwall. (2013)

3) In consideration of the construction of the dike / riverwall, FEMA issued a Letter of Map Adjustment which recognized the effect of the lowering of the impact of flooding in the western portion of Keizer. This removed hundreds of properties from the 100 year floodplain. The main areas within the city that are within the 100 year floodplain are low lying areas adjacent to Claggett Creek, Labish Ditch, Staats Lake, and the roads and golf course in McNary Estates, and the lower portion of properties upstream of the dike / riverwall. (2013)

4) The city has established an emergency management team which works with other jurisdictions to better plan for natural hazards and to develop response plans for such emergencies. (2013)

f. Willamette Greenway

1) A Willamette Greenway Boundary has been established for the portion of the Willamette River within the Keizer City limits. This boundary is shown on the Willamette Greenway Boundary Plan and should be evaluated to determine if any revisions to the boundary should be made as it appears to have several discrepancies. (2013)

2) A vast majority of the lands abutting the Willamette Greenway Boundary are already developed in residential uses, and there are three existing city parks along the Willamette River which provides for opportunities for the provision of public river access or park recreation. At this time, there are no uses within the Willamette Greenway Boundary which conflict with the overall goal of resource protection, conservation and enhancement. (2013)

3) A Willamette Greenway Overlay Zone has been incorporated into the Keizer Zoning Ordinance. Specific regulations are applied to the lands within the overlay zone including the permitting process, specification of allowed uses, use management and procedural requirements. (2013)

2. GOALS AND POLICIES

a. General Goals

1) Preserve and maintain agricultural lands within the UGB until needed for urban development.

2) Conserve open space and protect natural, cultural and scenic resources.

3) Maintain and improve the quality of air, water and land resources.

4) Protect life and property from natural disasters and hazards.

5) Encourage energy conservation.

6) Protect, conserve, enhance and maintain the natural, scenic, historical, economic and recreational qualities of lands along the Willamette River.

7) Create economic and regulatory incentives that favor residential infill projects that are compatible with existing neighborhoods.

b. Agricultural Lands Policies

1) Encourage agricultural lands within the UGB to continue in agricultural use until such lands are planned for public facilities and other development per the public facilities and urban growth management elements of this plan and with the applicable zone district requirements. The city's one parcel that is designated EFU should be evaluated to determine whether this zone designation is still appropriate or whether it should be re-designated to a more appropriate residential land designation. (2013)

c. Natural Resources and Open Space Policies

1) Protect and preserve open space areas along the Willamette River and Claggett Creek, in public parks and school grounds. A change in the zoning of these areas shall be reviewed to evaluate the effects of such change. Develop strategies to improve existing and future parks along the river to maximize access to the river without impacting riparian areas or water quality. (2013)

2) Protect and manage identified significant wildlife habitats that may be identified in the future in accordance with the State Wildlife Management practices.

3) It is the intent of the City of Keizer that Labish Ditch and Claggett Creek shall be protected. Protect the riparian vegetation adjacent to Claggett Creek, Labish Ditch, and the Willamette River within the 100-year flood plain from development impacts through the flood plain ordinance, Discharge Ordinance, Erosion Control Ordinance, and other conservation area policies.

4) Protect, preserve and maintain waterways as as drainage courses and scenic, recreational and natural resources as required under the NPDES permit and TMDL Implementation Plan. Access to waterways for maintenance purposes should be provided allowed and implemented in a water quality minded manner..

5) Prohibit filling of natural drainage courses. unless adequate alternatives are taken to accommodate the storm water run-off and surface drainage area.

6) The city shall revise park and recreational plans to meet the increased recreational needs created by infill and redevelopment and shall

implement the necessary process to meet the current and future needs of the city. (2013)

d. Historic and Cultural Resources Policies

1) Protect and encourage the preservation of cultural and historic resources that may be identified in the future.

2) Develop an inventory and analysis of historic and culturally significant resources within the city. (2013)

3) Ensure the preservation of officially listed historical sites and structures by criteria contained in Historical Landmark Overlay Zone chapter of the Keizer Development Code. (2013)

e. Environmental Quality Policies

1) ~~Strive to achieve and maintain attainment status for all pollutants in Keizer through continued support of regional efforts. The city will adhere to State and Federal standards for all pollutants.~~ (2013) Maintain compliance with state and federal regulations in regard to stormwater quality through implementation of the City's NPDES permit, WPCF permit, TMDL Implementation Plan, and any approved guiding documents.

2) ~~Provide public facilities adequate to prevent water pollution problems.~~ Maintain public infrastructure as is required by state and federal regulations and local permitted activities.

3) ~~Accomplish the disposal of solid waste with minimal negative impact on the land, air and water resources of the region. A balanced program of recycling, waste reduction, conventional landfill disposal and other methods shall be encouraged~~. The city shall participate with Marion County in the implementation of its waste management planning process. (2013)

4) Continue to participate in regional efforts to minimize the odor near the Willow Lake Waste Water Treatment Plant. (2013)

5) The city shall follow ~~adopted~~ best management practices with regard to the operation of its facilities to minimize all negative environmental impacts.~~.~~ (2013)

6) ~~The city will develop and implement storm water regulations aimed at reducing storm water runoff into the city's waterways and require new developments to adhere to these requirements~~. (2013)

7) In the review of land use applications, the city will not only require the proposal to comply with all applicable state environmental regulations but will also seek ways to minimize any impact it may have on natural features. (2013)

8) Require a ~~wetlands soils analysis~~ an approved Department of State Lands wetland determination for any development proposed that is within an identified wetlands as shown on the wetland inventory map or which appear to exhibit possible wetland characteristics. Any development will need to be consistent with all state and federal regulations affecting the use of wetlands. (2013)

f. Energy Conservation Policies

1) Consider and foster the efficient use of energy in land use and transportation planning.

2) Encourage site planning, landscaping and construction, which supports solar energy use and conservation.

3) Allow development of underground facilities for homes, commercial and semi-public, and public services and activities in order to reduce amounts of energy needed for heating and cooling.

4) Encourage renewal and conservation of existing urban neighborhoods and buildings, and create a multi-centered land use pattern to decrease travel needs. In-filling of passed over vacant land should be encouraged. Emphasis on close locational relationships among developments for living, working, shopping and recreation should be encouraged through planned mixed-use zones.

5) Provide for higher density and more economical residential developments as an alternative to single-family detached housing.

6) Plan for commercial, office, retail and service facilities, including schools, churches, public and semi-public uses at both the community and neighborhood level, and within walking distance of residential areas.

7) Encourage cluster developments of mixed uses to promote energy conservation and to allow more efficient centralized energy systems.

g. Willamette Greenway Policies

1) Maintain and enforce regulations to control the use of land and intensity of uses within the Willamette River Greenway boundary. The predominant land use is single family residential with a significant amount of park lands which should be protected from incompatible uses. This boundary should be evaluated to determine if any revisions to the boundary should be made as it appears to have several discrepancies. (2013)

2) Exempt from the Willamette Greenway regulations are small modifications of existing structures. Normal maintenance activities as defined in the Zoning Ordinance are also exempt. (2013)

3) Establish setbacks through the Willamette Greenway regulations review process. Except for water-related and water-dependent building and structures, buildings and structures shall be located 30 feet or more upland from the ordinary high water line unless it can be shown that the parcel size makes meeting this requirement impossible, or natural features would be lost if the standard is met. (2013)

4) Conserve riparian vegetation and wildlife within the Willamette Greenway boundary. Conservation shall include protecting and managing river banks, sloughs, wildlife and vegetation. (2013)

5) Minimize disturbance to private property where adjacent to public use areas. (2013)

6) Acquire additional sites when available for recreation and scenic views and access to the Willamette River. (2013)

7) Support aggregate extraction within the river channel and on lands adjacent when determined to be compatible with the purpose of the Willamette Greenway. Proposed extraction must ~~shall~~ meet any state and federal regulations regarding extraction and be designed to minimize the adverse effects on water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise and potential land use. (2013)

8) ~~Encourage the state to continue dredging of the Willamette River for the purpose of channel maintenance, bank stabilization and to facilitate commercial river traffic and recreational boating. Dredging operations should minimize the adverse impacts on existing fish and wildlife habitat, riverbank vegetation and public and private property.~~ (2013)

9) Ensure that the Keizer Dike is maintained consistent with applicable Army Corps of Engineer certification requirements. (2013)

h. Resource Conservation Policies

1) Provide for additional protection, preservation and maintenance for the resource conservation area as indicated in the Resource Conservation Overlay Zone in the Keizer Development Code (KDC) and by: (2013)

(a) Require new development in Resource Conservation Areas be done consistent with the regulations in the Resource Conservation Overlay Zone in the KDC. (2013)

(b) Allow selective removal ~~cutting, trimming and thinning~~ of invasive ~~existing~~ vegetation so as to improve the natural scenic

and habitat value of these areas., ~~, to provide for access, and to provide for necessary public facilities~~.

(c) Areas disturbed during construction of necessary public facilities will be replanted in such a way to enhance the scenic and habitat values of the area and adequately protect the site from erosion that may occur~~s~~ as a result of disturbance~~.~~

(d) Establish as a priority public acquisition in the Claggett Creek corridor those areas designated in the comprehensive plan as needed and appropriate for park and recreation purposes.

(e) Allow the transfer of development rights within the same parcel when resource conservation lands are donated to the city, or when permanently dedicated for open space purposes.

(f) ~~Encourage~~ Require private owners to maintain conservation areas in order to preserve and enhance habitat values, and comply with overlay zone regulations and applicable federal wetland standards.

i. 100-year flood plain Policies

1) Regulate development in the floodplains and floodways to preserve and maintain the capability of the floodplain to convey the flood water discharges and to minimize danger to life and property. (2013)

2) Adopt in the form of an overlay zone regulations to control development within the 100-year floodplain. Require new development to comply with all applicable floodplain regulations, including submittal of certified elevation certificates, and retention of all floodplain action records. (2013)

3) Maintain and improve the dikes along the Willamette River consistent with Army Corps of Engineer requirements, and enforce standards which ensure protection of the structural integrity of the dike. (2013)

B. URBAN GROWTH AND GROWTH MANAGEMENT

1. FINDINGS

a. General

1) The City of Keizer is within the shared Salem-Keizer Urban Growth Boundary. It is the city's intent to recognize the existing urban growth boundary in the vicinity of its jurisdiction, for urban growth and will analyze its land needs within city limits in context with the larger UGB. (2013)

2) Within existing city boundaries, there are approximately 4,400 acres of land. The buildable lands inventory revealed that the vast majority of this land is currently developed with uses consistent with the applicable underlying zone designation. As previously indicated the largest land use category allows for residential uses followed by commercial use designations. The employment buildable lands inventory found that approximately 111 acres of land in Keizer is vacant, partially vacant or re-developable with an appropriate zone designation (Agricultural Industrial, Commercial General, Commercial Mixed Use, Commercial Office, Commercial Retail, Industrial Business Park, Industrial General and Mixed Use) that can be considered to be available to meet some of the employment needs. The residential buildable lands inventory found 315 acres of land in Keizer to be either vacant, partially vacant, or re-developable with an appropriate zone designation (Single Family Residential, Medium Family Residential, Urban Transition, Mixed Use), and to be considered available to meet some of the future residential needs. (2013)

3) The need for vacant buildable lands for urbanization for the 20 year timeframe (2013-2033) expressed in this plan is based on estimates for population growth and land needed to accommodate that growth, applied to population growth forecasts specific to Keizer. The EOA and HNA documented that there will be a need of 21.6 acres of land for commercial needs; no additional land for future industrial needs; 41.8 acres to meet future institutional needs; 267.6 acres to meet projected residential needs; 43.5 acres for future park needs; and, 10 acres for school needs. (2013)

4) The area within Keizer's city boundary is insufficient to meet forecasted future growth given the very limited amount of large undeveloped properties available to meet projected future needs. For example, the HNA documented that the capacity of the inventory of buildable residential lands found there is a supply of 315 acres which could accommodate 2,422 units. However, the calculated 20-year need was determined to be 4,513 units which leaves a need of 2,090 units which cannot be accommodated within the city's current jurisdictional boundary. The EOA inventory revealed that there are no sites available to meet the future institutional (high value employment) site; or lands which might accommodate future commercial needs without massive rezoning which would further detract from the residential lands inventory. (2013)

5) The City of Keizer provides the following major public facilities and services within its municipal boundary: sanitary sewer by an agreement with Salem, water, streets, ~~drainage~~ stormwater facilities, parks, police protection and general government. The Keizer Rural Fire Protection District and Marion County Fire District #1 both provide fire protection services within the city. (2013)

6) The results of the 2009 Keizer Visioning process provided directions that the City can take to realize it's short and long term ideal future. They are: (2013)

(a) Manage Growth and Development. Maintaining Keizer's "small town feel", while balancing growth and development pressures will continue to be a high priority challenge. While growth is not unexpected, residents do not necessarily favor expanding the Urban Growth Boundary (UGB). Rather, they cite alternative means of accommodating growth in ways that maintain the general size of the city and the inherent sense of community and togetherness they cherish. (2013)

(1) Consider policies that enhance the efficient use of existing land within the UGB. (2013)

(2) Review the long-term impacts to community livability of seeking additional land though expansion of the City's UGB. (2013)

(b) Maintain a Sense of Community. Keizer is a proud community of active, involved citizens. Residents cherish the community's volunteer spirit as a key asset in realizing their Vision. Keizer residents favor additional opportunities for all to participate in their community. Additionally, Keizer residents have a proud sense of togetherness. (2013)

(1) Consider maintaining one high school as a symbol of community connectedness. (2013)

(2) Maintain and increase civic celebrations and other volunteer efforts. (2013)

(c) Become More Sustainable. Sustainability is at the heart of Keizer's future. Residents want a clean, green environment that includes additional parks, clean water, and abundant greenery. (2013)

(1) Promote policies that enhance the ability of automobiles, pedestrians and bicycles to get around more efficiently. (2013)

(2) Create and encourage neighborhoods that are more connected, with goods and services easily available. (2013)

(d) Maintain Efficient Public Services. Keizer residents are proud of their public services and favor those that are fiscally resourceful. Public safety is of highest priority. Residents also want a responsive government that meets their expectations in an efficient manner. (2013)

(1) Engage more residents in ongoing deliberative, collaborative efforts with their government. (2013)

(2) Build and strengthen networks and coalitions with partner organizations. (2013)

(e) Preserve Keizer's Livability. Keizer is a livable community and residents want to keep it that way. Aspects of livability include: keeping Keizer a safe place to live; maintaining streets and roads; controlling traffic and managing development; making Keizer an affordable place to purchase and own a home; attracting diverse industries with family-wage jobs; encouraging cultural and civic facilities; and favoring additional places to shop that appeal to a variety of people. (2013)

(1) Increase the number and access to parks and open space; and add greenery to enhance the physical health and beauty of the community. (2013)

(2) Develop and nurture economic development policies that attract and retain desirable jobs for current and future Keizer residents. (2013)

7) Keizer has a unique opportunity to capitalize on existing open space and recreation facilities at the center of the city by encouraging a mixed-use development creating a town center. (2013)

2. GOALS AND POLICIES

a. General Goals

1) Ensure a coordinated, current, and vital urban growth program in the Salem/Keizer urban area. This will be accomplished by: (2013)

(a) Maintain a shared urban growth boundary through a coordinated regional effort. (2013)

(b) Adopt urban growth objectives and policies developed through a coordinated regional effort.

(c) Adopt a revised urban growth coordination agreement among the cities of Keizer and Salem and counties of Marion and Polk whereby land use actions of regional significance are considered by all jurisdictions. (2013)

2) Within the Keizer portion of the shared Salem-Keizer urban growth boundary: (2013)

(a) Ensure adequate buildable land is available for all uses particularly lands necessary to realize the city's economic vision as identified in the Keizer EOA. (2013)

(b) Provide for the orderly and efficient provision of public facilities and services.

(c) Encourage development in areas already served by major public facilities before extending services to unserved areas.

b. Urban Growth Policies

1) Contain urban development within planned urban areas where basic services such as sewers, water facilities, police and fire protection can be efficiently and economically provided.

2) Conserve resources by encouraging orderly development of land by adopting efficiency measures that will further allow for the efficient use of urban land. (2013)

3) Preserve farmland and open space not needed for urban growth.

4) Make more economical use of local tax dollars in locating facilities and providing services for the benefit of all citizens within the urban growth area.

5) Provide property owners greater security in long-range planning and investments through responsible and stable land use policies. (2013)

6) Make it possible for utility extensions, transportation facilities, and schools to be designed and located so as to more closely match population growth.

7) Preserve and enhance the livability of the area.

8) Use public facilities and services as a frame work for urban development.

9) Maintain an adequate land supply to meet the needs of the city. (2013)

(a) Future urban development will be contained within the geographical limits of an urban growth boundary unless it is demonstrated that there is not sufficient land within the UGB to accommodate forecasted growth. (2013)

(b) An urban growth boundary will be maintained by the affected local jurisdictions and said parties will take the necessary action to have the boundary and the policies herein set forth made a part of their respective Comprehensive Plans. Work with the other jurisdictions to maintain and strengthen regional implementation of state wide planning goals. (2013)

(c) Coordinate with Marion County to ensure that the area outside the urban growth boundary will be maintained with low-density

living areas, agricultural, open space lands, and other uses compatible with the intent of the urban growth policies. (2013)

(d) Work toward the development of the most efficient and economical method for providing specific urban services to the area within the urban growth boundary. (2013)

(e) Encourage the orderly annexation to the City of Keizer of the land within the urban growth boundary that is contiguous to the city limits of Keizer. (2013)

(f) Work toward improved delivery systems of services that require coordination by larger units of government. (2013)

(g) Urbanizable areas within the urban growth boundary will be considered as available for annexation and urban development.

(h) Development of land with existing urban services will be encouraged before the conversion of urbanizable lands to urban uses.

(i) Sewer or water services will not be extended to subdivisions developing outside city limits and county service districts. Such areas must be annexed to the cities to receive those services except as may be agreed by the city and consistent with all applicable State and County requirements. (2013)

(j) Any proposed UGB revision shall show a demonstrated need based on State requirements as outlined in applicable state statutes and administrative rules. (2013)

(1) Housing needs shall be coordinated with the regional needs; transportation systems, public services efficiencies and infrastructure costs shall be evaluated in order to provide the most effective and efficient services and provide for the highest quality of life. (2013)

(2) Employment lands should be provided to implement the economic vision created and adopted in the EOA. (2013)

(k) When evaluating the merits of a UGB expansion, consideration shall be given to minimizing the affects of multiple school districts. (2013)

(l) Work with Marion County to develop an appropriate zone designation for lands that are brought into the UGB but not into the city limits. This shall include strategies such as: (2013)

(1) Retaining lots as large as possible by discouraging subdivision or partitions until the land is annexed. (2013)

(2) Lands identified for employment needs restrict uses to only those uses compatible with the adopted EOA by establishing zoning districts that will limit or restrict incompatible uses. (2013)

(m) When evaluating a UGB expansion area, give consideration to the least disruption to quality of life and environmental value in the areas under consideration and of the city as a whole. (2013)

(n) UGB expansion areas shall be governed by land use regulations and shall be sensitive to established land use patterns. (2013)

(o) Promote effective urbanization of underutilized lands within the existing UGB. (2013)

c. Growth Management Policies

1) Establish as a priority the extension of services to areas identified for future development with high value employment as identified in the Keizer EOA. (2013)

(a) Develop a plan and implementation program for public facility financing.

(b) Encourage the consolidation of existing parcels. Discourage further subdivision of existing parcels.

(c) Retain agricultural zoning until long-term public facilities are planned or available. Once facilities are planned or available, actively recruit new commercial and industrial development.

2) Establish as a low priority the extension of public facilities to the area around the Willow Lake Sewage Treatment Plant.

3) Support public facility extensions when new development provides its own financing. The cost of new growth should, to the extent possible, be borne by the new growth itself.

4) Establish as a high priority construction of public improvements in areas where sewer and water facilities are already provided, particularly ~~storm sewers~~ stormwater facilities, and streets. (2013)

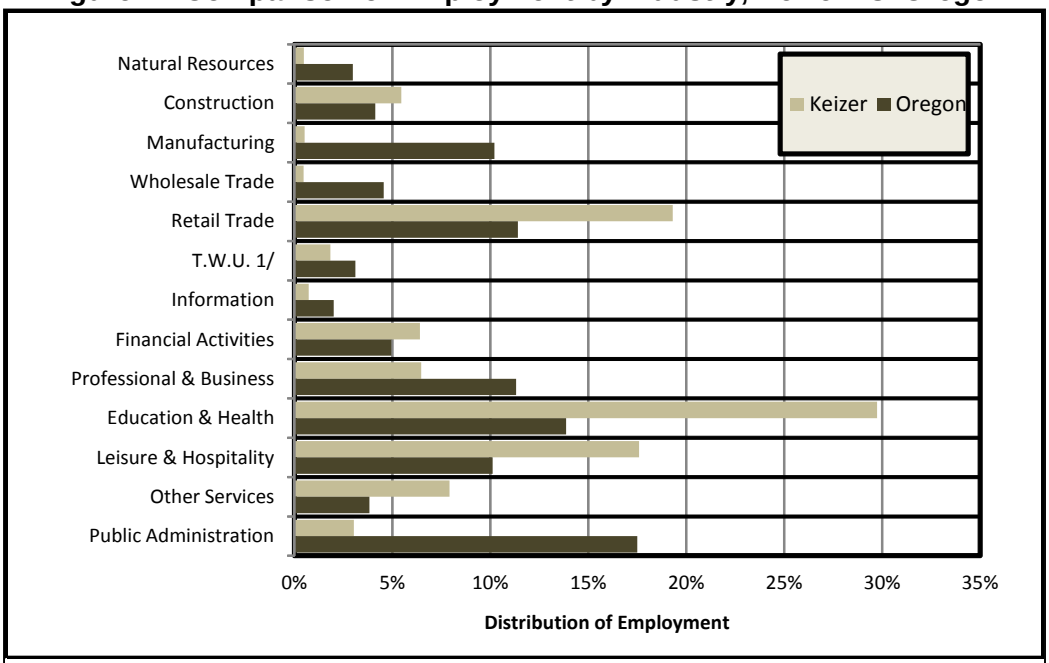
C. LAND-USE AND ECONOMIC DEVELOPMENT

1. COMMERCIAL AND INDUSTRIAL EMPLOYMENT

a. The City of Keizer has synthesized data on local and national economic trends, employment trends and forecasts, existing industries, economic development goals and community vision to generate employment growth projections over the next 20 years. The Keizer City Council adopted the local Economic Opportunities Analysis in June 2013 which contains the methodology used to develop the following summary of that analysis. (2013)

1) Keizer aspires to provide more opportunities for a range of good paying jobs for people living in Keizer, which would result in faster growth in employment than in population growth. Keizer's vision for providing new employment opportunities is to capture professional services and associated uses in a "campus" setting, primarily, but not exclusively, related to medical office, research, and education. These services may include a hospital and/or educational facilities, which are expected to provide Keizer with growth opportunities that fit the City's locational advantages. The city's economic vision is an economic strategy that will not directly compete with Salem, but capitalizes on Keizer's own attributes and aspirations. (2013)

Figure 2: Comparison of Employment by Industry, Keizer vs. Oregon



1/ Transportation, Warehousing, & Utilities
SOURCE: Oregon Employment Department

(2013)

2) The composition of employment by industry in Keizer exhibits several large deviations from the statewide composition (Figure 2). These deviations represent Keizer's competitive advantages in the economy, which fall largely in population-driven services. Industry classifications such as Retail Trade, Education & Health, and Food Service & Drinking Places have a high representation locally. These well-represented industries, in combination with economic development goals and input from the stakeholders, were used to devise potential future target industries. After discussing and ranking industries based on local aspirations and current representation of that industry in Keizer, the following list of target industries were adopted by the City Council: (2013)

   (a) Medical facilities, including research, development and support (2013)
   (b) Information technology/back office (2013)
   (c) Educational services, including educational research and job training (2013)
   (d) Professional services, including corporate headquarters
   (e) Sporting events (2013)

3) Current employment levels by industry were projected forward based on regional job growth estimates and the listed target industry goals (Figure 3). The growth forecast calls for a total of 3,774 new jobs over the next 20 years, representing growth of 55% over current levels. (2013)

Figure 3: Forecasted Employment Growth, 2013 – 2033, Keizer

HIGH FORECAST SCENARIO	2013	Forecast Estimates				'13-'33 Growth	
NAICS	Base Year	2018	2023	2028	2033	Jobs	AAGR
Natural Resources	35	37	39	41	43	9	1.14%
Construction	368	409	456	507	564	196	2.16%
Manufacturing	26	39	60	92	139	113	8.78%
Wholesale Trade	31	34	38	42	47	17	2.17%
Retail Trade	1,231	1,331	1,439	1,555	1,681	450	1.57%
T.W.U.	7	9	11	14	17	11	4.73%
Information	39	41	42	43	45	6	0.67%
Financial Activities	889	953	1,021	1,094	1,173	284	1.40%
Professional & Business	462	546	646	764	904	442	3.41%
Private Education	37	41	44	48	53	15	1.71%
Health Care & Social Assistance	1,208	1,445	1,728	2,067	2,473	1,265	3.65%
Leisure & Hospitality	1,100	1,221	1,355	1,503	1,668	568	2.10%
Other Services	618	671	728	791	858	240	1.66%
Government	769	806	845	886	929	160	0.95%
Total	**6,820**	**7,583**	**8,452**	**9,448**	**10,595**	**3,774**	**2.23%**

Source: Oregon Employment Department and Johnson Reid

4) The projected employment growth is used to estimate what types of employment land (i.e. commercial retail, office, or industrial) will be needed in the future by applying data on what types of real estate is used in each of these industry categories. (2013)

*Figure 1: SUMMARY OF EXISTING EMPLOYMENT
BUILDABLE LANDS INVENTORY

Zoning		Total Acreage
AI	Agricultural Industrial	22.2
Cg	Commercial General	4.7
Cm	Commercial Mixed Use	16.4
CO	Commercial Office	0.4
CR	Commercial Retail	2.7
IBP	Industrial Business Park	29.3
IG	Industrial General	12
MU	Mixed Use	34.9
TOTAL		122.5

*** For convenience purposes only, this Figure 1 is reproduced.** (2013)

Figure 4: Forecasted Employment Land Need, 2013 – 2033, Keizer (2013)

BASELINE LAND NEED

Land Type	Forecast High
Office Lands	**34.5**
Industrial Lands	**0.6**
Commercial Lands 1/	**57.9**
Resident Driven	*50.3*
Visitor Driven	*7.6*
Overnight Lodging	***5.2***
Specialized Uses 2/	***34.8***
TOTAL EMPLOYMENT LAND NEED	**133.0**

WITH INFRASTRUCTURE 3/

Land Type	Forecast High
Office Lands	**41.4**
Industrial Lands	**0.7**
Commercial Lands	**69.5**
Resident Driven	*60.4*
Visitor Driven	*9.1*
Overnight Lodging	***6.2***
Specialized Uses	***41.8***
TOTAL EMPLOYMENT LAND NEED	**159.6**

1/ Only two scenarios were forecasted. Medium and High reflect retail need allowing for small growth in reail incomes
2/ Hospitals, Clinics, Assisted Living, etc. for employment not otherwise categorized.
3/ Assumes a 20% gross up of land need for infrastructure

5) Figure 4 shows, there is an estimated need for 160 gross acres of land to accommodate the projected employment growth. An inventory of remaining buildable lands finds 123 acres of buildable land remaining within the city boundary, in the commercial and industrial categories. However, there is no land available that is well-suited for the institutional category, which includes hospitals, higher education facilities, and other uses that figure heavily into the city's economic development strategy. (2013)

Figure 5: Forecasted Employment Land Need, 2013 – 2033, Keizer

Scenario	Demand	Supply	Surplus/ Shortage
High Growth Scenario			
Commercial	86.0	64.5	(21.6)
Industrial	31.8	59.6	27.8
Institutional	41.8	-	(41.8)

1/ Assumes a demand distribution of Office support 25% to commercial and 75% to Industrial

6) As Figure 5 shows, there is a net need for commercial and institutional lands amounting to 63.3 gross acres above and beyond what the city's remaining buildable employment lands can accommodate. The institutional lands are intended to be available for the identified target industries which are also referred to as high value employment sites in the regional EOA. (2013)

2. GOALS AND POLICIES: ECONOMIC, COMMERCIAL AND INDUSTRIAL DEVELOPMENT

a. Goal 1: Provide an adequate supply of sites to accommodate target industries. (2013)

1) Objective 1.1: Recognize that Keizer has a limited supply of sites that will allow for target industry employment opportunities and seek to develop strategies that will result in additional inventory of these sites. (2013)

(a) Policies 1.1:

(1) Provide land to meet the site characteristics and site sizes described in the 20-year land needs identified in the EOA. These sites may include vacant, undeveloped land, and partially developed sites with potential for additional development through infill development, and redevelopable areas. The city can provide land in two ways: (1) increasing commercial and industrial land-use efficiency by promoting infill or redevelopment and (2) bringing land into the urban growth boundary, if necessary. (2013)

(2) Work with property owners to help ensure that prime development sites are known, able to be aggregated and ready to develop. (2013)

(3) Work with property owners to ensure that prime development and redevelopment sites are preserved for future employment needs and are not subdivided or developed for non-employment uses. (2013)

(4) Provide a short-term supply of suitable land to respond to immediate economic development opportunities. (2013)

(5) Periodically review local land use regulations to determine whether they pose barriers to economic development and employment growth. Where regulations pose barriers, balance the goals of such regulations with economic development objectives. (2013)

2) Objective 1.2: Facilitate the development of target employment sites with appropriate businesses. (2013)

(a) Policies 1.2:

(1) Target industry employment businesses as identified in the Keizer EOA. (2013)

(2) Facilitate the development of a marketing plan to attract businesses within the identified target industry business sectors. (2013)

3) Objective 1.3: Analyze opportunities for rezoning of lands; developing adequate infill strategies, or consideration of an urban growth boundary expansion to allow for the provision and future development of target industry sites as identified in the Keizer EOA. (2013)

(a) Policies1.3:

(1) Identify employment site opportunities that can be developed through rezoning, expanding the urban growth boundary, or other means. (2013)

(2) Consider infill strategies to meet some of the employment land needs. (2013)

4) Objective 1.4: Maintain an adequate supply of land for employment uses. (2013)

(a) Policies 1.4:

(1) Develop and implement a system to monitor the supply of commercial and industrial lands. (2013)

(2) Track employment land use trends and re-evaluate employment land needs approximately every five to seven years. (2013)

5) Objective 1.5: Preserve large sites, especially sites with access to I-5, to provide opportunities for development by businesses that require large sites with access to regional transportation facilities, as identified in the Keizer EOA. (2013)

(a) Policies 1.5:

(1) Designate land for target industry uses or business parks to provide opportunities for development of business clusters for related or complementary uses. (2013)

(2) Develop development code amendments needed to provide certainty for the future use of land on designated large target industry sites as identified in the Keizer EOA and that restrict incompatible or undesirable uses from occurring on these sites. (2013)

(3) To the extent there is a lack of adequate target industry sites within the city's urban growth boundary, the city may need to pursue an urban growth boundary expansion to provide for sites that will meet this future employment need. (2013)

6) Objective 1.6: Economic development recruitment efforts for the city should focus on business that provide a range of wages and benefits, including high-wage jobs in target industry businesses. (2013)

(a) Policies 1.6:

(1) Work with Strategic Economic Development Corporation (SEDCOR) and other economic development organizations to target and recruit businesses. (2013)

(2) Coordinate with community and economic development organizations to develop an effective marketing program. Coordinate development of this strategy with local, regional and state economic development agencies. (2013)

(3) Work with regional and local planning agencies, the County Assessor, and the Oregon Department of Economic Development to prepare and update annually an inventory of vacant commercial and industrial land parcels in the City. (2013)

7) Objective 1.7: Require new commercial and industrial development to provide certain design features and to comply with city's Design Review process. (2013)

(a) Policies 1.7:

(1) Commercial and Industrial Developments (2013)

(1a) Provide for commercial and industrial developments by: (2013)

i Creating undeveloped land zoned for light industrial and commercial uses, consistent with forecasts of the likely future demand for such land. (2013)

ii Creating sufficient land adjacent to existing industrial and commercial facilities where future expansion is anticipated. (2013)

iii Ensuring convenient access to arterial or collectors street for traffic generated by industrial and commercial uses. (2013)

(1b) Require commercial and industrial developments to provide: (2013)

i Outdoor storage facilities to be screened from view of the public road and from adjacent residential uses. (2013)

ii Adequate landscaping and appropriate setback from adjacent residential uses. (2013)

iii Exterior lighting to be designed to provide illumination to the site and not cause glare into the public right-of-way and adjacent properties. (2013)

iv Roof equipment to be screened from view of nearby residential uses. (2013)

v Adequate disposal of any hazardous wastes generated (as defined by ORS 459. 410). (2013)

vi Avoid large expanses of blank walls facing residential areas. (2013)

vii Compliance with DEQ noise and other environmental quality standards. (2013)

viii Compliance with city's Design Review process. (2013)

(1c) Encourage commercial and industrial developments to create: (2013)

i Innovative designs for public spaces such as open plazas, pedestrian malls, and small parks by making sure zoning regulations are flexible. (2013)

ii The expansion of existing and the location of new light manufacturing activities, especially those which generate little pollution. (2013)

iii Industrial park development for appropriate business activities. Examples of activities are warehousing and distribution, research and development, and medical facilities. (2013)

(1d) Discourage commercial and industrial developments from: (2013)

i Directing major customer traffic outside the immediate neighborhoods from filtering through nearby residential streets. (2013)

ii Allowing other land uses in districts that have been designated for industrial use, except when it can be demonstrated such uses will have minimal negative impacts on industrial uses now and in the future. (2013)

iii Placement of loud or obnoxious equipment adjacent to residential streets or areas. (2013)

iv Allowing loud outside activities (e.g. deliveries, freight handling) adjacent to residential streets or areas. (2013)

(1e) Permit in commercial and industrial developments: (2013)

i Commercial offices to be mixed with compatible residential or commercial retail uses in the same structure. (2013)

ii Transit services and shelters to be provided in lieu of some off-street parking. (2013)

b. Goal 2: Provide infrastructure needed to support economic development. (2013)

1) Objective 2.1: Provide adequate infrastructure to facilitate employment growth in new and existing employment areas. (2013)

(a) Policies 2.1**:**

(1) Coordinate capital improvement planning with land use and transportation planning to strengthen the city's Economic Development Strategy. (2013)

(2) Prioritize use of Systems Development Charge revenues for infrastructure on sites that provide opportunities for new employment as a result of location, size, or other site characteristics. (2013)

(3) Where appropriate, ensure that public-private development agreements to recover construction costs are in effect prior to financing and constructing public improvements. (2013)

(4) Establish alternative funding mechanisms that provide for the completion of public facilities with preference given to projects that foster economic development. (2013)

(5) Assist with providing infrastructure through the use of urban renewal funding, where appropriate. (2013)

(6) Work with ODOT, Marion County and the City of Salem to develop a regional funding plan for improvements as noted in the Chemawa / I-5 Interchange Area Management Plan. (2013)

(7) Develop a facilities financing plan for target industry sites to plan and provide for the adequate facilities to serve those sites. (2013)

(8) Determine how to provide for infrastructure needs, such as telecommunication or other facilities that are in addition to standard sewer, water, stormwater, and transportation facilities, as identified in the city's EOA and/or site-specific market analyses. (2013)

(9) Provide as funds allow, necessary public facilities and programs to encourage new industrial and other economic development and the expansion of existing industry and business. (2013)

c. Goal 3: Facilitate the development of all of Keizer Station.

1) Objective 3.1: Encourage the continued development of the Keizer Station as a developing retail / mixed use /industrial development which will continue to provide additional employment opportunities. (2013)

(a) Policies 3.1:

(1) Strive to retain and attract new businesses within the Keizer Station. (2013)

(2) Work with potential new businesses to make them aware of the city's master plan requirements in the Keizer Station. (2013)

(3) Consider, as necessary, adjustments to the requirements within the Keizer Station based on the need to respond to changing economic factors and development trends. (2013)

d. Goal 4: Support and assist existing businesses in Keizer**.**

1) Objective 4.1: Continue to support existing businesses within Keizer as a valuable component of the city's economy. (2013)

(a) Policies 4.1:

(1) Develop a strategy to determine how the city can assist existing businesses. Options can include providing assistance with the development process, forming partnerships to promote Keizer businesses and other strategies. (2013)

(2) Encourage the development of the formation of business associations and special self-assessment districts for economic improvement. (2013)

(3) Pursue grant applications that support local businesses. (2013)

(4) Remain supportive of the local Chamber of Commerce and other local business groups and their activities. (2013)

(5) Strive to retain and attract new businesses along River Road / Cherry Avenue corridors. (2013)

(6) Continue to implement projects identified by the River Road Renaissance Plan and the Keizer Urban Renewal Board. (2013)

(7) Encourage commercial / residential mixed uses in the same structure. (2013)

(8) Allow transit services and shelters to account for some of the required off-street parking thereby reducing on-site parking needs. (2013)

e. Goal 5: Increase the potential for conference and tourist related activities. (2013)

1) Objective 5.1: Support tourism efforts within Keizer. (2013)

(a) Policies 5.1:

(1) Encourage development of destination point projects such as Points of Interest and the art walk series that draw visitors to Keizer. (2013)

(2) Ensure that the factors that are likely to attract visitors to Keizer are protected and enhanced. (2013)

(3) Work with local businesses and the Chamber of Commerce to promote local events such as the Keizer Iris Festival, Miracle of Lights and other events that highlight and promote Keizer. (2013)

2) Objective 5.2: Increase the use of the Keizer Community Center. (2013)

(a) Policies 5.2:

(1) Continue to operate the community center with the goal of making it financially independent. (2013)

(2) Develop a marketing plan for the operation of the community center. (2013)

f. Goal 6: Monitor and adjust economic development goals and objectives. (2013)

1) Objective 6.1: Regularly monitor the overall completion and benefits of the identified economic goals and objectives. (2013)

(a) Policies 6.1:

(1) Identify a set of criteria or events that would trigger the need for updating economic goals, policies and analyses. (2013)

(2) Revise economic development goals, objectives, and strategies as appropriate to reflect ongoing success, and fiscal issues, constraints and new opportunities. (2013)

3. HOUSING AND RESIDENTIAL LAND NEEDS

a. The residential housing needs analysis (HNA) is much more formulaic than the methodology that was used as part of the formation of the EOA. The housing needs analysis is based on the city's adopted population forecast, and trends in household size, demographics and housing development. These are used to generate projections of population growth, number of households, and the number and types of housing units they will need over the 20-year period. The 20-year need is then compared with remaining buildable residential land to assess what additional land may be needed to accommodate that growth. The full documentation supporting the HNA was adopted by the City Council in June, 2013. The following is a brief summary of the analysis. (2013)

1) Keizer is a city of 36,864 people, making it the 14th largest city in Oregon. Keizer has grown by an estimated 4,661 people between 2000 and 2013, or 14%. This growth was roughly equal to that experienced by Marion County (13%) and the state (14%) over that period. (2013)

Figure 6: Demographic Growth and Current Profile 2000 – 2013, Keizer

POPULATION, HOUSEHOLDS, FAMILIES, AND YEAR-ROUND HOUSING UNITS					
	2000 (Census)	2010 (Census)	Growth Rate 00-10	2013 (Proj.)	Growth Rate 10-13
Population[1]	32,203	36,478	1.3%	36,864	0.4%
Households[2]	12,110	13,703	1.2%	13,824	0.3%
Families[3]	8,642	9,498	0.9%	9,582	0.3%
Housing Units[4]	12,774	14,445	1.2%	14,531	0.2%
Group Quarters Population[5]	280	364	2.7%	368	0.4%
Household Size	2.64	2.64	0.0%	2.64	0.0%
PER CAPITA AND AVERAGE HOUSEHOLD INCOME					
	2000 (Census)	2010 (Est.)	Growth Rate 00-10	2013 (Proj.)	Growth Rate 10-13
Per Capita ($)	$20,119	$24,645	2.0%	$26,192	2.0%
Average HH ($)	$53,425	$64,272	1.9%	$67,937	1.9%
Median HH ($)	$45,052	$53,042	1.6%	$55,705	1.6%

SOURCE: Claritas, Census, and Johnson Reid

[1] Population is based on the certified 2012 estimate from PSU Population Research Center, projected forward one year using the 2010 - 2012 growth rate (0.4%)

[2] 2013 Households = 2013 population/2013 HH Size

[3] Ratio of 2013 Families to total HH is kept constant from 2010.

[4] 2013 housing units are the 2010 Census total plus new units permitted from '10 through '12 (source: HUD State of the Cities Data System)

[5] Ratio of 2012 Group Quarters Population to Total Population is kept constant from 2010.

2) Keizer's median household income was over $53,000 in 2010. This is 22% higher than the median income found in the City of Salem ($43,500) and is similarly higher than the Marion County median ($45,594). Median income grew 18% between 2000 and 2010, while growing 13% in Marion County. (2013)

3) Over the 20-year period, the number of non-group households will increase to 4,366 households, a population growth of 11,833 new residents (Figure 7).

Figure 7: Future Housing Profile 2033, Keizer

PROJECTED FUTURE HOUSING CONDITIONS (2013 - 2033)			SOURCE
2013 Population (Minus Group Pop.)	36,496		2010 Census, PSU
Projected Annual Growth Rate	1.41%	Based on Keizer adopted 2032 forecast	City of Keizer
2033 Population (Minus Group Pop.)	48,260		
Estimated group housing population:	437	From Marion County 2030 adopted forecast	Marion Co.
Total Estimated 2033 Population:	**48,697**	Based on adopted 2032 population forecast (48,089 pop.)	City of Keizer
Estimated Non-Group 2033 Households:	**18,191**	Based on Pop/HH ratio from County 2030 forecast	Marion Co.
New Households 2013 to 2033	4,366		
Avg. Household Size:	2.65	2032 Non-Group Pop/ Non-Group Households	
Total Housing Units:	**19,044**	Based on Units/HH ratio from County 2030 forecast	Marion Co.
Occupied Housing Units:	18,191	(= Number of Non-Group Households)	
Vacant Housing Units:	854	(Total Units - Occupied Units)	
Projected Vacancy Rate:	4.5%	(Vacant Units/ Total Units)	

Sources: Keizer adopted 2032 Population Forecast, Marion County Adopted Population Forecast (2008), PSU Population Research Center, Census, JOHNSON REID LLC (2013)

4) The projected 2033 population identifies the need for 4,513 new housing units for future residents. This includes ownership and rental units, with a 4.5% vacancy (Figure 8). (2013)

5) The largest share (50%) of housing is projected to be single-family detached homes, due to the projected need for new ownership housing. The remainder of units is projected to be some form of attached housing (46%), or mobile homes (4%).(2013)

6) 54% of new residential dwelling units are projected to be ownership units, while 46% are projected to be rental units. (2013)

Figure 8: Projected New Units Need by 2033, Keizer

OWNERSHIP HOUSING

Price Range	Single Family Detached	Single Family Attached	Multi-Family 2-unit	Multi-Family 3- or 4-plex	Multi-Family 5+ Units MFR	Mobile home	Boat, RV, other temp	Total Units	% of Units	Cummulative %
Totals:	2,145	49	24	24	86	117	0	**2,445**	**% All Units:**	54.2%
Percentage:	87.7%	2.0%	1.0%	1.0%	3.5%	4.8%	0.0%	100.0%		

RENTAL HOUSING

Price Range	Single Family Detached	Single Family Attached	Multi-Family 2-unit	Multi-Family 3- or 4-plex	Multi-Family 5+ Units MFR	Mobile home	Boat, RV, other temp	Total Units	% of Units	Cummulative %
Totals:	124	206	14	327	1,352	45	0	**2,068**	**% All Units:**	45.8%
Percentage:	6.0%	10.0%	0.7%	15.8%	65.4%	2.2%	0.0%	100.0%		

TOTAL HOUSING UNITS

	Single Family Detached	Single Family Attached*	Multi-Family 2-unit	Multi-Family 3- or 4-plex	Multi-Family 5+ Units MFR	Mobile home	Boat, RV, other temp	Total Units	% of Units
Totals:	2,269	255	38	351	1,437	162	0	**4,513**	**100%**
Percentage:	50.3%	5.7%	0.8%	7.8%	31.8%	3.6%	0.0%	100.0%	

Sources: PSU Population Research Center, Claritas Inc., Census, Johnson Reid

7) The inventory of buildable residential lands finds a current supply of 315.2 acres which are vacant, partially vacant, or re-developable. These acres can hold an estimated 2,422 units. The total 20-year unit need (4,513 units) minus this remaining buildable capacity (2,422 units), leaves a remainder of 2,090 units which must be accommodated beyond the city's remaining capacity within its current boundary. (Figure 9) (2013)

Figure 9: Projected New Units Need by 2033, Keizer

Zoning Designation		Capacity of Vacant Lands (In Units)[1]	NEW UNITS NEEDED (2033) vs. CAPACITY: S.F. Detached	S.F. Attached	Duplex	3- or 4-plex	5+ Units MFR	Mobile home	Total Units	
			2,269	255	38	351	1,437	162	**4,513**	← New Units Needed (2032)
RS	Single Family Residential	1,183	1,064	120	-	-	-	-	1,183	
RL	Limited Density Residential	-	-	-	-	-	-	-	*0*	
RL-LU	*Limited D.R. - Limited Use*	-	-	-	-	-	-	-	*0*	
RM (Medium)	Medium Density Residential	-	-	-	-	-	-	-	*0*	
RM (Medium High)	Medium Density Residential	362	-	-	-	-	362	-	362	← Distribution of Remaining BLI Capacity
RM-LU	MDR - Limited Use	-	-	-	-	-	-	-	*0*	
RH	High Density Residential	-	-	-	-	-	-	-	*0*	
UT	Urban Transition	310	279	31	-	-	-	-	310	
MU	Mixed Use (Keizer Station)	153	-	-	-	-	153	-	153	
MU	Mixed Use (Other)	314	-	-	-	-	314	-	314	
Totals/Averages:		***2,322***	***1,343***	***151***	***0***	***0***	***829***	***0***	***2,322***	← Total Capacity of Buildable Lands
Accessory Dwelling Unit Assumption:				*62*	*38*				*100*	
			926	*42*	*0*	*351*	*609*	*162*	***2,090***	← Remaining Unit Need

Sources: City of KEIZER, MWVCOG, Johnson Reid LLC

8) When the remaining land need is apportioned to Keizer's residential zones, a 20-year need exists for 267 gross acres of residential land, to be accompanied by 43.5 acres of new land for parks to serve this new population, and 10 acres of land for new school facilities. This is a total of 385 gross acres (Figure 10) (2013)

Figure 10: Projected Residential and Support Land Need by 2033, Keizer

Category of Land	Gross Acreage Remaining Need
Residential:	267.6
Parks and Recreation:	43.5
Schools:	10
Total New 20-Year Land Need:	321.1

Source: Johnson Reid LLC (2013)

4. RESIDENTIAL DEVELOPMENT GOALS, OBJECTIVES AND POLICIES:

a. Goal 1: Provide residential land to meet a range of needed housing types. (2013)

1) Objective 1.1: Provide housing opportunities for a full range of housing needs as identified by the City's Housing Needs Analysis. (2013)

(a) Policies 1.1:

(1) Encourage housing opportunities for the elderly, people with disabilities, minority, single parent, and single-person households. (2013)

(2) Account for shifts in age, ethnicity and other demographic factors, which may influence housing needs. (2013)

(3) Plan for low, medium and high density residential uses consistent with 20-year housing needs analysis projections of demand. Periodically monitor and analyze the population and dwelling unit projections to assure sufficient residential land to maintain a balance between supply and demand. (2013)

(4) Ensure that residential land use designations provide opportunities for non-traditional or emerging housing types such as accessory dwelling units, cottage clusters, live-work units, other mixed

residential/commercial development types, multi-generational housing and other housing options. (2013)

(5) Encourage higher density residential development near areas of employment or shopping. (2013)

(6) Encourage in-fill of existing lots that is sensitive to the existing neighborhood patterns. (2013)

(7) Provide for the retention of large parcels of residentially zoned land to facilitate their use, or reuse, of projects requiring such parcels. (2013)

(8) Periodically review development densities and consider methods for increasing residential density where density targets established in the Comprehensive Plan are not being met. (2013)

(9) Encourage infill projects on single parcels or parcels assembled for the purposes of infill and redevelopment. (2013)

(10) Provide for and permit outright in at least one residential zone alternative housing types such as mobile home parks, zero side yards, clustering of dwelling units, and planned unit developments. (2013)

(11) Permit rezoning to higher intensity residential uses to meet the identified housing needs provided such proposals are consistent with the policies of this plan and its implementing ordinances. (2013)

2) Objective 1.2: Encourage and support development of housing units for low and moderate income households. (2013)

(a) Policies 1.2:

(1) Encourage and support development of housing units for low and moderate-income households. (2013)

(2) Support public, private, nonprofit, and joint public-private partnerships which develop and/or manage low and moderate income housing units. In particular, coordinate and collaborate with local housing providers and advocacy groups in order to leverage funding for development of such housing. (2013)

(3) Continue to support the use of housing assistance programs to help fund housing projects for low and moderate-income households. (2013)

(4) Investigate the desirability and fiscal feasibility of starting a housing authority to provide emergency housing assistance, housing assistance programs, etc. (2013)

(5) Consider providing financial incentives such as waiving or deferring permitting or other fees for affordable housing developments. (2013)

b. Goal 2: Encourage the location of residential development where full urban services, public facilities, and routes of public transportation are available. (2013)

1) Objective 2.1 Coordinate new residential development with the provision of an adequate level of services and facilities, such as sewers, water, transportation facilities, schools and parks. (2013)

(a) Policies 2.1:

(1) Develop and periodically revise a capital improvement program to ensure that public facilities are provided for residential development in a timely and efficient manner. (2013)

(2) Consider rezoning parcels to higher residential density to meet identified multi-family housing needs provided such proposals are consistent with the policies of this Plan and implementing ordinances. Parcels to be considered for rezoning should have access to major transportation corridors that are served by transit; are served, or can be served, by all urban services, including parks and recreational facilities; and are in close proximity to opportunities for shopping, employment and/or schools. (2013)

(3) Consider establishing a study that would inventory and prioritize sites that may satisfy future multi-family needs in an effort to allow more certainty in the land use process. (2013)

c. Goal 3: Stabilize and protect the essential characteristics of residential environments, including natural features. (2013)

1) Objective 3.1 Ensure compatibility among all types of new and existing residential uses, and between residential and non-residential uses. (2013)

(a) Policies 3.1:

(1) Protect existing and proposed residential areas from conflicting non-residential land uses while providing for compatible mixed-use development (residential and non-residential). (2013)

(2) Conserve the existing supply of housing in stable neighborhoods through code enforcement, appropriate

zoning, rehabilitation programs, and by discouraging conversions to non-residential use. (2013)

(3) Use development and subdivision code provisions and other regulations to protect residential uses from other land use activities that generate an excessive level of noise, pollution, traffic volume, nuisances, and hazards to residents. (2013)

(4) Discourage through traffic in residential neighborhoods. (2013)

(5) Investigate and, when advisable, implement mixed use zoning, particularly in established neighborhoods where compatible and functional mixes of land uses are desirable. (2013)

(6) If the City voluntarily undertakes a street improvement project, which will increase traffic noise levels, it is the policy of the City of Keizer to protect existing residential uses from traffic noise levels that exceed those noise levels, which are typical of residential areas. Traffic noise levels below Leq67dBA are considered typical in an urban area and no mitigation of them shall be required. (2013)

d. Goal 4: Provide and allow for appropriate levels of residential development consistent with comprehensive plan designations. (2013)

1) Objective 4.1 Provide for three general levels of residential density (2013)

(a) Policies 4.1:

(1) Low-Density Residential (2013)

(1a) Allow single-family residential uses as the predominant land use type in low-density residential areas. (2013)

(1b) Ensure that: (2013)

i Land use is predominately single-family residential, with up to 8 units per gross acre. (2013)

ii A variety of housing types are allowed in this category such as detached, attached duplex and manufactured housing. The zoning and subdivision ordinance will more specifically describe structural

types. In this district, each residential unit will be on a single lot. (2013)

iii Schools, neighborhood shopping facilities, parks and churches are allowed in this category subject to conditional use criteria to be defined in the zoning ordinance. (2013)

(2) Medium Density Residential

(2a) Allow a mix of housing types in this category at a density averaging from 6 to 10 dwelling units per acre. Identify criteria and location for this category in the zoning ordinance. **(2013)**

(2b) Allow detached, attached, duplex, and multiple family housing in this category. (2013)

(2c) Schools, neighborhood shopping facilities, parks and churches are allowed in this category subject to conditional use criteria in the zoning ordinance. (2013)

(3) Medium and High Density Residential (2013)

(3a) Allow a mix of housing types in this category in two general levels of residential density: (2013)

i Medium density-over 8 and up to 16 units per gross acre. (2013)

ii High density-over 16 units per gross acre. Identify criteria and location for these two sub-categories in the zoning ordinance. (2013)

(3b) Allow attached, duplex and multiple housing in this category. (2013)

(3c) Allow a ten-year surplus of vacant buildable land in this category. (2013)

(3d) Schools, neighborhood shopping facilities, parks and churches are allowed in this category subject to conditional use criteria to be defined in the zoning ordinance. (2013)

(4) Mixed Use (2013)

(4a) Provide areas intended for development that combines commercial and residential uses in a single building or complex. These areas will allow increased development on busier streets without fostering a strip commercial appearance. The designation encourages the formation of neighborhood "nodes" of activity where residential and commercial uses mix in a harmonious manner. This development type will support transit use, provide a buffer between busy streets and residential neighborhoods, and provide new housing opportunities in the City. The emphasis of the nonresidential uses is primarily on locally oriented retail, service, and office uses. Commercial development may occur within the same building or complex as residential development. Clusters of residential and commercial uses around landscaping features or parking areas will also occur. Development is intended to be pedestrian-oriented with buildings close to and oriented to the sidewalk. Parking may be shared between residential and commercial uses. **(2013)**

(4b) Allow detached, duplex and multiple family housing. **(2013)**

3. SUMMARY OF TOTAL PROJECTED LAND NEED (both residential and employment) (2013)

a. The analysis summarized herein and detailed in the EDO/HNA reports (adopted by City Council Order on June 17, 2013) results in a projected need for 370 gross acres of land beyond the current capacity of the city's current boundary. (2013)

Figure 11: Projected Total New Land Need
City of Keizer, 2033

Category of Land	Gross Acreage Remaining Need
Commercial:	21.6
Industrial:	0
Institutional:	41.8
Residential:	267.6
Parks and Recreation:	43.5
Schools:	10
Total New 20-Year Land Need:	384.5

Source: Johnson Reid LLC (2013)

D. PLAN DIAGRAM AND SPECIAL LAND USE POLICIES

1. FINDINGS

a. General

1) The land use plan takes into account the amount of vacant, partially vacant, and re-developable lands as identified in the buildable lands inventory. These are outlined in Figure 12: (2013)

Figure 12: Vacant Buildable Summary

Zoning	Vacant	Partially Vac.	Redevelopable	Total
Single family	49	143	7	199
Multifamily	5.7		18	24
Urban transition	9	41		51
Industrial	17	-	33	50
Commercial	9	2	23	42
Mixed use	17	2	23	42

Source: Johnson Reid LLC (2013)

2) The distribution of vacant buildable land by land use type was guided by the land use needs analysis summarized in Table 2. Parcel configuration and size, existing land use, natural features and desired urban form also influenced the plan.

3) Lands devoted to multi-family residential uses are insufficient to meet forecasted need for multi-family units. Therefore, the City will: (2013)

(a) Plan for medium and high density residential uses consistent with the 20 year housing demand analysis. (2013)

(b) Permit rezoning to higher intensity residential uses to meet the identified housing needs, provided such proposals are consistent with the policies of this plan. (2013)

(c) Consider rezoning parcels to higher residential density to meet identified multi-family housing needs, provided such proposals are consistent with the policies of this plan. Parcels to be considered for rezoning should have access to major transportation corridors that are served by transit, are served (or can be served) by all urban services, including parks and recreational facilities, and are in close proximity to opportunities for shopping, employment and schools. (2013)

(d) In the medium and high density residential designation, allow a mix of housing types in two general levels of residential density; medium density (from 8 to 16 units per acre), and high density (over 16 units per acre), and identify criteria and locations for these two sub-categories in the Keizer Development Code. (2013)

(e) Provide for a combination of commercial and residential uses in a single building of complex. These areas will allow increased development located on arterial, minor arterial and collector streets if the design avoids the strip commercial appearance. This designation would encourage the formation of neighborhood "nodes" of activity where residential and commercial uses mix in a harmonious manner. Nonresidential uses are to be focused on retail, service, and office uses. Commercial and residential development within the same building or complex is to be allowed. Such development is to be clustered around landscaping features or parking areas, and shall be pedestrian-oriented, with direct access to public sidewalks and bike facilities. (2013)

2 GOALS AND POLICIES

a. General Goals

1) Provide appropriately designated vacant buildable land in adequate quantities to meet the forecast needs of Keizer to 2033. (2013)

2) Provide a development pattern which:

(a) Encourages stabilization of existing neighborhoods.

(b) Encourages affordable housing.

(c) Creates a town center for Keizer. (2013)

(d) Creates new employment opportunities in Keizer.

(e) Preserves open space areas along Claggett Creek, and the Willamette River.

b. Low-Density Residential

1) Allow single-family residential uses as the predominant land use type in low-density residential areas.

2) Ensure that:

(a) Land use is predominately single-family residential, with as many as 8 units per gross acre.

(b) A variety of housing types are allowed in this category such as detached, attached duplex and manufactured housing. The zoning and subdivision ordinance will more specifically describe structural types. In this district, each residential unit will be on a single lot.

(c) Schools, neighborhood shopping facilities, parks and churches are allowed in this category subject to conditional use criteria to be defined in the zoning ordinance.

c. Medium Density Residential

1) Allow a mix of housing types in this category at a density averaging from 6 to 10 dwelling units per acre. Identify criteria and location for this category in the zoning ordinance.

2) Allow detached, attached, duplex, and multiple family housing in this category.

3) Schools, neighborhood shopping facilities, parks and churches are allowed in this category subject to conditional use criteria in the zoning ordinance.

d. Medium and High Density Residential

1) Allow a mix of housing types in this category in two general levels of residential density:

(a) Medium density-over 8 and up to 16 units per gross acre.

(b) High density-over 16 units per gross acre. Identify criteria and location for these two sub-categories in the zoning ordinance.

2) Allow attached, duplex and multiple housing in this category.

3) Allow a ten-year surplus of vacant buildable land in this category.

4) Schools, neighborhood shopping facilities, parks and churches are allowed in this category subject to conditional use criteria to be defined in the zoning ordinance.

e. Mixed Use

1. Provide areas intended for development that combines commercial and residential uses in a single building or complex. These areas will allow increased development on busier streets without fostering a strip commercial appearance. The designation encourages the formation of neighborhood "nodes" of activity where residential and commercial uses mix in a harmonious manner. This development type will support transit use, provide a buffer between busy streets and residential neighborhoods, and provide new housing opportunities in the City. The emphasis of the nonresidential uses is primarily on locally oriented retail, service, and office uses. Commercial development may occur within the same building or complex as residential development. Clusters of residential and commercial uses around landscaping features or parking areas will also occur. Development is intended to be pedestrian-oriented with buildings close to and oriented to the sidewalk. Parking may be shared between residential and commercial uses.

2. Allow detached, duplex and multiple family housing.

f. Commercial

1) Provide for retail office centers:

(a) Allowed uses are department stores, offices, other retail facilities, and medium and high-density housing.

(b) A retail-office center should:

(1) Be from 20 to 50 acres in size.

(2) Have direct access from one or more arterial streets.

(3) Be centrally located to existing and future residential neighborhoods.

(4) Provide facilities and services to Keizer as a primary market.

(5) Not encourage traffic through residential neighborhoods.

(c) A retail-officer center will be located west of North River Road and north of Olson Street at the McNary Activity Center.

2) Provide for an employment area service center:

(a) Allowed uses are retail, service and office uses related to nearby industrial districts, and area commercial uses serving the traveling public such as restaurants, hotels, conference centers and shopping facilities.

(b) A employment area service center should:

(1) Be from 20 to 50 acres in size.

(2) Have direct access from I-5 and an arterial street.

(3) Provide facilities and services to adjacent industrial areas and to the traveling public.

(4) Not encourage traffic through residential neighborhoods.

(5) Be a unified district with coordinated circulation, parking and landscaping, not a collection of small unrelated commercial developments.

(c) An employment area service center is located near the Chemawa Interchange in the Keizer Station. (2013)

3) Provide for strip commercial developments in areas where this is the predominant existing land use:

(a) Allowed uses are retail, service and office, and are largely oriented to automobile traffic.

(b) Strip Commercial will be located along North River Road generally south of Claggett Street, and along Cherry Avenue.

(c) Expansion of strip commercial areas will not be allowed unless it can be shown to comply with zone and comprehensive plan change criteria. (2013)

(d) Ensure that future improvements and land use changes in the area provide adequate sound, light and visual buffers to adjacent residential areas. When design review is feasible, buffering and other visual methods will be required to reduce the impact on adjacent residential areas.

(e) Work with existing businesses, properly owners and residents to establish an access policy along North River Road so that the number of driveways can be reduced, and traffic flows and safety improved.

(f) Encourage and support local businesses and property owners to organize and promote the area encouraging stabilization, revitalization and growth in the area. (2013)

4) Provide for neighborhood commercial centers:

(a) Allow shops and services, which are easily accessible to residential areas, and are used frequently by neighborhood residents.

(b) Locate neighborhood centers at Chemawa and Windsor Island Road.

5) Allow new neighborhood commercial centers if the following criteria are met:

(a) The site size no greater than 5 acres including existing commercial development.

(b) Within convenient walking or bicycling distance of a support population of approximately 4 000 persons.

(c) Safe and efficient automobile, pedestrian and bicycle access is provided, and traffic congestion and safety problems are avoided.

(d) Sufficient off-street parking and loading is provided, as is adequate landscaping and buffering between the Center and adjacent residential developments.

g. Industrial/high value employment (2013)

1) Provide for industrial/high value employment development located with good access to the interstate freeway system, arterial streets, and rail facilities. (2013)

2) Locate industrial/high value employment districts in the northeast sector of Keizer. (2013)

3) Ensure that industrial/high value employment development adjacent to existing or planned residential areas will not cause adverse effects: (2013)

(a) The specific proposed use will be compatible with adjacent uses.

(b) The design of the facility and its site will not place visual or physical burdens on the surrounding areas.

(c) The operational characteristics of the facility will be compatible with surrounding uses and include consideration of: 1) hours of

operation, 2) delivery and shipping characteristics, 3) noise, 4) lighting, and 5) other use characteristics.

4) In general industrial areas, allow uses involved in the secondary processing of materials into components, the assembly of components into finished products, transportation, communication and utilities, wholesaling and warehousing. (2013)

5) In campus light industrial areas, allow uses involved in the secondary processing of materials into components, the assembly of components into finished products, research and development activities, and supporting office-based commercial development when planned to compliment the primary intent of the campus light industrial district.

6) In high value employment areas, allow uses in the following fields as identified in the Economic Vision statement of the EOA: (2013)

   (a) Medical facilities, including research, development and support(2013)
   (b) Information technology/back office(2013)
   (c) Educational services, including educational research and job training(2013)
   (d) Professional services, including corporate headquarters(2013)
   (e) Sporting events(2013)

7) Ensure compatibility between commercial and industrial lands and lands adjacent to them. (2013)

8) Provide for limited mixing of office, commercial, and industrial land uses when such mixing does not reduce the suitability of the site for the primary land use designated in the plan. (2013)

9) Encourage public and private efforts to increase economic development in Keizer. To the extent possible, such development should use local capital, labor, and management. (2013)

10) Maintain a supply of industrial and commercial land with necessary public services and suitable site characteristics. (2013)

11) Recognize the vital role of neighborhood commercial facilities in providing services and goods to a particular neighborhood. (2013)

12) Encourage the expansion or redevelopment of existing neighborhood commercial facilities when the density or socio-economic characteristic of households using the facilities change or when residential densities increase. (2013)

13) Concentrate major commercial and industrial development along major arterials. Allow neighborhood shopping and convenience stores in residential areas, providing such developments meet compatibility standards described in the implementing ordinances. Such standards

shall be clear and objective and not have either the intent or the result of precluding all such development. (2013)

14) Designate on a plan diagram commercial and industrial land sufficient to meet projected needs through 2033. (2013)

15) Establish and implement development ordinances that balance the needs for a safe, clean and attractive environment with the need to avoid unnecessary regulatory burdens and costs. Such ordinances shall ensure that development design and operation are compatible with surrounding land use and shall contain clear and objective standards for determining the compatibility of different types of land uses. (2013)

h. Public and Semi-Public

1) Provide for the following categories of public and semi-public uses.

a) Parks and Open Spaces. Publicly owned neighborhood and community park sites, and dedicated open spaces. The public facilities section contains standards and specific policies. The plan diagram indicates future park sites as a symbol, requiring site-specific studies and available funding to determine the exact size and location.

b) Schools. Sites for existing and planned elementary, middle and secondary schools are determined by the School District. The public facilities section contains standards and specific policies. (2013)

(c) Civic. Government offices and facilities are included in this category. Civic facilities should conform to underlying zoning requirements. (2013)

i. West Keizer Special Policy Area

1) Maintain the special policy area east and south of the Willow Lake Sewage Treatment Plant. The purpose of the special policy area is to: (2013)

(a) Limit uses to those that will not be adversely affected by noise and odor originating at the Willow Lake Sewage Treatment Plant.

(b) Prohibit subdivision actions, which may preclude more intensive development if conditions at the Willow Lake Sewage Treatment Plant cannot be improved. (2013)

2) Allow within the special policy area agricultural and related uses, industrial and commercial uses related to agricultural, institutional and other public uses.

3) Require that new developments and major improvements in the special policy area are aware of the possible noise and odor impacts which may arise from the operation of the Willow Lake Sewage Treatment Plant.

4) Participate with the City of Salem in studies to establish the feasibility, plan for and finance improvements to expand and remove the potential adverse conditions at the sewage treatment plant. If such studies are implementable, initiate a special land use study of the special policy area, and amend the comprehensive plan and zoning ordinance as appropriate. (2013)

5) Discourage subdivision of existing parcels within the special policy area until the completion of the studies noted above.

6) Continue the agricultural zoning in the special policy area until the completion of the studies noted above.

j. Activity Centers

1) Designate Activity Center overlay districts for:

(a) McNary Activity Center
(b) Keizer Station
(c) Future high value employment site as identified in the EOA (2013)

The purpose of the activity center overlay is to encourage a mix of intensive land uses emphasizing transit and pedestrian activity, and to allow flexibility of development regulations.

2) Require that design plans for each activity center are prepared and approved <u>before</u> specific development applications in the activity centers are approved. Development in this case includes subdivisions and partitioning where new vacant, developable lots are created, and the construction of new commercial or industrial buildings. The land use designations shown on the zoning map before a design plan is adopted, are generalized and will be refined during the development of design plans. Transfer of development rights within activity centers is allowed, and the use of planned developments is encouraged. Design plans will be prepared for entire activity centers, not individual parcels or for individual projects. **(2013)**

3) Assume a leadership role in preparing activity center design plans. The planning process should involve property owners, interested developers, residents, and other affected jurisdictions. Once an

activity center design plan is prepared, adopt it as a part of the Comprehensive Plan.

4) Require that activity center design plans include at a minimum:

   (a) The activity center design plan shall provide for a coordinated approach to area planning and development and shall provide policies and other standards for development within the activity center.

   (b) The activity center design plan shall show the general proportion of land uses, location of major public facilities, location of parks, open space, public lands and other public uses. It is anticipated that the land use designations and zoning shown in the Comprehensive Plan and on the Zoning Map will be used as a general guide only, and the activity center design plan may change such land use designations. However, the exact location of the uses need not be shown in the activity center design plan.

5) The following provisions apply in development of the activity center design plan.

   (a) For purposes of calculating overall density, the mix of land use designations shown in the Comprehensive Plan shall not be varied by more than 20%.

   (b) Transfer of development rights within the Activity Center is permitted when the property with reduced development rights is donated to the City, or permanently dedicated for public open space.

   (c) When transfer of development rights is used, the receiving areas shall be designated with zoning classifications consistent with the density and use of development proposed. Standards and other requirements of these zones shall be met.

   (d) The use of Planned Developments for residential areas in Activity Centers is encouraged.

6) The activity center design plan may require the provision of, or participation in, the development of public facility improvements to implement the activity center design plan. Such improvements may include, but are not limited to, the following:

   (a) Road dedications and improvements;

   (b) Signalization;

   (c) Sidewalks and bikeways;

(d) Crosswalks and/or overpasses;

(e) Stormwater ~~drainage~~ facilities;

(f) Sewer and water service lines and improvements;

(g) Underground utilities;

(h) Street lights;

(i) Transit stops and bus shelters;

(j) Transit information displays;

(k) Park and Ride facilities;

(l) Public restrooms;

(m) Street tree and median landscaping and development; and

(n) Open space, pedestrian plazas.

7) Design Plans for all currently approved designated activity centers have been adopted. (2013)

8) The following objectives for the McNary Activity Center. (2013)

(a) Primary uses are retail-office center, public park and open space lands including the 50-acre lake, medium and high density residential.

(b) If possible, integrate the McNary Golf Course, lake, public open spaces, civic center, and Claggett Creek corridor for public access and enjoyment.

(c) Encourage mixed use developments and multi-use structures. Within the district, pedestrian circulation and access should be emphasized.

(d) Provide for adequate off-street parking and loading, and public transportation facilities.

9) The following objectives for the Keizer Station: (2013)

(a) The primary uses are regional service center, light industry, hotel/motel and supporting facilities, convention facilities, and retail shopping facilities.

(b) Improve access to the district and Lockhaven Drive. Coordinate transportation improvements with the industrial district to the north.

10) Establish the following objectives for high value employment site: **(2013)**

(a) The primary uses are: (2013)

(1) Medical facilities, including research, development and support(2013)
(2) Information technology/back office(2013)
(3) Educational services, including educational research and job training(2013)
(4) Professional services, including corporate headquarters(2013)
(5) Sporting events(2013)

(b) Improve access to the district and coordinate transportation improvements with the district to the south. **(2013)**

(c) Encourage mixed use developments and multi-use structures. Within the district, pedestrian circulation and access should be emphasized. (2013)

(d) Provide for adequate off-street parking and loading, and public transportation facilities. (2013)

11) Special Planning District Designation

(a) For properties located within the Keizer Station Plan which are identified for a mix of commercial and industrial development, the Comprehensive Plan map designation shall be Special Planning District (SPD). The SPD is designated to:

(1) Provide for a mix of commercial and industrial development.
(2) Identify Special Planning District in northeast sector of Keizer.
(3) Provide opportunity for employment area service center to develop within the district.
(4) Allowed uses are to be comparable to industrial business park uses and commercial uses to service employment area service center and the traveling public as described in this plan. (2013)
(5) Encourage commercial and industrial economic opportunities within Specific Policy Areas as depicted in this Plan. (2013)

k. Resource Conservation Areas

1) Maintain overlay districts to provide for nature resource protection and natural hazard safeguards: (2013)

a) Willamette Greenway. Policies are included in Section A of this chapter.

b) Resource Conservation. Policies are included in Section A of this chapter.

l. 100-year Floodplain

1) Maintain the overlay district to regulate development within the 100 - year floodplain. Policies are included in Section A of this chapter. (2013)

m. Keizer Dike

1) Maintain the overlay district to regulate development on or near the dike. See Section A of this Chapter. (2013)

E. PUBLIC FACILITIES TO SUPPORT DEVELOPMENT

1. FINDINGS: GENERAL

a. General

1) The City of Keizer provides sanitary sewer, water, ~~drainage~~ stormwater facilities, parks, police protection, local streets and general government services within the existing city boundary. Sanitary sewer service is provided by the City of Salem. Education services are provided by School District 24J, and fire protection is provided by the Keizer Rural Fire Protection District and Marion County Fire District #1. (2013)

2) Sewage treatment is provided by the City of Salem through a services agreement. (2013)

3) Urban expansion accomplished through in-filling within and adjacent to existing development in an orderly, unscattered fashion permits new development to utilize existing utilities, services and facilities or those which can be easily extended.

4) Several major development projects have been completed in the area near McNary Golf Course and gravel pit. (2013)

5) The Clear Lake area in north Keizer has areas where on-site septic systems have failed. Sanitary sewer has been extended into this part of Keizer and this problem has since been corrected. (2013)

6) Currently, no sewer service is available in areas designated for industrial development in the area zoned AI in the northwest part of the city. The economic development objectives of the city are directly related to the extension of major public facilities to these areas. (2013)

7) The cost of providing key services and facilities to future development in Keizer is significant. (2013)

8) The Salem Keizer Area Transportation Study (SKATS) is a comprehensive regional transportation plan, and provides policies, standards, implementation programs and coordination for transportation improvements. The City of Keizer has participated in the development and update of the plan. (2013)

2. GOALS AND POLICIES: GENERAL

a. General Goals

1) Plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban development.

2) Provide and encourage a safe, convenient and economic transportation system.

b. General Policies

1) Reduce generally the amount of public subsidy for public utilities, services and facilities in new development.

2) Restrict extension of major public facilities such as sewer and water to areas outside the Urban Growth Boundary, except for cases where exception to State Land Use Goals 11 and 14 can be secured, when agreed to by the City of Salem and Marion County and consistent with all applicable state requirements. (2013)

3) Require that long-term planning for major public facilities is based on logical, functional boundaries. For the purposes of planning these boundaries may be outside the urban growth boundary. (2013)

4) Encourage development in areas already served by major public facilities before extending services to unserved areas.

5) Establish as a low priority the extension of public facilities to the special policy area around the Willow Lake Sewage Treatment Plant.

6) Ensure that sewer and water services are provided at an urban level of service comparable to similar services provided throughout the Salem/Keizer urban area.

7) Continue to cooperate and participate with other jurisdictions in the region for the provision of regional services such as sewage treatment, solid waste disposal, public transportation, and other services of regional concern.

8) Ensure that public facility and service planning and implementation are consistent with the Urban Growth and Growth Management policies of this Plan.

9) Continue to participate in the SKATS, and ensure that the periodic updating of the plan recognizes the most current forecasts for population and employment growth, and other policies of this plan.

10) Prepare an updated Public Facilities Plan. (2013)

3. FINDINGS: TRANSPORTATION

a. General

1) The SKATS Area Wide-Transportation Plan is a comprehensive planning effort for the entire Salem-Keizer urban area. The plan addresses streets and highways, bicycles, pedestrian, public transit and alternative modes. (2013)

2) The SKATS effort assumed growth forecasts and a land use plan for Keizer consistent with the Keizer Comprehensive Plan. (2013)

3) The City of Salem has recognized the SKATS plan is relatively short range in nature and has therefore in 1990 adopted the Salem Transportation Plan. This plan, which applied to Salem only, reflects longer range population, employment, and land use projections.

4) The City of Keizer has adopted its own Transportation System Plan (TSP) and was recently updated in April 2009. The Keizer TSP contains findings, goals, objectives, and policies on a number of aspects related to the transportation system in Keizer. By this reference the TSP is made a part of the comprehensive plan. (2013)

4. GOALS AND POLICIES: TRANSPORTATION

a. General Goals

1) Maintain the goals and objectives of the Keizer Transportation Plan as the goal statements for the City of Keizer. (2013)

b. General Policies

1) The policies within the Keizer TSP, adopted April, 2009 are the basis for guiding surface transportation improvements in Keizer. (2013)

2) Encourage and assist in the updating of the SKATS.

(a) Provide population and employment forecasts, and land use forecasts by traffic analysis zone to SKATS staff.

(b) Continue to actively participate in the SKATS program.

c. Roadways

1) The roadway classification system in Keizer is shown on Figure 4.2 in the Keizer TSP, adopted April, 2009. (2013)

2) The roadway classification design standards is shown on Figure 4.3 and 4.4 in the Keizer TSP, adopted April. (2013)

3) Ensure that Lockhaven Drive from North River Road to the Chemawa Interchange is carefully studied to determine the need for future widening, noise buffering, and for pedestrian crossing and safety improvements near the Whiteaker Middle School and along this street corridor. Require that existing and planned residential areas be protected from excessive noise levels resulting from an increase in traffic. (2013)

4) Ensure that the Third Willamette Bridge project is evaluated to increase the project's priority for funding. This project would support commercial and industrial development in Keizer, as well as relieve traffic pressure from the bridges in downtown Salem. (2013)

5) If the city voluntarily undertakes a street improvement project, which will increase traffic noise levels, it is the policy of the City of Keizer to protect existing residential uses from traffic noise levels that exceed those noise levels, which are typical of residential areas. Traffic noise levels below Leq67dBA are considered typical in an urban area and no mitigation of them shall be required. (2013)

6) Work with affected jurisdictions to evaluate and obtain the funding needed for improvements identified within the I-5 Interchange Area Management Plan. (2013)

d. Transit

1) Ensure that all new streets are designed so that access points do not create traffic congestion and capacity problems, adjacent sensitive properties are protected from noise impacts, and public transportation improvements are considered. (2013)

2) Continue to work closely with the Salem-Keizer Area Transit District to: (2013)

(a) Increase transit service throughout the City of Keizer and major points of employment, education, or shopping, or main connection points in Salem. (2013)

(b) Ensure that major new developments provide transit facilities, and are designed in such a way to make transit service efficient and convenient.

(c) Work with the Transit District to ensure that the new transit station in Keizer remains a viable and functional component of the city's transportation system. (2013)

(d) Work with state and federal funding agencies to study the viability of providing a rail connection to Keizer with a priority being at, or near, the Keizer Transit Station located in Area B of the Keizer Station. (2013)

e. Bicycles and Pedestrians.

1) Maintain the bicycle routes as identified in the TSP. (2013)

2) Extend the bicycle and pedestrian system on Wheatland Road north into the Clear Lake area. (2013)

3) Establish a bike route north of Olson Street connecting North River Road with Windsor Island Road.

4) Extend the bicycle and pedestrian system along Windsor Island Road north of Olson Street. (2013)

f. Other

1) Coordinate with Burlington Northern Railroad so that rail crossing at Lockhaven Drive does not cause rail or traffic congestion problems. (2013)

5. FINDINGS: SANITARY SEWER, WATER AND DRAINAGE

a. ~~a.~~ Water

1) The City of Keizer provides potable drinking water from deep groundwater wells. It is the responsibility of the Public Works Department to operate, maintain, improve, and replace the facilities necessary to produce, treat, and distribute water to the City. The City Council adopted a Water Master Plan Update in March 2013 that outlines and evaluates the current water system and the improvements necessary to accommodate the anticipated growth and correct current deficiencies. The Water Master Plan Update spans 20 years, outlining the projected needs of the City's water system between 2012 and 2032. The Master Plan is incorporated as part of the Comprehensive Plan.

2. The Water Master Plan Update projects the existing groundwater wells will provide a safe capacity available to serve the City through 2032.

3. The Capital Improvement Program (CIP) in the Water System Master Plan Update outlines the improvements needed to accommodate the projected growth outlined in the plan and will need to be implemented between the years 2020 – 2030. There are other specific improvements that must be performed in 2013 – 2019 to correct current deficiencies.

4. The Water Master Plan should be revisited in approximately 2023 and updated if necessary to ensure it remains a relevant document and accurate road map for system improvements or updates.

~~1) The City of Keizer has recently assumed the provision of water facilities from the Keizer Water District. All facilities, services and maintenance of the existing water system is now the responsibility of the City.~~

~~2) A water system master plan prepared for the Keizer Water District in 1980 is the blueprint for water system expansion in the City. The master plan is incorporated as a part of the Comprehensive Plan.~~

~~(a) The master plan anticipates a population level that will be reached in about 1995. The master plan should be updated to reflect needs to 2005.~~

~~(b) The capacity of the existing water supply system appears adequate to provide water service to the City of Keizer through 2005. Wells recommended in the master plan have yielded greater capacity than anticipated.~~

~~(c) The general locations of new water lines recommended for the unserved portions of Keizer appear appropriate. The plan should be updated to ensure that individual mains are sized adequately to accommodate greater levels of population and employment growth, and for additional storage facilities.~~

b. Sanitary Sewer

1) The operation and maintenance of the sanitary sewer system, including wastewater treatment, is provided by the City of Salem through an Intergovernmental Agreement. This agreement is effective through June 2028 and allows for 2 successive renewal terms of 10 years each. The intergovernmental agreement is incorporated as part of the Comprehensive Plan.

2) The City of Keizer provides sanitary sewer services to the boundary of the city limits.

3) The Master Sewer Plan Update completed in 1994 provides the Capital Improvement Plan (CIP) for needed facilities to serve the area within the city limits. The master plan is incorporated as part of the Comprehensive Plan. (By statute, the CIP is not a land use decision.)

~~1) The City of Keizer provides sanitary sewer services. A sanitary sewer master plan update was completed by the City in 1984. Because of the service area used in the master plan, future sewer lines have been adequately sized to accommodate the year 2005 population and employment forecasts used in this plan.~~

~~2) The sanitary sewer master plan update contains analysis, forecasts, phased improvements, and cost estimates. This update is included as a part of the Comprehensive Plan by reference.~~

~~3) Sewage treatment is provided at the City of Salem's Willow Lake plant located on the western edge of Keizer. The sewer system agreement between the Cities of Keizer and Salem governing the treatment of sewage originating the Keizer and Salem governing the treatment of sewage originating in Keizer expires in 1991. Renegotiating this agreement or finding an alternative method for providing sewage treatment is an important task for the City to address. Because of the proximity of the Willow Lake treatment plant to the City, the inclusion of the Keizer area in the plant's collection basin, and the commitment of existing sewage collection facilities which flow to the plant, is most desirable for Keizer to continue to utilize the Willow Lake Plant for sewage treatment, if an equitable agreement can be reached.~~

~~4) An equitable regional solution to the entire urban area's long-term sewage treatment needs should be the objective of the City of Keizer.~~

c. ~~Drainage~~ Stormwater

1) The City of Keizer provides ~~drainage~~ stormwater services. A ~~drainage~~ stormwater master plan was prepared for the developed portion of the City in 1982, but no ~~master plan has been prepared for the undeveloped areas.~~document currently exists that accurately captures the current conditions of the stormwater system

2) ~~Problems have developed in Keizer through the use of drywells and sumps for storm water drainage. These problems are:~~

~~(a) Inadequate capacity due possibly to silting in of drywells or to incorrect design.~~

~~(b) Concern about pollution of the groundwater aquifer.~~

~~The groundwater aquifer beneath the City provides the primary source of water. Water in the aquifer is of high quality and of adequate quantity to serve the needs of the City through 2005. The drainage system proposed in the drainage master plan would phase out all drywells and sumps.~~

~~The City has adopted interim policies on new dry well construction.~~ Keizer has utilized UICs for stormwater management in isolated locations throughout the City. The City currently has a DEQ approved WPCF permit for legal operation of these UICs.

3) The analysis, forecasts and improvements identified in the drainage master plan and any updates of this plan are included in this plan by reference.

4) The Federal Emergency Management Agency ~~recently~~ has published a Flood Insurance Study for the City of Keizer. The study contains an updated map of the 100-year flood plain, floodway, and floodway fringe boundaries. ~~See Figure 1.~~

5) Many of the citizen comments on the problems and issues in Keizer focused on flooding problems along Claggett Creek and in the far western portions of the City.

6) Another flooding problem was identified as the backup in Claggett Creek where the creek crosses below North River Road in an insufficiently sized culvert.

6. GOALS AND POLICIES: SANITARY SEWER, WATER AND DRAINAGE

a. General Goals

1) Provide and maintain public utilities, services, and facilities in an orderly and efficient manner.

2) Support public facility extensions when new development provides its own financing. The cost of new growth should, to the extent possible, be borne by the new growth itself.

b. Water Policies

1) Utilize the 2013 Water Master Plan Update to guide the improvements and updates to the water system. Perform for the recommended improvements in the CIP portion of the plan in accordance with the phases and timing outlined.

~~1) Adopt the water system master plan (1980) as an element of this comprehensive plan, and utilize the recommended improvements within the developed area.~~

~~2) Update the water master plan within two years of gaining comprehensive plan acknowledgment. Utilize the existing master plan as a guide until the updating is completed.~~

c. Sanitary Sewer Policies

1) Meet all duties of the City of Keizer as specified in the Intergovernmental Agreement for Wastewater Treatment with the City of Salem to ensure the continued cooperation of both agencies is maintained.

~~1) Adopt the Keizer Area Sanitary Sewer Master Plan Update, (1984) as an element of this comprehensive plan, and utilize the recommended improvements.~~

~~2) Encourage and participate in a regional effort to find solutions for sewage treatment and disposal. Solutions should be equitable for all users in the region.~~

d. Stormwater Drainage Policies

~~1) Adopt the drainage master plan (1982) as an element of this comprehensive plan, and utilize the recommended improvements.~~

1 ~~2~~) Create a Stormwater Master Plan with the following policies:~~Update the drainage master plan at the time of the first periodic review after comprehensive plan acknowledgment. The update should include currently undeveloped areas within the plan.~~

(a) The ~~updated drainage~~new stormwater master plan should include a careful analysis of the impact of a storm drainage system on Claggett Creek and Labish Ditch and other natural drainage features throughout Keizer.

~~(b) As Olson Street is to be improved as an arterial through Keizer, and improvements begin at North River Road near the Claggett Creek crossing, the drainage problems identified at the Claggett Creek crossing should be analyzed, and appropriate improvements made as part of the Olson Street project.~~

(b) Include an analysis of those areas of the City that are undersized and identify locations where realignment should occur.

7. FINDINGS: PARKS AND RECREATION

General

a. The total park and recreation lands existing in 2007 within the City are approximately 211 acres.

b. A Parks Master Plan was developed and adopted in 1992. This plan was updated in 2007/2008 to include additional park property acquired since 1992

8. GOALS AND POLICIES: PARKS AND RECREATION

Keizer envisions a livable and interconnected community with a park system that:

- Preserves and maintains a comprehensive system of parks that provide for our community's growth;
- Provides a system of unique destinations reflecting Keizer's pride in its parks and natural areas;
- Enhances waterfront access to take advantage of the opportunities offered by our water resources;
- Provides a system of trails to connect parks, open space, schools, neighborhoods and regional destinations; and
- Includes facilities and programs that are responsive to the community's needs.

- ***Goal 1:*** Provide well-designed, accessible and safe parks, recreation facilities, and natural open space areas.
- ***Goal 2:*** Maximize opportunities for public enjoyment of waterfront access.
- ***Goal 3:*** Connect neighborhoods with parks, schools, natural open space areas, and the waterfront, as well as downtown and the region.
- ***Goal 4:*** Meet the park and recreation needs of Keizer's growing community.
- ***Goal 5:*** Ensure that a program of recreation services is available for community members of all ages and abilities.
- ***Goal 6:*** Provide efficient and high quality maintenance of parks, facilities, and natural open space areas.
- ***Goal 7:*** Be an efficient and effective provider of the parks and recreation services desired by the community.
- ***Goal 8:*** Encourage public involvement in park and recreation issues.

9. FINDINGS: SCHOOLS

General

a. Education services are provided in Keizer by School District 24J.

b. Based on the population forecasts for Keizer, expected demographics and capacities of existing schools in the area, one elementary school replacement, one new elementary school, and one new middle school are assumed to be located in Keizer by 2005. See working paper on public facilities and services/transportation factors (March, 1985).

10. GOALS AND POLICIES: SCHOOLS

a. General Goal

Ensure that the planning for school location and sitting is consistent with Keizer Comprehensive Plan.

b. General Policies

1) Coordinate the acquisition of school sites to further the joint acquisition and development of park and school sites and to permit the joint use of school and park facilities.

2) Locate elementary schools so that:

(a) They are in the center of existing or future residential neighborhoods within safe and reasonable walking distance of as many students as possible.

(b) Attendance areas will be bounded, rather than intersected, by barriers, presenting obstacles or dangers to children walking to and from school.

(c) They are located on residential streets, which provide sufficient access for buses and other necessary traffic but have a minimum of non-school related vehicle activity.

3) Locate secondary schools so that:

(a) They have adequate, safe and direct access from principal street network.

(b) They are located in areas, which are geographically central to the population served.

(c) They are designed, cited and constructed to encourage the use of walkways, bikeways, and public transit.

4) Accelerate the acquisition of school land in projected growth areas by working with the school district to establish guidelines to determine where and when developers will be required to dedicate land for school facilities, or money in lieu of, to serve their development.

F. PLAN ADMINISTRATION

1. FINDINGS: CITIZEN INVOLVEMENT

General

a. A Citizen Involvement Committee has been established by the Keizer City Council.

b. The City of Keizer has established a Planning Advisory Committee (PAC) to provide citizen input throughout the comprehensive planning process. Public workshops have been held to review and comment on technical data, discuss issues and priorities, and to provide feedback on policy statements.

c. Town Hall meetings have been held throughout the comprehensive planning process. These public meetings provided all citizens of Keizer the opportunity to receive information, discuss issues, and provide input to the planning process.

d. A resolution "Establishing City of Keizer Citizen Involvement Program" has been adopted by the Keizer City Council. The resolution is included in the comprehensive plan by reference.

2. GOALS AND POLICIES: CITIZEN INVOLVEMENT

a. General Goals

1) Provide for widespread citizen involvement.

2) Assure effective two-way communication with citizens.

3) Provide the opportunity for citizens to be involved in all phases of the planning process.

4) Assure that technical information is available in an understandable from.

5) Assure that citizens will receive a response from policymakers.

6) Insure funding for the citizen involvement program.

b. General Policies

1. Adopt Resolution R85-149 as the public involvement element of the comprehensive plan. The resolution is included in the appendix.

3. FINDINGS: COORDINATION

General

a. A Regional Coordination Committee (RCC) has been established by the City of Keizer to provide the opportunity to all affected local and state jurisdictions for input and comment on the process.

b. The City of Keizer has been participating with other jurisdictions in the coordination program established in the Salem Area Comprehensive Plan.

c. The City of Keizer has initiated a voluntary regional comprehensive plan coordination association among the jurisdictions in the region. An agreement has been prepared establishing a "Regional Comprehensive Plan Coordination Association". This agreement is incorporated as a part of this plan, and is included as Appendix 2.

4. GOALS AND POLICIES: COORDINATION

a. General Goal

1) ~~Participate~~ Work with other jurisdictions in the region to ensure ~~appropriate~~ land use and related issues are appropriately coordinated.

b. General Policies

1) Pursue the comprehensive plan coordination association as the institutional means to ensure coordination in the Salem/Keizer urban area. ~~The draft resolution is included in the appendix.~~

2) Encourage and assist Mid-Willamette Council of Governments in identifying regional needs and priorities and implementing functional plans.

3) Adopt dual interest area agreements with the City of Salem and Marion County for those areas where future annexation by Keizer is possible and desirable. Include dual interest areas in the resolution establishing regional comprehensive plan coordination. ~~See Figure 2 for dual interest area boundaries~~.

4) Insure consistency between city and county plans. Any conflicts should be stated in a dual interest area agreement, and resolution of these conflicts will occur through the plan amendment process.

5) Insure coordination with special districts, local and state jurisdictions by involving these appropriate bodies in the plan review and revision process.

5. FINDINGS: PLAN REVISIONS AND IMPLEMENTATION

General

a. An Integrative Ordinance has been prepared which provides common administration procedures which will insure continued consistency between the Keizer Comprehensive Plan and Salem Area Comprehensive Plan.

b. New subdivision and zoning ordinances have been prepared to implement the Keizer Comprehensive Plan.

6. GOALS AND POLICIES: PLAN REVISIONS AND IMPLEMENTATION

General Goals and Policies

a. Assure that policies in this plan are implemented.

b. Establish plan review and revision procedures, which include provisions for participation by citizens and affected governments.

c. Assure an adequate factual base for decisions and actions.

d. Participate in the "Regional Comprehensive Plan Coordination Association" which includes guidelines for regional issues requiring comment and review during plan amendment proceedings. See Appendix 2.

e. Assure that the comprehensive plan is regularly reviewed, revised and amended.

1) Establish administrative or organizational procedures to insure adequate monitoring of population, vacant lands, transportation systems, public facility capacities, environmental and economic changes.

2) Maintain the adopted citizen involvement program to provide a means for the public to express their views community needs, changes and improvements.

3) Periodically re-assess goals, general policies and implementation as well as the database and alternative on which the plan is based.

4) Formally review the comprehensive plan at least as often as directed by the Oregon Department of Land Conservation and Development in order to satisfy the periodic review requirements of ORS 197.640.

5) Coordinate the review with the review and revision schedule of the Salem Area Comprehensive Plan.

6) Evaluate proposed comprehensive plan amendments according to the following criteria:

(a) Compliance with the statewide land use goals and related administrative rules is demonstrated.

(b) Conformance with the Comprehensive Plan goals, policies and intent is demonstrated.

(c) Public need is best satisfied by this particular change.

(d) The change will not adversely affect the health, safety and welfare of the community.

(e) Adequate public facilities, services and transportation networks are in place, or are planned to be provided concurrently with the development of property.

7. Implement this plan through appropriate ordinance and action.

(a) Adopt new ordinances to carry out the policies of this plan.

(b) Apply zoning in a timely manner, which is consistent with this plan.

(c) Require all zoning and subdivision ordinance to be consistent with the intent and to be based on this comprehensive plan.

(d) Require all actions of the City on conditional uses, variances, zone changes and all other planning actions to be consistent with the intent of this plan.

G. AGRICULTURAL LANDS

1. FINDINGS: GENERAL

a. Typically, agricultural zones permitting commercial farming are located outside of cities and are governed by county regulations. Keizer, like numerous other Oregon cities once had a number of farms and farm uses within its jurisdiction but over time these have been replaced with other urban uses. The pattern of development is that over time cities become developed with urban densities and with uses that are often not compatible with commercial farming practices. However, within Keizer there are two zone designations that each allow for commercial agricultural uses. These are the Exclusive Farm Use (EFU) and Special Agriculture (SA) zones. Each of these has it own set of city regulations.

b. Legislative policy and the Land Conservation and Development Commission Goal No. 3 on agricultural lands also indicates a need to preserve agricultural lands. This State Goal defines agricultural lands in western Oregon as land predominantly comprised of Class I - IV soils identified by the Natural Resource Conservation Service (NRCS) classification system and other lands which are suitable for farm use. Farm use is also defined as set forth in ORS 215.293 (2) (a) (1997 edition): ....."farm use" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or by the feeding, breeding management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human use and animal use. "Farm use" also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines, including but not limited to provide riding lessons, training clinics and schooling shows. "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. "Farm use" does not include the use of land subject to the provisions of ORS Chapter 321, except land used exclusively for growing cultured Christmas trees as defined in subsection (3) of this section, or land described in ORS 321.267 (1) (e) or 321.415 (5). The State goal as amended in 1994 indicates that these lands shall be preserved by applying Exclusive Farm Use zoning consistent with the requirements in OAR 660- 033. These statutes and rules define high-value farmland and establish review criteria for many of the uses allowed in EFU zones. As a result, the state land use program provides greater protection for high value farmland compared with other farmland protected under Goal 3.

c. It is the intent of the City of Keizer to maintain the ability to economically farm these lands by limiting conflicts with non-farm uses. This will be accomplished by prohibiting incompatible non-farming activities and by limiting land division to those compatible with agricultural needs consistent with the requirements of either ORS 215.213 or 215.283 and OAR 660-033.

d. The primary tools available to accomplish this goal are farm zoning and land division controls. Through the exercise of these controls, the agricultural industry can be maintained in the future. Even though land use controls can be effective in preserving agricultural lands, by far the most important aspect of this program is public attitude. Public support, particularly from farmers, farm related industry, and those people owning farm land in the County, is the real foundation upon which agricultural land preservation policies will be maintained.

e. Exclusive Farm Use

1) The City of Keizer has an EFU zone which consists of one property. The property is located adjacent to the Willow Lake Treatment Plant and is also within the Special Policy Area overlay zone surrounding the treatment plant which is the result of a coordinated effort by the City of Salem and the City Keizer regarding concerns from odor and sounds emitting from the treatment facility. It seeks to minimize uses and potential complaints from adjacent property owners to the use of the treatment facility.

2) While the city's EFU zoning requirements allow for the continued agriculture use of the property. Since the designation only involves property that is within the city limits and not outside the urban growth boundary it is not a requirement of the city that this zone district comply with all the requirements that have been adopted by the state. In addition, this EFU district is planned to one day be developed in a manner more consistent with urban development patterns which means it may be in other uses than farming. The EFU zone prohibits any residential development through the subdivision or partition process. While the EFU zone is fairly limiting in what it will allow, it is envisioned that a zone change to another zone would be requested by a property seeking to allow a change of use on the property. Such a rezone proposal will need to be consistent with all city procedures and process.

f. Special Agriculture

1) The other agriculture zone which the city has is the Special Agriculture zone. Unlike the city's EFU zone district the SA is an EFU qualifying zone. This zone is applied to land that was a Marion County EFU zoned area that was annexed into the city limits but is located outside of the urban growth boundary. Because it is not within the city's urban growth boundary it needs to have a zone designation that is consistent with state requirements governing uses within agricultural areas. Hence, the need for it to be an EFU qualifying zone. The SA zone is structurally modeled on the Marion County EFU zoning regulations with the significant difference being the list of conditional uses has been reduced.

2) One area which recently was designated SA is the area in the western part of the city adjacent to the Keizer Rapids Park. This area which until recently had been designated Marion County EFU. The adjacent park was approved by Marion County with a conditional use permit for the development of a park. The annexation of a parcel which is currently outside the city limits will allow the city to be able to acquire it using urban renewal funding. With the

annexation, the city will be able to process all land use applications and provide all public safety services without having to rely on the County. The caveat is that if the parcel remains outside of the urban growth boundary, it then needs to be zoned with an EFU qualifying zone and that all uses of the property be in accordance with this zone designation.

3) The intent of the SA designation is to establish an EFU qualifying zone and to allow for uses which are allowed within this zone district and that these uses be done in a manner that will not adversely impact any nearby farm uses. The SA zone will prohibit residential development through subdivisions or partitions and will also prohibit the extension of sanitary sewer to serve any SA designated parcels. Lands with the SA designation are to be developed in accordance with the city's SA zone requirements and also with all applicable state statutes and rules governing resource zones. As this may limit the full use of the any SA designated lands it may be appropriate to consider bringing these lands into the urban growth boundary. As lands with this designation are inside the city limits yet outside the urban growth boundary consideration shall be given to including these lands as part of any future urban growth expansion that the city may someday endeavor.

2. GOALS AND POLICIES: AGRICULTURAL LANDS

a. General Goals

1) To preserve and maintain agricultural lands for uses that are consistent with the present and future need for agricultural products, forest and open space.

b. General Policies

1) Preserve lands designated as Special Agriculture from incompatible uses through the implementation of the corresponding SA zone.

2) Maintain agricultural lands in the largest areas as possible to encourage larger scale commercial agricultural production.

3) Limit residential uses on high value lands to those dwellings where past income from the sale of farm products demonstrate that the dwelling will be in conjunction with the farm use. Non-farm dwellings should be limited to existing parcels composed of non-high value soils where the dwelling will be compatible with the surrounding farm area. The approval of non-farm residences shall be based upon findings that the proposed dwelling meets the applicable criteria in OAR 660-033. Approval of a dwelling in the farm designation shall be based on the applicable criteria in OAR 660-033 or OAR 660-006.

4) Divisions of agricultural lands shall be reviewed by the City and comply with the applicable minimum parcel size and the criteria for the intended use of the property.

5, When the creation of a non-farm parcel is warranted, the size of the parcel shall be as small as possible to preserve the maximum amount of farmland in

the farm parcel. Requirements may need to be imposed when non-farm parcels are allowed in farm use areas to minimize the potential for conflicts with accepted farm management practices on nearby land. These may include special setbacks, deed restrictions and vegetative screening.

6. Discourage development of non-farm uses on high value farmland unless such uses are allowed by either the SA or EFU zone designation and that they are done in a manner that will not cause adverse impacts on nearby farm uses.

7. Development of a non-farm proposal that will be developed in conjunction with an adjacent use that received land use approval and which will be developed consistent with a master plan shall be given special consideration.

8. Lands that are designated City of Keizer EFU are lands that are within the city limits and while these lands may be currently in agriculture use it is recognized that at some future time they may be rezoned and developed to allow uses consistent with that zone designation.

9. Consideration shall be given to including lands designated SA into the Urban Growth Boundary (UGB) at some future point if the city endeavors to pursue a UGB expansion.

IV. PROCEDURES FOR AMENDING THE KEIZER COMPREHENSIVE PLAN

A. DEFINITIONS

1. SALEM/KEIZER URBAN AREA

   The area within the Salem Urban Area and the Keizer Urban Area shall be known as the Salem/Keizer Urban Area and shall be defined by the Salem/Keizer urban growth boundary.

2. SALEM URBAN AREA

   The area within the Salem city limits and the area within the Salem/Keizer urban growth boundary, which is unincorporated and is located to the southeast, and west of the common city limits boundary between the cities of Salem and Keizer shall be known as the Salem Urban Area.

3. KEIZER URBAN AREA

   The area within the Keizer city limits and the Salem/Keizer urban area adjoining the Keizer city limits to the north and west which is generally north and west of the Keizer city limits, west of the Interstate 5 Freeway as it runs north of the Salem city limits, and east of the Willamette River shall be known as the Keizer Urban Area.

4. DUAL INTEREST AREAS

   Dual interest areas are geographic areas where two or more entities have, by agreement, established that each has an interest in the nature and scope of land use regulation in the area even though the area may be outside the jurisdiction of one or more of the entities which are parties to the agreement. Dual Interest areas may be outside the Salem/Keizer Urban Growth Boundary. Decision regarding areas identified by agreement, as Dual Interest Areas shall be governed by the terms of such agreement.

5. REGIONAL POLICY

   Any policy, which is concurred in by all four jurisdictions (Cities of Salem and Keizer and counties of Marion and Polk) and is identified in each jurisdiction's Comprehensive Plan is a regional policy.

6. REGIONAL PLANNING ACTION

   Any amendment to a regional policy.

7. NON-REGIONAL PLANNING ACTION

Non-regional planning actions are of two types:

a. Any amendment to an urban area policy.

b. All other land use actions.

B. JURISDICTION

1. SALEM'S JURISDICTION

Salem has exclusive jurisdiction over all land use actions applicable within its city limits other than regional planning actions and amendments to urban area policies.

2. KEIZER'S JURISDICTION

Keizer has exclusive jurisdiction over all land use actions applicable within its city limits other than regional planning actions and amendments to urban area policies.

3. POLK COUNTY'S JURISDICTION

Polk County has exclusive jurisdiction over all land use actions applicable within that portion of the Salem Urban Area that is outside the Salem city limits and inside Polk County other than regional planning actions and amendments to urban area policies.

4. MARION COUNTY'S JURISDICTION

Marion County has exclusive jurisdiction over all land use actions applicable within that portion of the Salem Urban Area and Keizer Urban Area that are outside the Salem city limits and outside the Keizer city limits other than regional planning actions and amendments to urban area policies.

C. PROCEDURES FOR AMENDMENT

1. REGIONAL PLANNING ACTIONS PROCEDURES

a. Regional planning actions may be initiated by any one of the four jurisdictions (Cities of Salem and Keizer and Counties of Marion and Polk), but must be concurred in by all of the other jurisdictions as set forth below before they are considered effective amendments to the Plan.

b. The proposing jurisdiction shall notify all of the other jurisdictions of the proposed regional planning action by sending to them a true copy of the 45 day notice sent to the Department of Land Conservation and Development (DLCD). That copy shall be sent to the other jurisdictions not less than 45 days prior to the date set for final hearing in the matter. If the final hearing is rescheduled, the other jurisdictions shall be notified of the new hearing date.

c. All jurisdictions that concur with the regional planning action shall, at least 15 days prior to the final hearing as cited in the DLCD notice, indicate to the proposing jurisdiction their concurrence. Those jurisdictions that concur shall

adopt ordinances indicating their concurrence and transmit those ordinances to the proposing jurisdiction.

d. Where "c" does not apply, jurisdictions shall at least 15 days prior to the final hearing as cited in the DLCD notice, indicate to the proposing jurisdiction their lack of concurrence, the conditions necessary for concurrence, or the need for a specific amount of additional time to consider the matter before responding. Those jurisdictions indicating non-concurrence shall provide their reasons, findings, and conclusions in writing to the proposing jurisdiction.

e. When the proposing jurisdiction has received concurring ordinances, which are identical with regard to the text of the regional planning action adopted from each of the other jurisdictions, it may take final action to adopt its own ordinance and the effective date of that final ordinance shall be the effective date of the amendment to this plan. The proposing jurisdiction shall send copies of the final ordinance to all of the other jurisdictions.

f. If jurisdictions disagree as to regional planning actions or if there is a need for clarification of regional policies, the issue may be resolved through the Salem Keizer Area Plan Advisory Committee process.

2. NON-REGIONAL PLANNING ACTIONS PROCEDURES

a. Any amendment to an urban area policy shall follow the regional planning action procedures, except that the concurrence requirement will be limited to jurisdictions within the urban area.

b. Any non-regional planning action other than an urban area policy amendment shall be acted upon by Salem, Keizer, Polk County, and Marion County respectively for areas over which each exercises exclusive jurisdiction.

1) Each jurisdiction shall notify all other jurisdictions of pending planning actions within their jurisdiction and as required by dual interest area agreements.

2) If a disagreement is reached, the jurisdiction having authority to take the action is free to act, and any other jurisdiction is free to appeal such action to the Land Use Board of Appeals.

D. RULES OF PROCEDURE

Each governing body shall adopt rules of procedure to govern the initiation and processing of amendments to this plan in the geographic area of the jurisdiction.

E. REVIEW AND REVISION

The plan shall be subject to major review and, where necessary, revisions to comply with the requirements for periodic review. Except for Comprehensive Plan map amendments initialed by property owner, plan amendments should, wherever possible, be reserved for those years when the plan undergoes major review.

F. RELATIONSHIP BETWEEN SALEM AREA COMPREHENSIVE PLAN AND KEIZER COMPREHENSIVE PLAN

1. A Comprehensive Plan for the Keizer Urban Area has been adopted as an amendment to the Salem Area Comprehensive Plan (SACP). It shall be referred to as the Keizer Comprehensive Plan (KCP). All regional policies are included in the text of the SACP and KCP.

2. Land use decisions, other than regional planning actions involving land within the Salem urban area shall be made based solely on the SACP, its plan map, and its implementing ordinances.

3. Land use decisions other than regional planning actions involving land within the Keizer urban area shall be made based solely on the KCP, its plan map, and its implementing ordinances.

4. Regional planning actions shall be made solely on the basis of the concurrence of all the jurisdictions – City of Salem, City of Keizer, Marion County, and Polk County. Regional planning actions shall be adopted by each jurisdiction with the identical language.

G. URBAN GROWTH BOUNDARY

1. The cities of Salem and Keizer and Counties of Marion and Polk have adopted by legal description the Salem/Keizer urban growth boundary for the Salem and Keizer urban areas and shall review the Salem/Keizer urban growth boundary on a periodic basis or upon the request of one of the jurisdictions to identify if changes are necessary.

2. All parties shall work toward the development of the most efficient and economical method for providing specific urban services to the area within the Salem/Keizer urban growth boundary.

3. Changes to the Salem/Keizer urban growth boundary must be adopted concurrently by all four affected jurisdictions and shall be based upon consideration of the following factors:

   a. Demonstrated need to accommodate long range urban population growth requirements consistent with LCDC goals;

   b. Need for housing, employment opportunities and livability;

   c. Orderly and economic provision for public facilities and services;

   d. Maximum efficiency of land uses within and on the fringe of the existing urban area;

   e. Environmental, energy, economic and social consequences;

f. Retention of agricultural land, as defined, with Class I being the highest priority for retention and Class VI the lowest priority;

g. Compatibility of the proposed urban uses with nearby agricultural activities; and

h. Projections of land needs and supply of buildable land within the entire Salem and Keizer urban areas.

H. TRANSPORTATION

The Salem/Keizer Area Transportation Study Cooperative Agreement shall provide the coordination mechanism for regional transportation issues within the Salem/Keizer urban growth boundary.

I. WILLOW LAKE TREATMENT PLANT

The Willow Lake Treatment Plant dual interest area is defined by an adopted legal description. Development requirements are established in the Willow Lake Treatment Plan dual interest area agreement.

J. SOLID WASTE

The disposal of solid wastes shall be accomplished with a minimal negative impact on the land, air and water resources of the region. A balanced program of waste reduction, recycling, resource recovery, landfill and other disposal methods shall be encouraged. The cities and counties shall participate cooperatively in the development of a solid waste Management Plan for each county and participate in implementation of the plan to the extent it applies to each jurisdiction. The facilities developed to implement the Solid Waste Management Plans are not required to be located in the Salem/Keizer urban area.

K. STORM DRAINAGE POLICY

The Cities and Counties shall coordinate the management of storm water.

L. RESIDENTIAL DENSITY

The effective utilization of land for residential development and the potential of proposed urban growth boundary changes for residential use should be guided by residential density objectives scaled to the character of each urban area. Commencing January 1, 1992, performance in achieving the residential density objectives shall be used in determining conformance with urban growth boundary expansion factors for residential use.

V. ACCOMPANYING PLAN DOCUMENTS

This chapter contains a list of accompanying plan documents, and incorporates theses documents by reference in the Keizer Comprehensive Plan.

A. REGIONAL PLANS

1. Salem Area Comprehensive Plan. City of Salem, adopted 1979, acknowledged 1982.

2. Conformance of the Salem Area Comprehensive Plan with State Land Use Goals, Salem Planning Division, 1982.

3. Year 2005 Areawide Transportation Plan for the Salem-Keizer Urban Area, Mid-Willamette Valley Council of Governments, 1985.

B. WORKING PAPERS

1. Past and Present Conditions: Natural Resources and Willamette Greenway Factors, Wilsey & Ham, 1984.

2. Past and Present Conditions: Socioeconomic and Housing Factors, ECO Northwest, 1984.

3. Past and Present Conditions: Land Use and Urbanization Factors, Wilsey & Ham, 1984.

4. Past and Present Conditions: Public Facilities and Services/Transportation Factors, Wilsey & Ham, 1985.

5. Forecasts and Analysis: Natural Resources and Willamette Greenway Factors, Wilsey & Ham, 1985

6. Forecasts and Analysis: Socioeconomic and Housing Factors, ECO Northwest, 1985.

7. Forecasts and Analysis: Public Facilities and Services/Transportation Factors, John Spencer & Assoc., 1985.

8. A Brief History of Keizer and Keizer's Historic Sites, Ann Lossner, 1986.

C. TECHNICAL PLAN AND REPORTS

1. Water System Master Plan, Keizer Water District, James M. Montgomery, Consulting Engineers, Inc., 1980.

2. Keizer Area Sanitary Sewer Master Plan Update, William I. Peterson Engineering, Inc., 1985.

3. Keizer Area Drainage Master Plan, Kramer, Chin and Mayo, Inc., 1982.

4. North Keizer Sanitary Survey. Department of Environmental Quality, Marion County Health Department, 1984.

5. 1991 Sewage Treatment Agreement, City of Keizer and City of Salem,

D. DOCUMENTS INCORPORTED INTO PLAN

1. McNary Activity Center Design Plan December 1991
2. Master Sewer Plan Update 1992
3. Master Sewer Plan Update December 1993
4. Dual Interest Area Agreement
5. Master Sewer Plan Update January 30, 2003
6. Parks and Recreation Master Plan dated January 2008
7. City of Keizer Transportation Systems Plan (April 2009)

VI. APPENDIX

1. Resolution R85-149, establishing City of Keizer Citizen Involvement Program.

2. Agreement Establishing A Regional Comprehensive Plan Coordination Association.

APPENDIX 1

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R85-149

ESTABLISHING CITY OF KEIZER CITIZEN INVOLVEMENT PROGRAM

WHEREAS, Statewide Planning Goal number 1 requires citizen involvement in the land use planning process; and

WHEREAS, the City of Keizer supports a citizen involvement process which will encourage citizens to become informed regarding planning factors, to understand planning issues, and to have input in land use decisions; and

WHEREAS, the City of Keizer has appointed a Citizen Involvement Committee responsible for creating a citizen involvement program that will meet the requirements of Goal 1 and the State Citizen Advisory Committee guidelines; and

WHEREAS, the Citizen Involvement Committee has developed a recommended Citizen Involvement Program for the City of Keizer as set forth below;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Keizer, that the goal and objectives of the City of Keizer Citizen Involvement Program are as follows:

GOAL: Insure the opportunity for citizens to be involved in all phases of the Land Use Planning Process.

OBJECTIVES:

1. To provide for widespread citizen involvement.

   A. The City Council shall create a citizen Planning Advisory Committee (PAC) that is representative of Keizer citizens geographically and in members'

interest in land use planning.

1) The names of the PAC members shall be publicized to encourage input from the general public to the PAC.

2) The PAC shall designate time on the meeting agendas for public input.

3) The PAC shall set and post meeting times/ dates to maximize the opportunity for public attendance.

4) Vacancies on the PAC will be filled through an open, well-publicized selection procedure.

5) The PAC shall ensure that the media is notified of meetings and encourage the local media to attend.

B. The PAC/City Council shall hold townhall meetings and public hearings prior to adoption of the Comprehensive Plan.

1) Maps and/or written background information shall be available for citizens to study at City Hall prior to meetings.

2) Townhall meetings and public hearings shall be well-publicized in advance.

C. The City Council shall create a Citizen Involvement Committee which shall:

1) Publicize the Citizen Involvement Program.

2) Assist in implementation and later evaluation of the Citizen Involvement Program.

3) Assure that methods are developed for the public to receive public notices and planning information.

4) Maintain communication with community organizations (such as Keizer Merchants Association, League of Women Voters, local churches) relating to land use matters.

5) Evaluate citizen input methods periodically and recommend additional measures to Council if necessary.

6) Meet at least annually with the Council and Planning Commission to evaluate citizen input methods.

7) Recommend specific input methods (task forces, advisory boards, committees) for citizen involvement in implementation of the adopted Comprehensive Plan, when the choice of appropriate procedures and methods needs clarification.

2. To provide for effective two-way communication between citizens and elected and appointed public officials, including feedback mechanisms.

A. Establish mail list for agendas for PAC meetings to include service clubs, interested citizens,

5

etc.

B. Use procedures and practices conducive to citizen involvement.

1) PAC and City Council members shall be clearly identified so citizens know to whom they are speaking.

2) Public input procedures should be explained at the beginning of meetings.

3) Other procedures should be clearly established by the PAC or City Council, such as whether the general public may participate in discussions or ask questions during meetings.

C. Provide opportunities for citizen feedback to members of the PAC and/or City Council.

1) Provide evaluation sheets at each townhall meeting or hearing;

2) Solicit feedback to determine effectiveness of the citizen involvement program regarding:

a) How citizen heard about meeting.

b) Type of interest and/or ownership in real property (commercial, industrial, residential, etc.).

c) Understanding of comprehensive plan process.

d) Effectiveness of meetings.

e) Questions that didn't get answered.

f) Providing signup sheets to receive answers to questions not answered.

3) Develop mechanisms for feedback.

D. Determine a system for seeing that citizens that testify or inquire about the comprehensive planning process receive responses from officials.

3. To provide for the dissemination of information that encourages citizens to identify and understand issues concerning land and development.

A. Provide technical information copies which can be viewed by the public at Keizer City Hall and/or Salem Public Library.

B. Keep land use maps posted at City Hall.

C. Provide handouts at public meetings.

D. Set up a speaker's bureau available to speak to service clubs, interested citizen groups, etc.

E. Contact community groups and encourage them to become involved and informed in the planning process.

F. Make available minutes from meetings/hearings to interested parties.

4. To insure funding for the Citizen Involvement Program.

A. The PAC shall recommend the Citizen Involvement

Program to the City Council.

B. The City Council shall adopt the Citizen Involvement Program and provide funding for its implementation.

5. To allow regional citizen participation.

The City shall seek implementation of a regional coordination program that provides opportunities to participate in decisions of agencies that may be planning for development in the region but whose planning activities may fall outside of the City's comprehensive planning process..

6. To evaluate citizen involvement of the general public and participants in the planning process.

A. Awareness of the general public of media coverage of the planning process shall be periodically evaluated.

B. Awareness of the general public to meeting notices (and announcements) shall be periodically evaluated.

C. Periodic discussion shall be held between the PAC and Citizen Involvement Committee to evaluate the effectiveness of citizen participation.

D. A final review of the citizen involvement program shall be conducted prior to City Council adoption of the Comprehensive Plan.

/////

PASSED this 15th day of July, 1985.

SIGNED this 15th day of July, 1985.

Mayor

City Recorder

APPENDIX 2
AGREEMENT ESTABLISHING A
REGIONAL COMPREHENSIVE PLAN COORDINATION ASSOCIATION

WHEREAS, the Cities of Salem and Keizer and Marion and Polk Counties are authorized under the provisions of ORS 109.003 to 190.030 to enter into intergovernmental agreements for the performance of any or all functions that a party to the agreement has authority to perform; and

WHEREAS, ORS 197.705 through 197.795 and OAR 660-03-010 requires counties and cities to prepare and adopt comprehensive plans consistent with statewide planning goals, and to enact ordinances or regulations to implement the comprehensive plan; and

WHEREAS, Statewide Planning Goal No. 2 requires that city, county, state, federal, and special district plans and actions related to land use shall be consistent with the comprehensive plans of cities and counties and regional plans adopted under ORS 197.705 through 197.795; and

WHEREAS, the parties hereto recognize that it is necessary to cooperate with each other regarding their land use activities, and recognize that as their comprehensive plans and implementing ordinances are amended from time to time, that they should remain consistent and coordinated with each other; and

WHEREAS, the parties consider it mutually advantageous to establish a process for coordinating comprehensive planning activities and for resolving issues of fact that require regional coordination by establishing a regional coordination association.

NOW, THEREFORE, Marion and Polk Counties, and the Cities of Salem and Keizer agree as follows:

1) A voluntary regional coordination association is hereby established and shall be referred to as the Salem/Keizer Area

Planning Advisory Committee (SKAPAC).

2) SKAPAC shall consist of two standing subcommittees; one a staff subcommittee and one an elected officials subcommittee. The staff subcommittee shall consist of one representative from the staff of each of Marion County, Polk County, City of Salem, and City of Keizer. The elected officials subcommittee shall consist of one elected official from each of the above referenced jurisdictions.

3) The goals of SKAPAC are as follows:

a. To provide a conflict resolution mechanism with respect to the factual aspects of legislative land use decisions in the region.

b. To provide a coordinated regional recommendation with respect to facts which can them be more effectively used by each political body to reach appropriate legislative decisions.

c. To clarify the facts which are used by the various political bodies within the region without impinging on the legislative authority of each of those political bodies.

d. It shall not be the role of SKAPAC to make final legislative or quasi-judicial decisions.

4) Where it appears to one of the jurisdictions within the region that a Comprehensive Plan or comprehensive planning activity has raised or has uncovered an issue or issues of fact that require regional coordination, the following procedure shall be followed:

a. The issue shall be brought before the SKAPAC staff subcommittee by the staff person or elected official of one of the member jurisdictions. The presentation shall include

a complete staff report together with a record of any and all public hearings and a description of any citizen involvement in the process along with a recommendation and proposed findings and conclusions. The staff subcommittee will determine whether or not there is a need for coordination with respect to that particular issue. If it is determined that there is a need for regional coordination, the staff subcommittee will attempt to reach agreement with respect to a recommendation. The staff subcommittee shall set forth its conclusions in written form. Those conclusions shall be promptly delivered to the member jurisdictions. If the staff subcommittee can reach unanimous agreement with respect to the issue, its decision shall become the recommendation of SKAPAC with respect to the issue in question unless objected to as provided herein.

b. If the SKAPAC staff subcommittee cannot reach unanimous agreement with respect to the issue or the staffs' proposed resolution of the issue is not satisfactory to any one of the affected jurisdictions, then the elected officials subcommittee shall consider the issue. The elected officials subcommittee shall set forth its conclusions in written form. Those conclusions shall be promptly delivered to the member jurisdictions. If the elected officials subcommittee can reach unanimous agreement with respect to the issue, its decision shall become the recommendation of SKAPAC with respect to the issue in question unless objected to as provided herein.

c. If the SKAPAC elected officials subcommittee cannot reach unanimous agreement with respect to the issue or the elected official's proposed resolution of the issue is not

satisfactory to any one of the affected jurisdictions, then the matter shall be brought before a joint meeting of the governing bodies of the affected jurisdictions.

d. If the governing bodies cannot reach unanimous agreement with respect to the issue, then the proposing jurisdiction may take whatever action it deems appropriate. Member jurisdictions shall have standing in any appeal of a final decision in the matter. A summary of the proceedings before SKAPAC shall become a part of the record on appeal of any final decision that involves the matter.

5) Any cost associated with the administration of SKAPAC shall be born by the member jurisdictions through the involvement of staff representatives from those jurisdictions. The SKAPAC staff subcommittee shall, by unanimous consent, provide for distribution of administrative duties and responsibilities among the staff representatives on the subcommittee, provided however, that the member jurisdiction that brings an issue before SKAPAC for consideration shall provide staff and other support to set up any meetings of hearings that are required for resolution of the matter and shall provide someone to conduct the meetings or hearings and to provide a record of any meetings or hearings and to prepare and distribute any written conclusions.

6) Any of the four jurisdictions may elect to not participate in proceedings before SKAPAC upon a vote of the governing body of the jurisdiction indicating the jurisdiction is willing to accept the recommendation of SKAPAC with respect to the issue in question.

7) Time frames shall be established as follows:

a. The SKAPAC staff subcommittee shall have 21 days after an issue is presented by a member jurisdiction to attempt to reach unanimous agreement and to make a recommendation with respect to the issue.

b. If a member jurisdiction disagrees with the recommendation from the staff subcommittee, it must request presentation to the SKAPAC elected officials subcommittee by written notice to the member jurisdictions within 14 days of receipt of the staff subcommittee's written conclusions. Otherwise, the staff subcommittee recommendation shall become the final recommendation of SKAPAC with respect to the issue.

c. The presentation to the elected officials subcommittee shall be completed within 14 days of the date on which referral to that subcommittee has been requested or the date on which it is determined that the staff subcommittee cannot reach unanimous agreement on the issue.

d. The SKAPAC elected officials subcommittee shall have 14 days from the date of presentation to attempt to reach unanimous agreement and to make a recommendation with respect to the issue.

e. If a member jurisdiction disagrees with the recommendation from the elected officials subcommittee, it must request a joint meeting of the governing bodies of the affected jurisdictions within 14 days of receipt of the recommendation by the elected officials subcommittee. Otherwise, the elected officials subcommittee recommendation shall become the final recommendation of SKAPAC with respect to the issue.

f. The joint meeting of the governing bodies of the affected jurisdictions shall be held within 14 days of the date on which the member jurisdiction requests the meeting.

g. The above time frames may be extended or reduced by unanimous vote of the elected officials subcommittee. The elected officials subcommittee shall agree to shorten time frames or eliminate steps if necessary to meet the requirements of State law and the needs of a member jurisdiction with a pending application.

h. When time deadlines have been exhausted and conclusions become the final recommendation of SKAPAC, the member jurisdiction that presented the matter to SKAPAC for consideration shall provide notice to all of the member jurisdictions.

8) Within 14 days of the joint meeting of the affected member jurisdictions, each said member jurisdiction shall consider the matter and shall respond in writing to each other jurisdiction with the position that jurisdiction has decided to take. It if would be necessary for an affected jurisdiction to process a Comprehensive Plan amendment and/or an amendment to an implementing ordinance in order for all plans within the Salem/Keizer Urban Growth Boundary (UGB) to be coordinated as required by State law, given facts suggested by a final recommendation of SKAPAC above, each said affected jurisdiction shall begin immediately to consider the matter and to take the steps necessary to bring the plans within the UGB into coordination. In any case, a summary of the proceedings before SKAPAC shall become part of the record on appeal of any final decision that involves

the matter and all jurisdictions agree to continue any pending hearing until after the conclusion of this process. Member jurisdictions shall have standing in any appeal of a final decision.

9) SKAPAC may propose further rules outlining its purposes, function, membership, regular meeting dates, provisions for citizen involvement, and any other procedural or substantive matters deemed necessary by its members. Such further rules must first be adopted by unanimous vote of the elected officials subcommittee. Rules that affect the substantive rights of member jurisdictions must be ratified by all member jurisdictions.

10) The following are examples of some types of land use matters that may require coordination among the jurisdictions in the region:

a) Decisions that involve 5 or more properties under separate ownership, or 15 or more acres.

b) Decisions that will result in a change in the regional urban growth boundary.

c) Decisions that will result in a change in plan policy text or background information or implementing ordinance text.

d) A difference between jurisdictions in the interpretation of plan policy text, background information or implementing ordinance text.

e) Decisions regarding areas defined as dual interest areas.

Zone changes and permit applications that comply with a jurisdiction's Comprehensive Plan and that do not involve one of the matters listed above do not require regional coordination. The

jurisdictions may be able to maintain regional coordination with respect to the above or other matters without following the formal process set forth above. However, the process set forth above is available to the jurisdictions to deal with matters that may arise from time to time. In addition, the member jurisdictions may agree to use SKAPAC and the process set forth above for purposes not identified in this agreement.

CITY OF KEIZER

By: _____

Approved as to Form:

_____
City Attorney

CITY OF SALEM

By: _____

Approved as to Form:

_____
City Attorney

MARION COUNTY

By: _____

Approved as to Form:

_____
Legal Counsel

POLK COUNTY

By: _____

Approved as to Form:

_____
Legal Counsel

CITY COUNCIL MEETING: July 21, 2014

AGENDA ITEM NUMBER:_____

TO: **MAYOR CHRISTOPHER AND COUNCIL MEMBERS**

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

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

SUBJECT: **PROPOSED IMPOUND FEES**

Ordinances No. 2006-539 and No. 2006-540 set the administrative fee for vehicles impounded under the provisions of Ordinances No. 94-310 and No. 95-322. These fees have been indexed over the last few years and the fees are now at $130.00 for vehicles impounded. Staff recommends decreasing the fee to $75.00 to be in alignment with actual costs incurred.

RECOMMENDATION:

Open the public hearing on the proposed fee changes and take testimony. Once testimony is taken, close the public hearing and deliberate on the proposed impound fees. If you have no further questions, adopt the attached ordinances.

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

ESJ/tmh

BILL NO. ____ A BILL ORDINANCE NO. 2014-_____

FOR

AN ORDINANCE

DECREASING THE ADMINISTRATIVE FEE FOR VEHICLES THAT ARE UNINSURED OR DRIVEN BY DRIVERS WITHOUT DRIVING PRIVILEGES; **AMENDING ORDINANCE NO. 94-310; REPEALING ORDINANCE NO. 2006-539**

WHEREAS, the City Council of the City of Keizer has adopted Ordinance No. 94-310 which declares vehicles that are uninsured or driven by unlicensed drivers to be nuisances and allows such vehicles to be impounded;

WHEREAS, such Ordinance provides that certain persons are responsible for expenses incurred in the towing and storage of certain motor vehicles;

WHEREAS, such fees include a $130.00 administrative fee to the City as amended by Ordinance No. 2006-539;

WHEREAS, the City Council finds that it is appropriate to decrease the administrative fee to $75.00;

NOW, THEREFORE,

The City of Keizer ordains as follows:

Section 1. AMENDMENT OF SECTION 3 OF ORDINANCE NO. 94-310. Section 3 of Ordinance No. 94-310 is hereby amended as follows:

Section 3. PERSON RESPONSIBLE FOR FEES. The person operating the motor vehicle at the time it is towed and impounded shall be liable for the expenses incurred in the towing and storage of the

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PO Box 21000
Keizer, Oregon 97307
503-856-3433

motor vehicle under this Ordinance, including a $75.00 administrative fee, whether or not the motor vehicle is returned to the person who was operating it at the time of impound.

Section 2. AMENDMENT OF SECTION 4 OF ORDINANCE NO. 94-310. Section 4 of Ordinance No. 94-310 is hereby amended as follows:

> Section 4. RETURN OF VEHICLE. The vehicle impounded under this Ordinance shall be returned to the owner of the vehicle or the owner's authorized agent only upon payment of the $75.00 administrative fee and the expenses incurred in the towing and storage of the vehicle under this Ordinance. The owner may claim a refund of these charges under section 6 of this Ordinance.

Section 3. AMENDMENT OF SECTION 8 OF ORDINANCE NO. 94-310. Section 8 of Ordinance No. 94-310 is hereby amended as follows:

> Section 8. IMPOUNDING UNINSURED VEHICLES. (1) A police officer who reasonably believes that a person is driving an uninsured vehicle in violation of ORS 806.010 may, without prior notice, order the vehicle impounded until a person with right to possession of the vehicle complies with the conditions for release or the vehicle is ordered released by the Keizer Municipal Judge.
>
> (2) Notice that the vehicle has been impounded shall be given to the same parties, in the same manner and within the same time limits as provided in ORS 819.180 for notice after removal of a vehicle.
>
> (3) A vehicle impounded under subsection (1) of this section shall be released to a person entitled to lawful possession upon proof of compliance with financial responsibility requirements for the vehicle, payment to the City of Keizer of a fee of $75.00 and payment of any towing and storage charges. Proof shall be presented to the impounding police agency, which shall authorize the person storing the vehicle to release it upon payment of the charges.

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Keizer, Oregon 97307
503-856-3433

Section 4. REPEAL OF ORDINANCE NO. 2006-539. Ordinance No. 2006-539 (Increasing the Administrative Fee for Vehicles that are Uninsured or Driven by Drivers Without Driving Privileges) is hereby repealed in its entirety.

Section 5. EFFECTIVE DATE. This Ordinance shall take effect thirty (30) days after its passage.

PASSED this _____ day of _____, 2014.

SIGNED this _____ day of _____, 2014.

_____
Mayor

_____
City Recorder

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

BILL NO. ____ A BILL ORDINANCE NO. 2014-_____

FOR

AN ORDINANCE

DECREASING THE ADMINISTRATIVE FEE FOR VEHICLES OPERATED BY PERSONS UNDER THE INFLUENCE OF INTOXICANTS; **AMENDING ORDINANCE NO. 95-322; REPEALING ORDINANCE NO. 2006-540**

WHEREAS, the City Council of the City of Keizer has adopted Ordinance No. 95-322 which declares vehicles driven by persons under the influence of intoxicants to be nuisances and allows such vehicles to be impounded;

WHEREAS, such Ordinance provides that certain persons are responsible for expenses incurred in the towing and storage of certain motor vehicles;

WHEREAS, such fees include a $130.00 administrative fee to the City as amended by Ordinance No. 2006-540;

WHEREAS, the City Council finds that it is appropriate to decrease the administrative fee to $75.00;

NOW, THEREFORE,

The City of Keizer ordains as follows:

Section 1. AMENDMENT OF SECTION 3 OF ORDINANCE NO. 95-322. Section 3 of Ordinance No. 95-322 is hereby amended as follows:

Section 3. PERSON RESPONSIBLE FOR FEES. The person operating the motor vehicle at the time it is

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

towed and impounded shall be liable for the expenses incurred in the towing and storage of the motor vehicle under this Ordinance, including a $75.00 administrative fee, whether or not the motor vehicle is returned to the person who was operating it at the time of impound.

Section 2. AMENDMENT OF SECTION 4 OF ORDINANCE NO. 95-322. Section 4 of Ordinance No. 95-322 is hereby amended as follows:

Section 4. RETURN OF VEHICLE. The vehicle impounded under this Ordinance shall be returned to the owner of the vehicle or the owner's authorized agent only upon payment of the $75.00 administrative fee, the expenses incurred in the towing and storage of the vehicle under this Ordinance, furnishing proof of a valid operator's license of the person obtaining the vehicle, and proof of motor vehicle liability insurance pursuant to Oregon State law. The owner may claim a refund of these charges under section 6 of this Ordinance.

Section 3. REPEAL OF ORDINANCE NO. 2006-540. Ordinance No. 2006-540 (Increasing the Administrative Fee for Vehicles Operated by Persons Under the Influence of Intoxicants) is hereby repealed in its entirety.

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

PASSED this _____ day of _____, 2014.
SIGNED this _____ day of _____, 2014.

_____
Mayor

_____
City Recorder

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

CITY COUNCIL MEETING: July 21, 2014

AGENDA ITEM NUMBER:_____

TO: **MAYOR CHRISTOPHER AND COUNCIL MEMBERS**

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

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

SUBJECT: **REQUEST FOR SUPPORT FOR NEW SERVICE DISTRICT BY CITIZENS FOR MARION COUNTY EXTENSION AND OSU EXTENSION**

Derek Godwin of the OSU Extension Service has requested the City Council to consider adopting a resolution supporting the formation of a special district to be known as "Marion County Extension and 4-H Service District."

Mr. Godwin has provided documents as background to the proposed district and they are attached for your convenience. The Citizens for Marion County Extension are going through the process as outlined in the Oregon Revised Statutes. Their goal is to put this matter on the ballot in May 2015. Part of the process is to request every city in the county to prepare a resolution stating that the City agrees to be included in the district boundary if the voters approve the measure.

Marion County has adopted Resolution No. 14R-3 (In the Matter of a Proposal for an Initiative Petition to Form a Marion County Extension and 4-H Service District). Marion County's resolution details the background, the proposal, the permanent rate limit for operating taxes, and Marion County's support. A copy of the County's resolution is attached.

It is my understanding the Mr. Godwin and a member from the Citizens for Marion County Extension will be present at tonight's meeting to give a presentation and answer any questions.

RECOMMENDATION:

Following the presentation, ask questions as appropriate, consider the matter, and give direction to staff on how to proceed. If Council wishes to move forward, then Council should pass a motion directing staff to come back with a resolution of consent.

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

ESJ/tmh

OSU Extension Service in Marion County
Services for *Keizer* and *Salem*

Brochure provides overview of education programs

Marion County

- Serve more than 50,000 residents per year
- 600 volunteers, provide 45,000 hours, 20 FTE, valued at more than $700,000
- Every $1 county leverages $2 volunteers and $4 state, federal and grant

Keizer and Salem only

- 250 adult volunteers (154 MG, 107 4-H, 9 MFP) reported volunteer hours
- 4-H youth members – 985 in year-round and after-school clubs (does not include camps or youth hosted by organizations, such as Boys & Girls Clubs)
- Food and Nutrition education – reaching 2,460 youth, 257 adults

Keizer and Salem Master Gardeners – approximately 10,000 hours, 1800 people served at desk and clinics, plus many more served through presentations, workshops, youth in classrooms, etc.

- Community Gardens – 5 Salem Housing Authority, 3 Boys and Girls Clubs; partnering with SKEF in 2014 to help with school gardens
- State Correctional Institutions – Adult, Youth at OYA Hillcrest
- Marion-Polk Food Share community gardens and other services
- Operates a 1.75 acre demonstration garden, generates 457 lbs of produce
- Staff clinics at Salem Saturday Market; the Yard, Garden & Patio show; Earth Day; Ag Fest and State Fair reaching 455 clients

4-H Sustainable Communities, community service projects (8-12th grade, College)

- Youth Farm, community gardens – 4,965 hours of education & service learning
- Streamside vegetation, invasive weed removal, water conservation, etc.

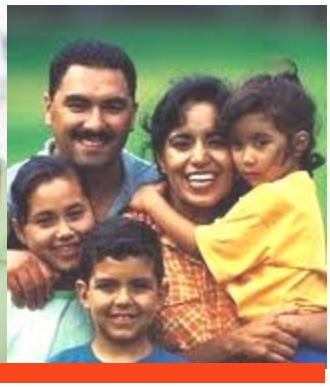
Agriculture, Forestry and Natural Resources

Productivity and Profitability applied research and education -

- Farms - field crops (grass seed, wheat, hops, mint, etc.), vegetable crops (fresh and processed), Christmas trees, nursery and greenhouse products, orchard crops, berry crops, livestock and forages, wine grapes, dairy, poultry, pesticide residue studies/specialty crop registration, small farm/direct marketing products and agri-tourism.
- Family forestland owners – woodland management for wood products, specialty forest products, recreation, wildlife – Master Woodland Managers.

Sustaining Natural Resources applied research and education -

Streamside management, invasive weeds, water quality, soil erosion prevention and control, and wildlife habitat management for land managers, public agencies and staff, watershed councils and other conservation groups. Includes Master Naturalist and Master Watershed Stewards.



Farms. Food. Families: Citizens Seek New Marion County Extension and 4-H Service District to Stabilize Funding

Citizens for Marion County Extension, CMCE, is laying the groundwork for a new service district needed to be approved by the voters. Currently, Marion County Extension receives funding from a combination of federal, state and county sources. Over the last ten years, Marion County Extension budgets have been cut 25 percent because of shrinking state and federal resources. In order to secure a more stable funding system for the future, Marion County will need to ask voters to approve a new tax base just like 22 other counties have done in Oregon.

More than 50,000 Marion County Residents Served Annually by Marion County Extension Service

OSU Extension Service in Marion County serves more than 50,000 residents every year. More than 600 volunteers are trained and supported by the OSU Extension faculty and these volunteers provide more than 45,000 hours of service, valued at $800,000 or the equivalent of 21 full time staff.

Continued on back

Youth Development

Agriculture

Family and Community Health

Forestry and Natural Resources

Four Important Reasons for a New Service District for Extension Programs in Marion County

1. Promote and sustain the 4-H Youth Development Program which trains nearly 300 volunteers each year who help thousands of youth be successful in school through clubs and afterschool programs.
2. Help homeowners, farmers, foresters and wine-makers learn new skills and increase profits.
3. Help low-income families in Marion County learn new skills to improve employment opportunities.
4. Passing a new tax district for Marion County Extension would bring in $4 from state, federal and grant funds and $2 in volunteer services to Marion County for every dollar provided in county funds.

"The OSU Extension Service positively affects the lives of many Marion County residents. The Marion County Farm Bureau, representing over 600 farm members and approximately 2,000 affiliate members, supports the efforts of the Citizens for Marion County Extension in their formation of a special district."

—John Zielinski, president, Marion Co. Farm Bureau

CITIZENS for MARION COUNTY EXTENSION CMCE

Join the effort today!

www.CitizensForMarionExtension.com

Average Homeowner would Pay $8 per Year

Under the current plans put forward, the tax base will be $.05 per $1000 assessment on real estate beginning in July 2015. If this plan passes, the average home with an assessed valuation of $160,000 would pay approximately $8 per year.

May 2015 Target Election

Currently the goal is to seek approval of the voters in May of 2015. However, unlike many other referrals to voters, the Extension Service in Marion County must follow strict protocol which includes seeking the support of the 20 cities located within Marion County.

What is OSU Extension?

OSU Oregon State University Extension Service

Since 1911, OSU Extension Service and Marion County have engaged residents with university-based information to foster *healthy youth, families and communities, food systems and natural resources, and farms and forestry businesses.* Education efforts include: **4-H, Master Gardeners, Master Food Preservers, Master Woodland Managers, Master Watershed Stewards and Master Naturalists** volunteer programs.

Where is the Office Located?

Marion County Extension Office
3180 Center St NE, Rm 1361, Salem, OR 97301
Extension.oregonstate.edu/marion
(503) 588-5301

BEFORE THE BOARD OF COMMISSIONERS

FOR MARION COUNTY, OREGON

In the Matter of a Proposal for an Initiative Petition to form a Marion County Extension And 4-H Service District.	)))

RESOLUTION No. 148-3

WHEREAS, Marion County is comprised of approximately 2,700 farms, encompassing 300,000 acres of land or about 40 percent of the county, that are operated by individuals, families, partnerships and corporations and produce more than 70 different commodities; and

WHEREAS, Marion County has the highest value of agricultural production of any county in Oregon, with estimated gross sales of all commodities of $639 million in 2012; and

WHEREAS, Marion County grows many crops that are number one, two, or in the top five in the nation, such as nursery crops, grass seed, black berries, Christmas trees, specialty seeds, beans, hops, mint, cherries and wine grapes; and

WHEREAS, agriculture, food processing, the food and beverage industry, and other related industries are important to our county and state's economy with nearly 1 of every 8 jobs in Oregon relying on agriculture; and

WHEREAS, since 1912 Oregon State University (OSU) Extension has played a vital role in Marion County by providing practical information to help people improve their quality of life by providing education and support on agriculture, natural resources, economic development, family life, health, nutrition, and youth development; and

WHEREAS, OSU Extension 4-H programs offer a broad array of services and programs to urban and rural young people, promoting life skills, offering quality youth experiences, and giving young people a chance to learn and interact with others; and

WHERAS, in 2012 more than 50,000 Marion County residents were served by OSU Extension programs; and their 600 trained 4-H, Master Gardener and other volunteers provided more than 45,000 hours of service; and

WHEREAS, OSU Extension educators are needed in Marion County to work side-by-side with urban and rural residents, farmers, and others to offer research-proven, objective information that helps solve problems, promote leadership, and manage resources wisely; and

WHEREAS, formation of "agricultural educational extension services" districts is governed by ORS 451.010(1)(i) and districts in general by ORS 198.705 to ORS 198.955; and

WHEREAS, the Board of Commissioners supports OSU Extension and the Community Services Department to work together with the Citizens for Marion County Extension Leadership Team to bring forward to the voters of Marion County a proposal for a new OSU Extension service district to support farm businesses, community food systems and 4-H youth development in Marion County; and

WHEREAS, a prospective initiative petition for formation of a special district to be known as "Marion County Extension and 4-H Service District," including authorization for a permanent rate limit for operating taxes at $0.05 per $1,000 assessed property value beginning July 2015, will be duly filed with the Marion County Clerk; and

WHEREAS, should the voters of Marion County approve a new taxing district and permanent rate, as elected officials of this taxing district, the Board of Commissioners will proactively work and make every effort to ensure that these dollars are used for the benefit and continued prosperity of Marion County communities and their citizens;

NOW THEREFORE, IT IS HEREBY RESOLVED that:

A. Marion County will provide available and relevant information to the Citizens of Marion County Extension and OSU to complete an economic feasibility study that defines budget requirements and rationale for formation of the district in accordance to ORS 198.775; and

B. Marion County will provide appropriate guidance to the Citizens of Marion County Extension and OSU to draft a petition with a district name and proposed boundaries with all cities included ORS 198.750; and

C. Marion County will assist the Citizens of Marion County Extension and OSU in obtaining resolutions of support from all cities (ORS 198.835 & ORS 198.720); and

D. Marion County will assist the Citizens of Marion County Extension and OSU in identifying an election security deposit method and amount for the petition to be filed with the county clerk (ORS 198.775); and,

E. If approved by the voters of Marion County, a separate tax base for an OSU Extension county service district will be created for Marion County in accordance to ORS 451.547.

Dated this _____ day of January 2014

Marion County Board of Commissioners

Chair

Commissioner

Commissioner

CITY COUNCIL MEETING: July 21, 2014

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 RIVERFAIR**

Lyndon Zaitz with Making Keizer Better Foundation has requested that the City Council waive the fees connected with the use of the amphitheater and Keizer Rapids Park for the RIVERfair event.

This matter is before the Council to consider whether it is appropriate to waive fees for the August 9, 2014 RIVERfair. Here is an example of the total fees for a non-profit application for a four hour event.

Application Fee	$ 52.00 - $102.00 (Amphitheatre only/Amphitheatre & Park)
Use Fees	$210.00
Electricity	$ 10.00 - $ 21.00 (1/2 day/full day)
	$272.00 - $333.00

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 RIVERfair event at the Keizer Rotary Amphitheatre and the Keizer Rapids Park. By way of example, Council requires KRA LLC to pay the application fee only for the free concert series.

RECOMMENDATION:

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

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

ESJ/tmh

COUNCIL MEETING: July 21, 2014

AGENDA ITEM NUMBER: _____

TO: **MAYOR CHRISTOPHER AND COUNCIL MEMBERS**

THROUGH: **CHRIS EPPLEY, CITY MANAGER**

FROM: **SUSAN GAHLSDORF, FINANCE DIRECTOR**

SUBJECT: **AMPHITHEATER CONCERT FUNDING**

ISSUE: During public testimony at the July 7, 2014 Council Meeting, Keizer Rotary Amphitheater (KRA) requested $2,000 of City funds for its Concerts in the Parks series. The Fiscal Year 2014-15 budget provided $10,700 for Amphitheater related expenses. Amphitheater expenses are funded directly from Amphitheater rental fees. Annual operating costs run approximately $3,200 leaving $7,500 available for unanticipated expenses, such as repair and replacement costs.

As requested by Council at the July 7, 2014 meeting, attached are copies of the 2010 and 2011 Requests for Proposals for the Keizer Rotary Amphitheater City Sponsored Concerts, the 2010, 2011, 2012-2014 City contracts with the Keizer Rotary Amphitheater and the 2010 contract amendment.

FISCAL IMPACT: Adequate appropriation is available in the Fiscal Year 2014-15 budget to pay up to $2,000 for expenses related to the Concerts in the Park. Approval of this request will reduce the funds available for unanticipated expenses from $7,500 to $5,500. Should an unanticipated expense occur above $5,500, General Fund contingency (up to $55,000) could be made available to cover the added cost.

RECOMMENDATION: Staff recommends Keizer Rotary Amphitheater submit a report to the City Council showing expenses in excess of revenues for the Fiscal Year 2014-15 concert series, once the season is over. The report shall be accompanied by proof of expenditure (third party receipts are required). Staff recommends Council review and formally accepts the report prior to authorizing reimbursement of any costs for the concert series. Once the report is accepted, staff recommends Council pass a motion approving reimbursement of actual expenses over revenues up to $2,000 for Concerts in the Parks using fiscal year 2014-15 General Fund Amphitheater Expense appropriation.

City of Keizer, Oregon
Request for Proposals #_____
Management of a City Sponsored Concert Series

Overview

The City of Keizer has agreed to sponsor four (4) concerts at the Keizer Rotary Amphitheater during the summer. The City is seeking a qualified, experienced event management group that can work with a task force comprised of members of the City Council, Business Leaders, Citizens and City staff to develop a series of concerts the community can enjoy and be proud of.

As a result of this Request for Proposals (RFP), the City will select a top qualifier with whom to commence contract negotiations. If negotiations are successful, the City will enter into a professional services contract with that group and/or firm.

Scope of Services

The potential event management group must demonstrate an ability to accommodate all the needs stated in the Scope of Services.

Keizer Summer Concert Series: The series will comprise of four different concerts held at Keizer Rotary Amphitheater, located in Keizer Rapids Park, 1900 Chemawa Road N. The concerts will be held on alternating weeks in July and August from 6:30pm to 8:30pm. Exact dates will be determined by staff at a later date. The bands for each event will be chosen by a community task force designated by the City Council.

The event management group will ensure that all requirements and timelines specified in the Amphitheater use agreement are met before and during the event.

Budget

The concerts will be financially supported by the City with a budget of $8,000. This amount can be split in any manner between the four concerts, as long as there is an equal level of quality. It will be the responsibility of the event management group to negotiate with the bands as to ensure the budget is not exceeded.

Solicit Bands and Selection Committee Meetings

- Upon selection of the event management group, they will be immediately asked to solicit potential bands for the upcoming series. The group will make every effort to solicit quality local bands.

- The event management group will ensure the bands are aware they must provide their own amplification equipment. Or, the event management group can make other accommodations as available.
- The event management group will coordinate the selection committee meetings. The committee is City Council appointed committee of 6 to 8 people of community stakeholders interested in music/arts. This will include a City Council representative, Chamber of Commerce Members, Citizens at Large and Staff.
- The first meeting will occur in January/February to begin planning the summer concerts. This meeting will begin the band selection process as well as setting the timeline for the Spring and Summer. The management group will offer options of music of 10-15 bands from a variety of genres. The Committee will listen and select their top 6-8 choices and direct the event group to negotiate contracts with the bands.
- Meet in March/April to finalize a line-up schedule. Discuss a marketing poster design and newspaper ad design. The event management group will work to get the posters and design done at low or no cost.
- Meet in May to show get approval of the poster design and the finalized band line up.

Day of the Event

The event management group will be on-site for the full event. In addition, the event managers will be responsible for the following:

- Coordinate all staffing for vendor sales on the premises.
- Coordinate staffing for parking.
- Provide necessary restroom accommodations as required by Public Works.
- Provide necessary security.
- Ensure band is set up 30 minutes prior to the show
- Provide necessary accommodations to bands as negotiated.
- Pay the band per the terms negotiated

RFP Content

The quote submitted must include, as a minimum, the following:

1. Describe you or your firm's background and history, including the number of years in business. Include a statement describing why your firm is qualified to perform the work outlined in this RFP.

2. Describe any and all training and experience, which qualifies you or your firm.

3. Describe the workload capacity of you and your firm and any limitations you would foresee in your ability to handle this project

4. Describe the approach you would use to communicate and coordinate with the City Manager and task force throughout the course of the project.

5. Provide up to three (3) examples of similar work you have performed.

6. Provide a minimum of two (2) client references and one (1) peer reference on who can speak on behalf of you or your firm of a positive professional reputation.

7. Provide a detailed description of costs for construction.

Investigations

The City reserves the right to conduct appropriate investigations into the background, previous experience and training, financial affairs and related matters of any firm or individual under consideration for a contract resulting in successfully completing the RFP process. Said investigations may include, but are not limited to, credit reports, submission of audited financial statements, communication with principal clients, as appropriate, relating to the ability of your firm to successfully perform the duties and responsibilities of a facility planning consultant.

Evaluation of Requests for Proposals & Selection

The City reserves the right to accept or reject any or all submissions in the best interest of the City. In connection with the evaluation, the City may, at its option, invite one or more applicants to make an oral presentation to an Amphitheater Task Force and/or City Staff at a time and location to be announced, and may require the submission of supplemental material intended to substantiate or clarify information previously submitted.

A selection committee consisting of appointed task force members will evaluate Request for Proposals submissions on the following criteria (not in ranked order).

1. Meets all qualifications and requirements identified in this RFP.

2. Includes complete and clear responses to items in the **RFP Content** section.

3. Breadth and relevance of experience in event management.

4. The professional reputation on the part of the applicant or firm for providing high-quality services and demonstrating sound judgment, integrity, and reliability as determined by a thorough and complete background check.

5. Demonstrated expertise in the music industry with regards to hosting a concert.

6. Adequate range of services offered by the firm.

7. Demonstration of workload capacity and a level of experience commensurate with the level of service required by the City.

8. The applicant's ability to work cooperatively with the selection committee, City Manager, City employees and members of the business community and general public as demonstrated by positive current client references.

9. Can complete the project within the detailed budget.

10. Supplemental information submitted by the applicant.

11. Results of the interview, if conducted.

Submittal Deadline

One (1) original and eight (8) copies of the submission, clearly marked "Statement of Proposal to Provide Event Management of City Sponsored Concert Series" must be received by **3:00 p.m., 45 days after posting.**

Deliver to:

Kevin Watson
Assistant to the City Manager
City of Keizer
930 Chemawa Road, NE
PO Box 21000
Keizer, OR 97307-1000

Submissions received after that date and time will not be accepted or considered.

Questions regarding responses to this RFP or requests for general information regarding the City of Keizer should be directed to Kevin Watson, Assistant to the City Manager, City of Keizer, at (503) 390-3700.

KEIZER ROTARY AMPHITHEATER MANAGEMENT AGREEMENT
FOR 2010 CITY SPONSORED CONCERT SERIES

DATE: June 7, 2010

PARTIES:

CITY OF KEIZER, an Oregon
municipal corporation (hereinafter "City")
930 Chemawa Road NE
PO Box 21000
Keizer, OR 97307

KRA LLC (hereinafter "KRA")
PO Box 750
Salem, OR 97308

RECITALS:

A. City owns or leases real property and improvements located at 1900 Chemawa Drive North, Keizer, Marion County, Oregon known as Keizer Rapids Park (hereinafter "Park").

B. Within the Park are improvements known as the Keizer Rotary Amphitheatre (hereinafter "Amphitheatre"). City has need of services to manage the Amphitheatre for five (5) City sponsored concert series during the summer of 2010. For purposes of this Agreement, "Amphitheatre" shall include the amphitheatre and parking/access areas described in Exhibit "A" attached hereto and by this reference incorporated herein.

C. KRA desires to manage the Amphitheatre for the five (5) City sponsored concert series as set forth herein.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties do mutually agree as follows:

AGREEMENT:

1. Term. Unless terminated as set forth herein, the term of this Agreement shall be from June 1, 2010 to October 1, 2010. This Agreement may be terminated by either party, with or without cause, by not less than thirty (30) days prior written notice.

2. Improvements. KRA agrees that all Amphitheater improvements are the property of City and are considered to be part of the premises that is the subject of this Agreement. KRA shall not cause or permit any change in Amphitheatre layout, any

addition or deletion of any permanent improvements, or any action on the part of KRA or permitted by KRA that affects the Amphitheatre without the prior written consent of City.

3. Terms and Conditions. Subject to the terms and conditions set forth herein, KRA agrees to manage the five (5) City sponsored concert series at the Amphitheatre for the term of the Agreement as follows:

A. The concerts shall be held on the following dates: June 5, June 19, July 10, August 7, and August 21, 2010.

B. KRA agrees to solicit approximately 10-15 bands from a variety of genres and present the prospective bands to the City Summer Concert Band Selection Task Force. The City Summer Concert Band Selection Task Force (Task Force) shall make the final approval of the selection of the bands for the concert series. KRA agrees that they will present the prospective bands to the Task Force no later than May 1, 2010 and the Task Force agrees to make a final selection of the five bands with two alternates no later than May 15, 2010.

C. KRA agrees to negotiate contracts with the selected bands and provide such contracts to the City no later than June 1, 2010. The City will not enter into contracts with bands and is not responsible for any compensation to the bands whatsoever.

D. KRA understands and agrees that it must make the bands aware that no amplification equipment is available and that the bands must provide their own amplification. In the event that the band does not have amplification, KRA agrees to provide such amplification.

E. KRA agrees to complete a permit application for each date in a timely manner pursuant to City regulations and present it to City for processing. City agrees to waive the use fee for the five (5) City sponsored concerts. If the date specified above is not available when the permit application is submitted, an alternate date may be chosen upon approval by the Assistant to the City Manager.

F. City shall review the permit application and if appropriate, issue the permit with particular conditions. For example, depending on the type and size of the event, security or extra portable bathrooms may be needed. There may be specific conditions on parking, timing and noise. KRA agrees that it will be responsible for coordinating and providing any and all conditions as outlined in the permit.

G. KRA agrees that it will put together a marketing poster design and newspaper ad design and present it to the Task Force for approval. KRA agrees that the marketing plan must indicate that the concerts are City sponsored.

H. KRA agrees that no admission fees shall be collected for the five (5) City sponsored concerts, it being the intent that the concerts be free to the public.

I. KRA agrees that no parking fees shall be collected for the five (5) City sponsored concerts.

J. KRA agrees that it will solicit and coordinate vendor sales and/or concession for each of the five (5) City sponsored concerts. KRA agrees that the net revenue earned from such vendor sales and/or concession shall be used to pay the bands according to the terms negotiated in the contracts. Within thirty (30) days of the date of the last City sponsored concert, KRA shall present financial reports showing at a minimum total gross revenues, band expenses, vendor/concession expenses, portable toilet, and security expenses, along with other expenses of KRA directly connected with the City sponsored concerts.

K. KRA agrees that it will be responsible for soliciting donations and other sources of funds to pay the bands according to the terms agreed to in the contracts. KRA understands and agrees that it cannot use the Amphitheatre to hold fundraising concerts or other fundraisers to solicit funds. KRA agrees that it will only seek donations and/or use revenue earned from vendor sales and/or concession sales to provide the funding for the five (5) City sponsored concerts. City agrees that it will assist with in-kind donations such as waiving the use fee.

L. KRA understands and agrees that it will be responsible for coordinating all staff required for the events, including, but not limited to staffing for the vendor sales, staffing for parking, and security staffing.

M. KRA understands and agrees that it will be responsible for providing any necessary conditions on the permits at it own expense. KRA also understands and agrees that it will be responsible for providing any necessary accommodations to the bands as negotiated in the contracts.

N. KRA agrees that it will ensure that the band for each concert will be set up no later than thirty (30) minutes prior to the show and that the band will end the concert no later than 9:00 p.m., with tear down completed no later than 10:00 p.m. **Amplified sound is strictly prohibited after 9:00 p.m.** KRA covenants and warrants that KRA will leave the premises in good, sanitary and neat order, to the satisfaction of City upon termination of each event.

O. KRA agrees that it will provide evidence to the City that the bands were paid according to the terms of the contracts. Such evidence shall be presented no later than September 30, 2010.

Complaints from either members of the public, users of the Amphitheatre or others shall be submitted to the City. In the event of a dispute, the decision of the City concerning the use, operation or management of the Amphitheatre shall be final and binding. The City reserves the right to make final determination on all policies and

procedures relative to the operation and management of the Amphitheatre. KRA has no right or authority to allow any use of the Amphitheatre without formal issuance of the event permit by the City.

The City, acting through the City Manager, reserves the right, in its sole discretion, to cancel, terminate or interrupt any event, and cause one or more patrons to be dismissed during any event, if necessary to protect the public or property. This includes terminating an event due to violation of noise regulations. City shall not be liable to KRA or any third parties for any loss or damages by any such determination or action by the City Manager, or his/her designee taken in good faith for the benefit or protection of the City and the public generally, or the protection of the Amphitheatre, Park, or other public or private property.

4. KRA Events. KRA is only acting as contract management for the five (5) City sponsored concerts. KRA can also act as an applicant for other events. In such case, KRA would pay the same permit application fee and use fee as other applicants. KRA could retain any admission fee or vendor fees charged while acting as its own applicant.

5. Utilities. City shall provide water services and electricity to the Amphitheater without charge to KRA. City shall be responsible for all charges for garbage collection. It will be the responsibility of KRA to provide garbage cans around the Amphitheater and maintain such garbage cans by emptying them into the dumpster located at Keizer Rapids Park in a timely manner.

6. Security. It will be the responsibility of KRA to maintain adequate security on the premises. The City will furnish no more than the normal and routine police protection as provided in any Amphitheatre, subject to demands for police throughout the City from time to time.

7. Discipline and Control. Subject to prior approval as required elsewhere herein, selection, compensation, direction, discipline, and control of KRA's employees, agents, volunteers and subcontractors shall be the sole responsibility of KRA. KRA shall be responsible for removing from the premises any employee, agent, volunteer or subcontractor who is disorderly, dishonest, dangerously careless, or any person violating any law, ordinance, or regulation.

8. Insurance. City will insure all improvements on the property against loss or damage by fire or other hazard. The City will not insure or replace personal property owned by KRA. City shall maintain in effect throughout the term of this Agreement for all five (5) City sponsored concerts, personal injury and property damage liability insurance covering the premises.

9. Indemnification and Hold Harmless. KRA shall be responsible for and shall pay and discharge any and all claims of any nature whatsoever under this Agreement or

KRA's management of the Amphitheatre. KRA shall indemnify, defend, and save harmless the City and its officers, agents, and employees for and against any and all loss damage, injuries, action, causes of action, or liability of any kind whatsoever resulting from or arising out of the condition of the Amphitheatre, products sold, and all operations, activities, or undertakings of KRA or any of KRA's employees, agents, volunteers or independent contractors. Notwithstanding the above, if City directly authorizes an activity by any party other than KRA during the period of this Agreement, this paragraph shall not apply to claims arising out of that activity.

10. Assignment and Subcontracting. KRA shall not assign or transfer this Agreement, or any interest thereon. Any such assignment shall be void, and shall, at the option of the City, terminate this Agreement. KRA shall not subcontract any of its responsibilities hereunder without the express written consent of the City.

11. Default. Upon failure by KRA to perform any term, condition, or covenant of this Agreement within thirty (30) days after written notice from City has been sent by regular mail, addressed to:

KRA LLC
PO Box 750
Salem, OR 97308

specifying the nature of the failure with reasonable particularity, City shall have the option to declare KRA to be in material breach and default hereunder and shall enable City to pursue its legal remedies including but not limited to those referred to in this Agreement. If the failure is of such a nature that it cannot be completely remedied within the said thirty (30) day period, the failure will not be a default if KRA begins correction of the failure within the thirty (30) day period and thereafter proceeds with reasonable diligence and in good faith to correct the failure as soon as possible.

12. Remedies. Upon default, and after the notice period described above, City may elect to terminate this Agreement and bring an action to recover any damages suffered by City as a result of KRA's actions or as a result of any breach by KRA of any term, covenant or condition of this Agreement.

13. Attorney Fees. If suit or action is instituted to enforce or interpret this Agreement or in conjunction with any claim or controversy arising out of this Agreement, the prevailing party shall be entitled to recover, in addition to costs, such sum as the Court may adjudge reasonable as attorney fees at trial and on appeal of the suit or action.

14. Amendments. Amendments to this Agreement shall be recognized only if reduced to writing and executed by KRA LLC and the City Manager of the City of Keizer.

15. Relationship of the Parties. The City and KRA have entered into this Agreement for the purpose of establishing an independent contractor relationship between the City and KRA. This Agreement is not, nor should it be construed as, a lease or an agreement in the nature of a lease. No covenant of quiet enjoyment shall be implied in this Agreement. It is further understood and agreed by and between the parties that nothing herein shall constitute or be construed to be an employment, partnership, joint venture, or joint employer relationship between the City, its successors or assigns on the one part, and KRA, its successors or assigns on the other part. KRA is not entitled to, and expressly waives all claim to City benefits including, but not limited to health, life, and disability insurance, overtime pay, paid leave, and retirement. KRA agrees that it will not present itself as an agent of City and will not act as a contract manager of the Amphitheatre other than for the five (5) City sponsored concerts.

KRA has no property interest or possessory interest in the Amphitheatre. KRA shall have the right to manage five (5) City sponsored concerts at the Amphitheatre pursuant to the terms in this Agreement.

16. Non-Discrimination. KRA agrees not to discriminate against any employee or applicant for employment because of race, creed, ancestry, sexual orientation, disability, color, sex, marital status, age, religion or national origin, and further agrees not to discriminate for the same aforementioned reasons against any person or persons in connection with admission, services, or privileges offered to or enjoyed by the general public.

17. Agreement. This Agreement is the entire, final and complete agreement of the parties and supersedes and replaces all written and oral agreements heretofore made or existing by and between the parties or their representatives.

IN WITNESS WHEREOF, the parties hereto have executed this document as of the date first above written.

CITY:
CITY OF KEIZER

By:_____
Christopher C. Eppley,
City Manager

KRA:
KRA LLC

By:_____
Clint Holland
Chairman

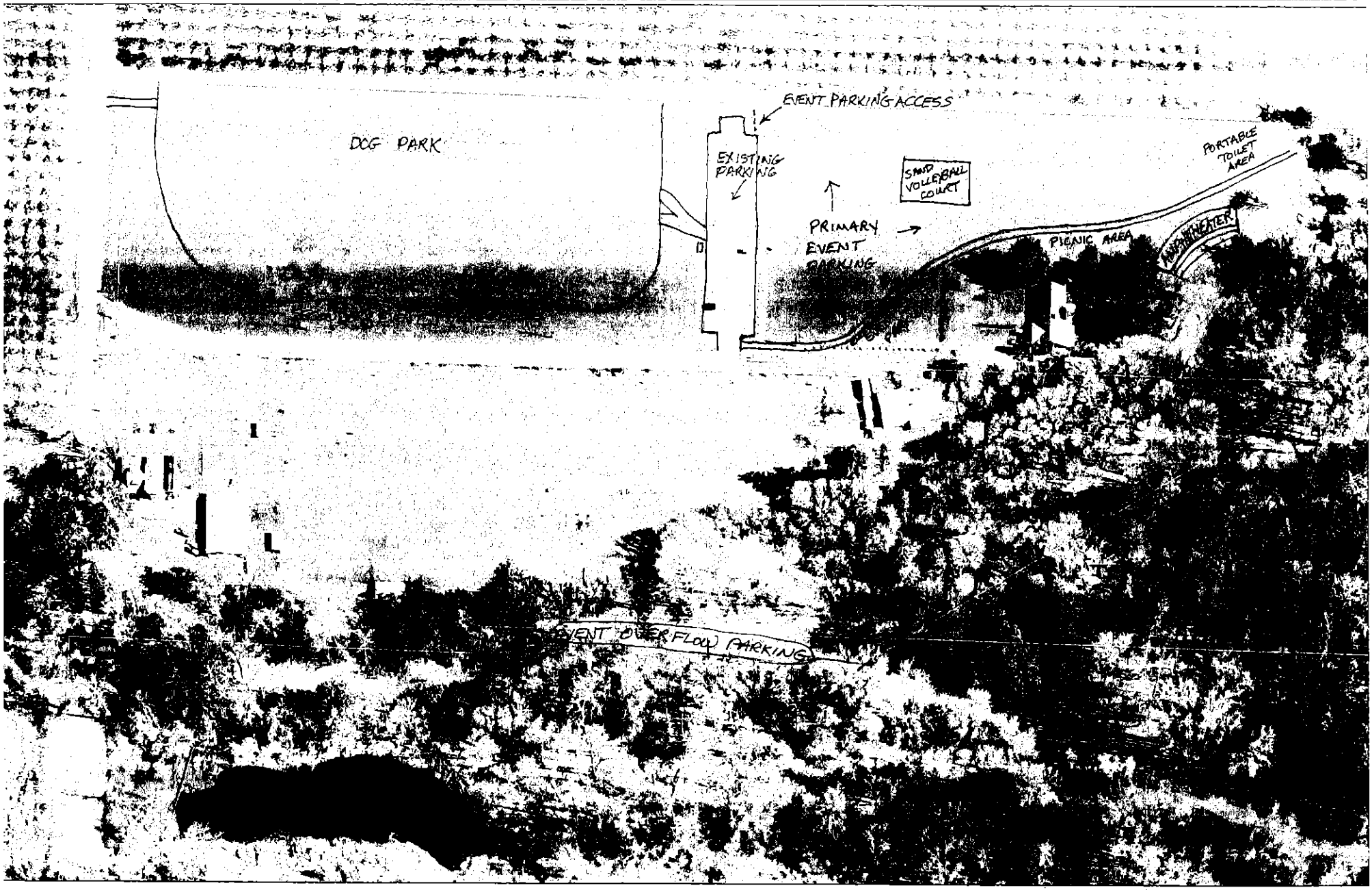


Exhibit A
Page 1 of 1

FIRST AMENDMENT TO KEIZER ROTARY AMPHITHEATER MANAGEMENT AGREEMENT FOR 2010 CITY SPONSORED CONCERT SERIES

DATE: 9-8- , 2010

PARTIES:

CITY OF KEIZER, an Oregon municipal corporation (hereinafter "City")
930 Chemawa Road NE
PO Box 21000
Keizer, OR 97307

KRA LLC (hereinafter "KRA")
PO Box 750
Salem, OR 97308

RECITALS:

City and KRA entered into that certain Keizer Rotary Amphitheater Management Agreement for 2010 City Sponsored Concert Series dated June 7, 2010.

City and KRA wish to enter into this First Amendment to Keizer Rotary Amphitheater Management Agreement for 2010 City Sponsored Concert Series to add additional concerts to the City sponsored concert series.

NOW, THEREFORE, the parties agree as follows:

AGREEMENT:

Section 1. Amendment of Number of City Sponsored Concerts. All references to "five (5) City sponsored ..." in the Keizer Rotary Amphitheater Management Agreement for 2010 City Sponsored Concert Series shall be amended to "nine (9) City sponsored...".

Section 2. Amendment of Section 3(A). Section 3(A) is hereby amended as follows:

A. The concerts shall be held on the following dates: June 5, June 19, July 10, August 7, August 18, August 21, September 11, September 18, and September 25, 2010.

Section 3. Amendment of Section 3(B). Section 3(B) is hereby amended as follows:

B. KRA agrees to solicit approximately 10-15 bands from a variety of genres and present the prospective bands to the City Summer Concert Band Selection Task Force. The City Summer Concert Band Selection Task Force (Task Force) shall make the final approval of the selection of the bands for the concert series. ~~KRA agrees that they will present the prospective bands to the Task Force no later than May 1, 2010 and the Task Force agrees to make a final selection of the five bands with two alternates no later than May 15, 2010.~~

Section 4. Amendment of Section 3(C). Section 3(C) is hereby amended as follows:

C. KRA agrees to negotiate contracts with the selected bands and provide such contracts to the City ~~no later than June 1, 2010~~upon request. The City will not enter into contracts with bands and is not responsible for any compensation to the bands whatsoever.

Section 5. Remain in Effect. Except as amended herein, all other terms of the Keizer Rotary Amphitheater Management Agreement for 2010 City Sponsored Concert Series shall remain in full force and effect.

CITY:
CITY OF KEIZER

By:_____
Christopher C. Eppley,
City Manager

KRA:
KRA LLC

By:_____ KRA
Clint Holland
Chairman

City of Keizer, Oregon
Request for Proposals
Management of a City Sponsored Concert Series

Overview

The City of Keizer has agreed to sponsor a series of concerts at the Keizer Rotary Amphitheater during the summer months, the number of which will be determined by the City Council in negotiations with the successful RFP submitter, but which shall generally be between six and eight events (6-8) per season. The City is seeking a qualified, experienced event management group that can work with a task force comprised of members of the City Council, Business Leaders, Citizens and City staff to develop a series of concerts the community can enjoy and be proud of.

As a result of this Request for Proposals (RFP), the City will select a top qualifier with whom to commence contract negotiations. If negotiations are successful, the City will enter into a professional services contract with that group and/or firm.

Scope of Services

The potential event management group must demonstrate an ability to accommodate all the needs stated in the Scope of Services; list all intended sub-contractors, provide $1M of general liability insurance naming the City as an additional insured party on the policy; and produce all necessary OLCC permits and follow all OLCC guidelines if alcoholic beverages are served during events. Vendors providing alcoholic beverages at Summer Concert Series events must also provide $1M of general liability insurance and liquor liability insurance naming the City as an additional insured party on the policy.

Keizer Summer Concert Series: The series will comprise of six to eight (6-8) different concerts held at Keizer Rotary Amphitheater, located in Keizer Rapids Park, 1900 Chemawa Road N. The concerts will be held during the months of June, July and August during park hours. The exact dates will be determined by at least 75-days prior to the start of the concert season and will be posted on the City's web site for public viewing. The bands for each event will be chosen by a community task force designated by the City Council. The Council reserves the right to allow additional concerts under the terms of this RFP at their sole discretion.

The event management group will ensure that all requirements and timelines specified in the Amphitheater use agreement are met before and during the event.

Costs and revenues

- The concerts will be sponsored by the City of Keizer through the waiver of any event and facility fees for each concert. It will be the responsibility of the event management group to cover all other costs associated with putting on the concert series. No admission or parking fees can be charged for these events.

- The event management company is allowed to generate revenues to support the concert series with the sale of concessions, beverages, through other sponsorships, through donation and with other methods as approved by the City Manager or his/her designated staff liaison.

- The Management Group will be required to remit a negotiated portion of all revenues generated through the concert series annually to the City, which will be applied by the City toward offsetting the costs of maintenance and upkeep of the Keizer Rotary Amphitheatre facility. The documented value of "In-kind" labor and maintenance efforts may be counted as part of the negotiated amount. A full accounting of all revenues and expenses for the preceding Summer Concert Series must be submitted to the City on or before December 1 of each year.

Band solicitation and Selection Committee

- Upon selection of the event management group, they will be immediately asked to solicit potential bands for the upcoming series. The group will make every effort to solicit quality bands. The event management group will ensure the bands are aware they must provide their own amplification equipment. Or, the event management group can make other accommodations as available.

- The event management group will coordinate the selection committee meetings. The committee is City Council appointed committee of 6 to 8 people of community stakeholders interested in music/arts. This will include a City Council representative, Chamber of Commerce Members (or other business representative), Citizens at Large and Staff. The Selection Committee is ultimately responsible for approving the summer line-up of bands for the concert series in a process that they deem appropriate.

Day of the Event

The event management group will be on-site for the full event. In addition, the event managers will be responsible for the following:

- Coordinate all staffing for vendor sales on the premises
- Coordinate staffing for parking
- Provide necessary restroom accommodations as required by Public Works
- Provide necessary security
- Ensure band is set up 30 minutes prior to the show

- Provide necessary accommodations to bands as negotiated
- Pay the band per the terms negotiated
- Ensure compliance with City noise ordinance and other parks regulations
- Complete tear down and cleaning in a timely manner and prior to any other subsequent events that have booked the amphitheater for use
- Comply with the City's sign code or obtain a Council waiver in advance of the commencement of the Summer Concert Series

RFP Content

The RFP submittal must include, as a minimum, the following:

1. Describe you or your firm's background and history, including the number of years in business. Include a statement describing why your firm is qualified to perform the work outlined in this RFP.

2. Describe any and all training and experience, which qualifies you or your firm.

3. Describe the workload capacity of you and your firm and any limitations you would foresee in your ability to handle this project.

4. Describe the approach you would use to communicate and coordinate with the City Manager and task force throughout the course of the project.

5. Provide up to three (3) examples of similar work you have performed.

6. Provide a minimum of two (2) client references and one (1) peer reference on who can speak on behalf of you or your firm of a positive professional reputation.

Investigations

The City reserves the right to conduct appropriate investigations into the background, previous experience and training, financial affairs and related matters of any firm or individual under consideration for a contract resulting in successfully completing the RFP process. Said investigations may include, but are not limited to, credit reports, submission of audited financial statements, communication with principal clients, as appropriate, relating to the ability of your firm to successfully perform the duties and responsibilities of a facility planning consultant.

Evaluation of Requests for Proposals & Selection

The City reserves the right to accept or reject any or all submissions in the best interest of the City. In connection with the evaluation, the City may, at its option, invite one or more applicants to make an oral presentation to a Council appointed task force and/or City Staff at a time and location to be announced, and may require the submission of supplemental material intended to substantiate or clarify information previously submitted.

A selection committee consisting of appointed task force members will evaluate Request for Proposals submissions on the following criteria (not in ranked order).

1. Meets all qualifications and requirements identified in this RFP.
2. Includes complete and clear responses to items in the **RFP Content** section.
3. Breadth and relevance of experience in event management.
4. The professional reputation on the part of the applicant or firm for providing high-quality services and demonstrating sound judgment, integrity, and reliability as determined by a thorough and complete background check.
5. Demonstrated expertise in the music industry with regards to hosting a concert.
6. Adequate range of services offered by the firm.
7. Demonstration of workload capacity and a level of experience commensurate with the level of service required by the City.
8. The applicant's ability to work cooperatively with the selection committee, City Manager, City employees and members of the business community and general public as demonstrated by positive current client references.
9. Supplemental information submitted by the applicant.
10. Proposed revenues split with the City for ongoing maintenance and support of the Keizer Rotary Amphitheatre.
11. Results of the interview, if conducted.

Submittal Deadline

One (1) original and eight (8) copies of the submission, clearly marked "Statement of Proposal to Provide Event Management of City Sponsored Concert Series" must be received by **3:00 p.m. on November 18, 2011.**

Deliver to:

Christopher C. Eppley, City Manager
City of Keizer
930 Chemawa Road, NE
PO Box 21000
Keizer, OR 97307-1000

Submissions received after that date and time will not be accepted or considered.

Questions regarding responses to this RFP or requests for general information regarding the City of Keizer should be directed to Chris Eppley, City Manager, City of Keizer, at (503) 390-3700.

KEIZER ROTARY AMPHITHEATRE MANAGEMENT AGREEMENT
FOR 2011 CITY SPONSORED CONCERT SERIES

DATE: April 27, 2011

PARTIES:

CITY OF KEIZER, an Oregon
municipal corporation (hereinafter "City")
930 Chemawa Road NE
PO Box 21000
Keizer, OR 97307

KRA LLC (hereinafter "KRA")
PO Box 750
Salem, OR 97308

RECITALS:

A. City owns or leases real property and improvements located at 1900 Chemawa Drive North, Keizer, Marion County, Oregon known as Keizer Rapids Park (hereinafter "Park").

B. Within the Park are improvements known as the Keizer Rotary Amphitheatre (hereinafter "Amphitheatre"). City has need of services to manage the Amphitheatre for the City sponsored concert series during the summer of 2011. For purposes of this Agreement, "Amphitheatre" or premises shall include the amphitheatre and parking/access/concession areas described in Exhibit "A" attached hereto and by this reference incorporated herein.

C. KRA desires to manage the Amphitheatre for the City sponsored concert series as set forth herein.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties do mutually agree as follows:

AGREEMENT:

1. Term. Unless terminated as set forth herein, the term of this Agreement shall be from April 15, 2011 to November 30, 2011.

2. Improvements. KRA agrees that all Amphitheatre improvements (not including personal property owned by KRA) are the property of City and are considered to be part of the premises that is the subject of this Agreement. KRA shall not cause or permit any change in Amphitheatre layout, any addition or deletion of any permanent

improvements, or take any action that significantly affects the Amphitheatre without the prior written consent of City.

3. Terms and Conditions. Subject to the terms and conditions set forth herein, KRA agrees to manage the City sponsored concert series at the Amphitheatre for the term of the Agreement as follows:

A. City desires to sponsor no more than nine (9) concerts during the City sponsored concert series for 2011. The concert dates shall be authorized and approved by the Public Works Director.

B. KRA agrees to solicit bands from a variety of genres and present the prospective bands to the City Summer Concert Band Selection Task Force. The City Summer Concert Band Selection Task Force (Task Force) shall make the final approval of the selection of the bands for the concert series. KRA agrees that they will present the prospective bands to the Task Force no later than April 30, 2011 and the Task Force agrees to make a final selection of the bands not later than 20 days after the band's names are provided to the chair of the Task Force. In the event that the band is denied, KRA still retains the right to hire the band in a non-city sponsored event.

C. KRA agrees to negotiate contracts with the selected bands and provide copies of such contracts to the City no later than seven (7) days after concert date. The City will not enter into contracts with bands and is not responsible for any compensation to the bands whatsoever. However, the City will cooperate and assist KRA as time and resources allow, in their efforts to secure paid additional sponsorships for the City sponsored events. The City also agrees to print notices of the City sponsored concerts on the water bills. Notwithstanding the agreement to cooperate, the City shall have no obligations to secure or assist in any specific amount of sponsorships.

D. KRA understands and agrees that it must make the bands aware that no amplification equipment is available and that the bands must provide their own amplification. In the event that the band does not have amplification, KRA agrees to provide such amplification.

E. KRA agrees to complete a permit application for each date in a timely manner pursuant to City regulations and present it to City for processing. City agrees to waive the use fee for the approved City sponsored concerts. However, KRA shall pay the application fee and a refundable security deposit of $150.00 that will roll over to the next concert if not used. If a date requested is not available when the permit application is submitted, an alternate date may be chosen upon approval by the Public Works Director.

F. City shall review the permit application and if appropriate, approve the permit with particular conditions. For example, depending on the type and size of the event, security or extra portable bathrooms may be needed. There may be specific conditions on parking, timing and noise. KRA agrees that it will be responsible for

coordinating and providing any and all conditions as outlined in the permit or in the alternative, if KRA is unable to comply, it may rescind the permit application and cancel the City sponsored concert without breaching or terminating this Agreement. KRA understands and agrees that no permit will be issued until the conditions set forth in the amphitheatre permit application are complied with.

G. KRA agrees that no admission fees shall be collected for the City sponsored concerts, it being the intent that the concerts be free to the public.

H. KRA agrees that no parking fees shall be collected for the City sponsored concerts unless the Public Works Director approves otherwise.

I. KRA agrees that it will be responsible for soliciting donations, sponsorship fees, and other sources of funds to pay the bands and other costs of the concerts according to the terms agreed to in the contracts. KRA understands and agrees that it cannot use the Amphitheatre to hold fundraising concerts or other formal fundraisers to solicit funds. KRA agrees that it will only seek voluntary donations and/or use revenue earned from vendor sales and/or concession sales to provide the funding for the City sponsored concerts or for improvement to the amphitheatre, concourse, or concession area and for recognition of volunteers involved in helping put on the concert series. In addition, KRA may solicit voluntary donations for other charitable or community causes as an incidental part of the concerts. City agrees that it will waive the use fee.

J. KRA understands and agrees that it will be responsible for coordinating all staff required for the events, including, but not limited to staffing for the vendor sales, staffing for parking, and security staffing. City staff, including the park host, shall not be responsible for staffing.

K. KRA understands and agrees that it will be responsible for providing any necessary conditions on the permits at its own expense or, in the alternative, if KRA is unable to comply, it may rescind the permit application and cancel the City sponsored concert without breaching or terminating this Agreement. KRA also understands and agrees that it will be responsible for providing any necessary accommodations to the bands as negotiated in the contracts.

L. KRA agrees that it will ensure that the band for each concert will be set up no later than thirty (30) minutes prior to the show and that the band will end the concert no later than 9:00 p.m., with tear down completed no later than 11:00 p.m. **Amplified sound is strictly prohibited after 9:00 p.m.** KRA covenants and warrants that KRA will leave the premises in good, sanitary and neat order, to the satisfaction of City upon termination of each event.

M. KRA shall be responsible for complying with all laws, ordinances, and regulations, **including the sign regulations under the Keizer Development Code**.

N. KRA agrees that it will provide evidence to the City that the bands were

paid according to the terms of the contracts. Such evidence shall be presented no later than September 30, 2011.

O. KRA remains committed to the amphitheatre and agrees to continue to work with the City to improve the amphitheatre and Keizer Rapids Park facilities.

P. Complaints received by KRA from either members of the public, users of the Amphitheatre or others shall be submitted immediately to the City. In the event of a dispute, the decision of the City concerning the use, operation or management of the Amphitheatre shall be final and binding. The City reserves the right to make final determination on all policies and procedures relative to the operation and management of the Amphitheatre. KRA has no right or authority to allow any use of the Amphitheatre without formal issuance of the event permit by the City.

Q. KRA shall have initial control over all persons attending the concerts. However, the City, acting through the City Manager, reserves the right, in its sole discretion, to cancel, terminate or interrupt any event, and cause one or more patrons to be dismissed during any event, if necessary to protect the public or property. This includes terminating an event due to violation of noise regulations after issuing a warning. City shall not be liable to KRA or any third parties for any loss or damages by any such determination or action by the City Manager, or his/her designee taken in good faith for the benefit or protection of the City and the public generally, or the protection of the Amphitheatre, Park, or other public or private property.

4. KRA Events. KRA is only acting as contract management for the authorized City sponsored concerts. KRA can also act as an applicant for other events. In such case, KRA would pay the same permit application fee and use fee as other applicants. KRA could retain any admission fee or vendor fees charged while acting as its own applicant.

5. Utilities. City may provide water services and shall provide electricity to the Amphitheater without charge to KRA. City shall be responsible for all charges for garbage collection. It will be the responsibility of KRA to provide garbage cans around the Amphitheatre and maintain such garbage cans by emptying them into the dumpster located at Keizer Rapids Park in a timely manner.

6. Security. It will be the responsibility of KRA to maintain adequate security on the premises. The City will furnish no more than the normal and routine police protection as provided in any Amphitheatre, subject to demands for police throughout the City from time to time.

7. Discipline and Control. Subject to prior approval as required elsewhere herein, selection, compensation, direction, discipline, and control of KRA's employees, agents, volunteers and subcontractors shall be the sole responsibility of KRA. KRA shall be responsible for removing from the premises any employee, agent, volunteer or

subcontractor who is disorderly, dishonest, dangerously careless, or any person violating any law, ordinance, or regulation.

8. Insurance. City will insure all improvements on the property against loss or damage by fire or other hazard. The City will not insure or replace personal property owned by KRA.

9. Indemnification and Hold Harmless. KRA shall be responsible for and shall pay and discharge any and all claims of any nature whatsoever under this Agreement or KRA's management of the Amphitheatre, including, but not limited to claims by or on behalf of the bands, vendors, and sponsors. KRA shall indemnify, defend, and save harmless the City and its officers, agents, and employees for and against any and all loss damage, injuries, action, causes of action, or liability of any kind whatsoever resulting from or arising out of the condition of the Amphitheatre, products sold, and all operations, activities, or undertakings of KRA or any of KRA's employees, agents, volunteers or independent contractors. Notwithstanding the above, if City directly authorizes an activity by any party other than KRA during the period of this Agreement, this paragraph shall not apply to claims arising out of that activity.

10. Assignment and Subcontracting. KRA shall not assign or transfer this Agreement, or any interest thereon. Any such assignment shall be void, and shall, at the option of the City, terminate this Agreement. KRA shall not subcontract any of its responsibilities hereunder without the express written consent of the City. This section is not intended to prohibit KRA from contracting out bands, vendors, concessions, beer and wine sales, toilet supply, security, etc.

11. Default. Upon failure by KRA to perform any term, condition, or covenant of this Agreement within thirty (30) days after written notice from City has been sent by certified mail, return receipt requested, addressed to:

KRA LLC
PO Box 750
Salem, OR 97308

specifying the nature of the failure with reasonable particularity, City shall have the option to declare KRA to be in material breach and default hereunder and shall enable City to pursue its legal remedies including but not limited to those referred to in this Agreement. If the failure is of such a nature that it cannot be completely remedied within the said thirty (30) day period, the failure will not be a default if KRA begins correction of the failure within the thirty (30) day period and thereafter proceeds with reasonable diligence and in good faith to correct the failure as soon as possible. Any written notices shall be deemed given when deposited in the United States Mail.

12. Remedies. Upon default, and after the notice period described above, City may elect to terminate this Agreement and bring an action to recover any damages

suffered by City as a result of KRA's actions or as a result of any breach by KRA of any term, covenant or condition of this Agreement.

13. Attorney Fees. If suit or action is instituted to enforce or interpret this Agreement or in conjunction with any claim or controversy arising out of this Agreement, the prevailing party shall be entitled to recover, in addition to costs, such sum as the Court may adjudge reasonable as attorney fees at trial and on appeal of the suit or action.

14. Amendments. Amendments to this Agreement shall be recognized only if reduced to writing and executed by KRA LLC and the City Manager of the City of Keizer.

15. Relationship of the Parties. The City and KRA have entered into this Agreement for the purpose of establishing an independent contractor relationship between the City and KRA. This Agreement is not, nor should it be construed as, a lease or an agreement in the nature of a lease. No covenant of quiet enjoyment shall be implied in this Agreement. It is further understood and agreed by and between the parties that nothing herein shall constitute or be construed to be an employment, partnership, joint venture, or joint employer relationship between the City, its successors or assigns on the one part, and KRA, its successors or assigns on the other part. KRA is not entitled to, and expressly waives all claim to City benefits including, but not limited to health, life, and disability insurance, overtime pay, paid leave, and retirement. KRA agrees that it will not present itself as an agent of City and will not act as a contract manager of the Amphitheatre other than for the authorized City sponsored concerts. Any representation by KRA that it is an agent of City is cause for immediate termination of this Agreement.

KRA has no property interest or possessory interest in the Amphitheatre greater than any other resident that has reserved a date in the facility. Once the City issues a permit, the City shall not unilaterally cancel a planned concert without good cause. KRA shall have the right to manage the City sponsored concerts at the Amphitheatre pursuant to the terms in this Agreement.

16. Non-Discrimination. KRA agrees not to discriminate against any employee or applicant for employment because of race, creed, ancestry, sexual orientation, disability, color, sex, marital status, age, religion or national origin, and further agrees not to discriminate for the same aforementioned reasons against any person or persons in connection with admission, services, or privileges offered to or enjoyed by the general public.

17. Agreement. This Agreement is the entire, final and complete agreement of the parties and supersedes and replaces all written and oral agreements heretofore made or existing by and between the parties or their representatives.

IN WITNESS WHEREOF, the parties hereto have executed this document as of the date first above written.

CITY:
CITY OF KEIZER

By: _____
Christopher C. Eppley,
City Manager

Dated: 4-27-11

Approved as to Form:

_____
E. Shannon Johnson,
Keizer City Attorney

KRA:
KRA LLC

By: Clint Holland KRA LLC President
Clint Holland
Chairman

Dated: 4/26/11

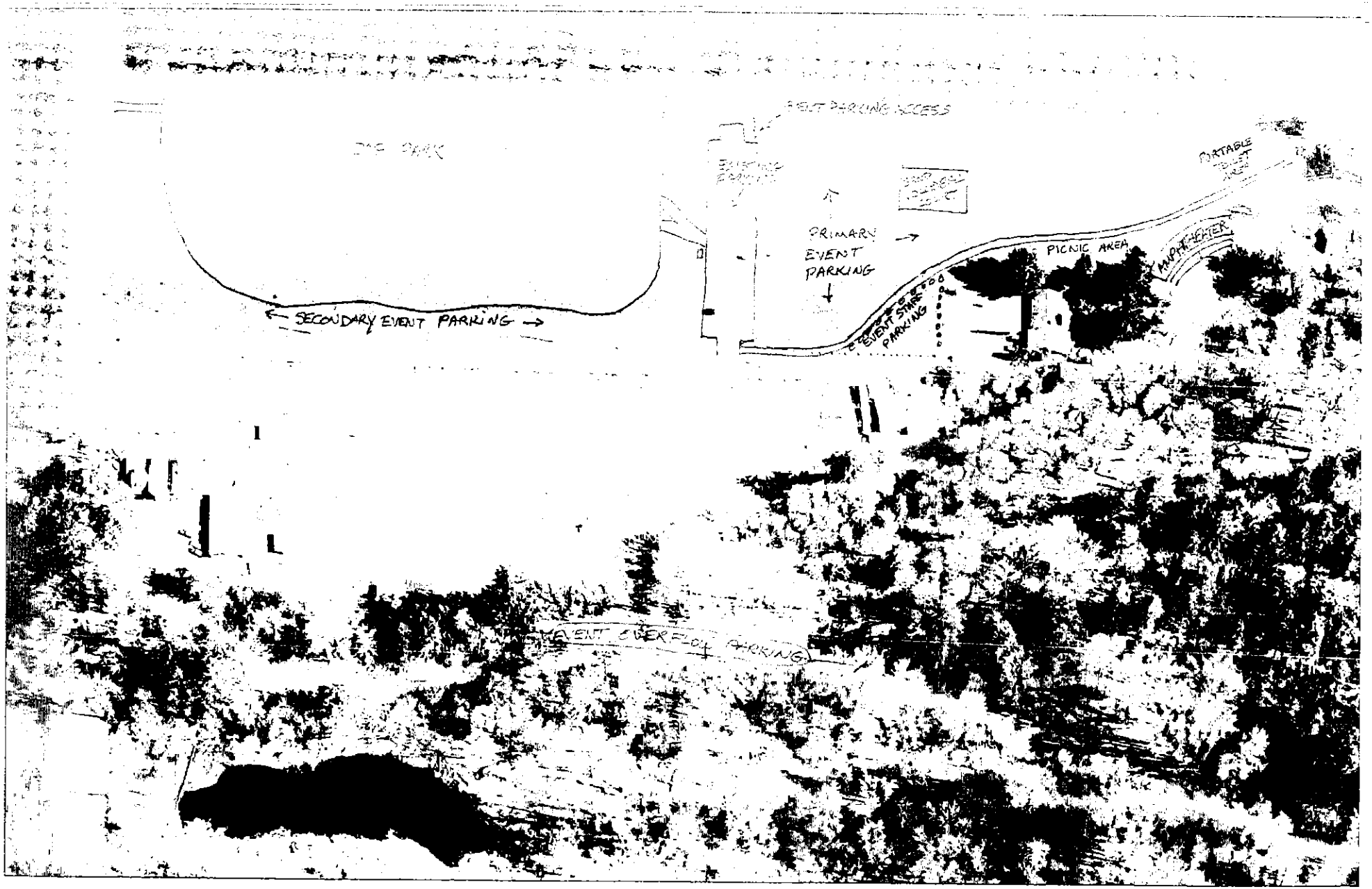


Exhibit A
Page 1 of 1

KEIZER ROTARY AMPHITHEATRE MANAGEMENT AGREEMENT
FOR 2012-2014 CITY SPONSORED CONCERT/LIVE THEATRE SERIES

DATE: April 17, 2012

PARTIES:

CITY OF KEIZER, an Oregon
municipal corporation (hereinafter "City")
930 Chemawa Road NE
PO Box 21000
Keizer, OR 97307

KRA LLC (hereinafter "KRA")
PO Box 750
Salem, OR 97308

RECITALS:

A. City owns or leases real property and improvements located at 1900 Chemawa Drive North, Keizer, Marion County, Oregon known as Keizer Rapids Park (hereinafter "Park").

B. Within the Park are improvements known as the Keizer Rotary Amphitheatre (hereinafter "Amphitheatre"). City has need of services to manage the Amphitheatre for the City sponsored concert or live theatre series during the summers of 2012, 2013 and 2014. For purposes of this Agreement, "Amphitheatre" or premises shall include the amphitheatre and parking/access/concession areas described in Exhibit "A" attached hereto and by this reference incorporated herein.

C. KRA desires to manage the Amphitheatre for the City sponsored concert/live theatre series as set forth herein.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties do mutually agree as follows:

AGREEMENT:

1. Term. Unless terminated as set forth herein, the term of this Agreement shall be from April 19, 2012 to November 30, 2014.

2. Improvements. KRA agrees that all Amphitheatre improvements (not including personal property owned by KRA) are the property of City and are considered to be part of the premises that is the subject of this Agreement. KRA shall not cause or permit any change in Amphitheatre layout, any addition or deletion of any permanent improvements, or take any action that significantly affects the Amphitheatre without the prior written consent of City.

3. Terms and Conditions. Subject to the terms and conditions set forth herein, KRA agrees to manage the City sponsored concert/theatre series at the Amphitheatre for the term of the Agreement as follows:

A. City desires to sponsor no less than eight (8) and no more than twelve (12) concerts/theatre productions during the City sponsored concert/theatre series each year. The dates shall be authorized and approved by the Public Works Director. No more than eight (8) of the dates may be on a Saturday.

B. KRA agrees to coordinate with Keizer Homegrown Theater for the theatre production dates. Such theatre production shall not exceed four (4) total calendar days.

C. KRA agrees to solicit bands from a variety of genres and present the prospective bands to the City Summer Concert Band Selection Task Force. The City Summer Concert Band Selection Task Force (Task Force) shall make the final approval of the selection of the bands for the concert series. KRA agrees that they will present the prospective bands to the Task Force no later than May 10 each year and the Task Force agrees to make a final selection of the bands not later than 20 days after the band's names are provided to the chair of the Task Force. No bands shall be substituted unless the substituted band has been approved by the Task Force. In the event that the band is denied, KRA still retains the right to hire the band in a non-city sponsored event.

D. KRA agrees to negotiate contracts with the selected bands and provide copies of such contracts to the City no later than seven (7) days after concert date. The City will not enter into contracts with bands and is not responsible for any compensation to the bands whatsoever. However, the City will cooperate and assist KRA as time and resources allow, in their efforts to secure paid additional sponsorships for the City sponsored events. The City also agrees to print notices of the City sponsored concerts/theatre productions on the water bills. Notwithstanding the agreement to cooperate, the City shall have no obligations to secure or assist in any specific amount of sponsorships.

E. KRA understands and agrees that it must make the bands aware that no amplification equipment is available and that the bands must provide their own amplification. In the event that the band does not have amplification, KRA agrees to provide such amplification.

F. KRA agrees to complete a permit application for each date in a timely manner pursuant to City regulations and present it to City for processing. City agrees to waive the use fee for the approved City sponsored concerts/theatre productions. However, KRA shall pay the application fee and a refundable security deposit of $150.00 that will roll over to the next City sponsored event if not used. If a date requested is not available when the permit application is submitted, an alternate date may be chosen upon approval by the Public Works Director.

G. City shall review the permit application and if appropriate, approve the permit with particular conditions. For example, depending on the type and size of the event, security or extra portable bathrooms may be needed. There may be specific conditions on parking, timing and noise. KRA agrees that it will be responsible for coordinating and providing any and all conditions as outlined in the permit or in the alternative, if KRA is unable to comply, it may rescind the permit application and cancel the City sponsored concert/theatre production without breaching or terminating this Agreement. KRA understands and agrees that no permit will be issued until the conditions set forth in the amphitheatre permit application are complied with.

H. KRA agrees that no admission fees shall be collected for the City sponsored concerts/theatre productions, it being the intent that the concerts/theatre productions be free to the public.

I. KRA agrees that no parking fees shall be collected for the City sponsored concerts/theatre productions unless the Public Works Director approves otherwise.

J. KRA may prohibit outside beverages and food from the events.

K. KRA may prohibit domestic animals from the events.

L. KRA agrees that it will be responsible for soliciting donations, sponsorship fees, and other sources of funds to pay the bands and other costs of the concerts/theatre productions according to the terms agreed to in the contracts. KRA understands and agrees that it cannot use the Amphitheatre to hold fundraising concerts or other formal fundraisers to solicit funds. KRA agrees that it will only seek voluntary donations and/or use revenue earned from vendor sales and/or concession sales to provide the funding for the City sponsored concerts/theatre productions or for improvement to the amphitheatre, concourse, or concession area and for recognition of volunteers involved in helping put on the concert/theatre series. In addition, KRA may solicit voluntary donations for other charitable or community causes as an incidental part of the concerts/theatre productions. City agrees that it will waive the use fee.

M. KRA understands and agrees that it will be responsible for coordinating all staff required for the events, including, but not limited to staffing for the vendor sales, staffing for parking, and security staffing. City staff, including the park host, shall not be responsible for staffing.

N. KRA understands and agrees that it will be responsible for providing any necessary conditions on the permits at its own expense or, in the alternative, if KRA is unable to comply, it may rescind the permit application and cancel the City sponsored concert/theatre production without breaching or terminating this Agreement. KRA also understands and agrees that it will be responsible for providing any necessary accommodations to the bands as negotiated in the contracts.

O. KRA agrees that it will ensure that the event will be set up no later than thirty (30) minutes prior to the show and that the band will end the event will end no later than 9:00 p.m., with tear down completed no later than 11:00 p.m. **Amplified sound is strictly prohibited after 9:00 p.m.** KRA covenants and warrants that KRA will leave the premises in good, sanitary and neat order, to the satisfaction of City upon termination of each event.

P. KRA shall be responsible for complying with all laws, ordinances, and regulations, **including the sign regulations under the Keizer Development Code**.

Q. KRA agrees that it will provide evidence to the City that the bands were paid according to the terms of the contracts. Such evidence shall be presented no later than September 30 each year.

R. KRA remains committed to the amphitheatre and agrees to continue to work with the City to improve the amphitheatre and Keizer Rapids Park facilities.

S. Complaints received by KRA from either members of the public, users of the Amphitheatre or others shall be submitted immediately to the City. In the event of a dispute, the decision of the City concerning the use, operation or management of the Amphitheatre shall be final and binding. The City reserves the right to make final determination on all policies and procedures relative to the operation and management of the Amphitheatre. KRA has no right or authority to allow any use of the Amphitheatre without formal issuance of the event permit by the City.

T. KRA shall have initial control over all persons attending the concerts/theatre productions. However, the City, acting through the City Manager, reserves the right, in its sole discretion, to cancel, terminate or interrupt any event, and cause one or more patrons to be dismissed during any event, if necessary to protect the public or property. This includes terminating an event due to violation of noise regulations after issuing a warning. City shall not be liable to KRA or any third parties for any loss or damages by any such determination or action by the City Manager, or his/her designee taken in good faith for the benefit or protection of the City and the public generally, or the protection of the Amphitheatre, Park, or other public or private property.

U. KRA shall provide the previous year's tax return and reasonable supporting documentation each year on or before April 15.

4. KRA Events. KRA is only acting as contract management for the authorized City sponsored concerts/theatre productions. KRA can also act as an applicant for other events. In such case, KRA would pay the same permit application fee and use fee as other applicants. KRA could retain any admission fee or vendor fees charged while acting as its own applicant.

5. Utilities. City may provide water services and shall provide electricity to the Amphitheater without charge to KRA for City sponsored concerts/theatre productions. City shall be responsible for all charges for garbage collection. It will be the responsibility of KRA to provide garbage cans around the Amphitheatre and maintain such garbage cans by emptying them into the dumpster located at Keizer Rapids Park in a timely manner.

6. Security. It will be the responsibility of KRA to maintain adequate security on the premises. The City will furnish no more than the normal and routine police protection as provided in any Amphitheatre, subject to demands for police throughout the City from time to time.

7. Discipline and Control. Subject to prior approval as required elsewhere herein, selection, compensation, direction, discipline, and control of KRA's employees, agents, volunteers and subcontractors shall be the sole responsibility of KRA. KRA shall be responsible for removing from the premises any employee, agent, volunteer or subcontractor who is disorderly, dishonest, dangerously careless, or any person violating any law, ordinance, or regulation.

8. Insurance. City will insure all improvements on the property against loss or damage by fire or other hazard. The City will not insure or replace personal property owned by KRA.

9. Indemnification and Hold Harmless. KRA shall be responsible for and shall pay and discharge any and all claims of any nature whatsoever under this Agreement or KRA's management of the Amphitheatre, including, but not limited to claims by or on behalf of the bands, theatre groups, vendors, and sponsors. KRA shall indemnify, defend, and save harmless the City and its officers, agents, and employees for and against any and all loss damage, injuries, action, causes of action, or liability of any kind whatsoever resulting from or arising out of the condition of the Amphitheatre, products sold, and all operations, activities, or undertakings of KRA or any of KRA's employees, agents, volunteers or independent contractors. Notwithstanding the above, if City directly authorizes an activity by any party other than KRA during the period of this Agreement, this paragraph shall not apply to claims arising out of that activity.

10. Assignment and Subcontracting. KRA shall not assign or transfer this Agreement, or any interest thereon. Any such assignment shall be void, and shall, at the option of the City, terminate this Agreement. KRA shall not subcontract any of its responsibilities hereunder without the express written consent of the City. This section

is not intended to prohibit KRA from contracting out bands, vendors, concessions, beer and wine sales, toilet supply, security, etc.

11. Default. Upon failure by KRA to perform any term, condition, or covenant of this Agreement within thirty (30) days after written notice from City has been sent by certified mail, return receipt requested, addressed to:

KRA LLC
PO Box 750
Salem, OR 97308

specifying the nature of the failure with reasonable particularity, City shall have the option to declare KRA to be in material breach and default hereunder and shall enable City to pursue its legal remedies including but not limited to those referred to in this Agreement. If the failure is of such a nature that it cannot be completely remedied within the said thirty (30) day period, the failure will not be a default if KRA begins correction of the failure within the thirty (30) day period and thereafter proceeds with reasonable diligence and in good faith to correct the failure as soon as possible. Any written notices shall be deemed given when deposited in the United States Mail.

12. Remedies. Upon default, and after the notice period described above, City may elect to terminate this Agreement and bring an action to recover any damages suffered by City as a result of KRA's actions or as a result of any breach by KRA of any term, covenant or condition of this Agreement.

13. Attorney Fees. If suit or action is instituted to enforce or interpret this Agreement or in conjunction with any claim or controversy arising out of this Agreement, the prevailing party shall be entitled to recover, in addition to costs, such sum as the Court may adjudge reasonable as attorney fees at trial and on appeal of the suit or action.

14. Amendments. Amendments to this Agreement shall be recognized only if reduced to writing and executed by KRA LLC and the City Manager of the City of Keizer.

15. Relationship of the Parties. The City and KRA have entered into this Agreement for the purpose of establishing an independent contractor relationship between the City and KRA. This Agreement is not, nor should it be construed as, a lease or an agreement in the nature of a lease. No covenant of quiet enjoyment shall be implied in this Agreement. It is further understood and agreed by and between the parties that nothing herein shall constitute or be construed to be an employment, partnership, joint venture, or joint employer relationship between the City, its successors or assigns on the one part, and KRA, its successors or assigns on the other part. KRA is not entitled to, and expressly waives all claim to City benefits including, but not limited to health, life, and disability insurance, overtime pay, paid leave, and retirement. KRA agrees that it will not present itself as an agent of City and will not act as a contract

manager of the Amphitheatre other than for the authorized City sponsored concerts/theatre productions. Any representation by KRA that it is an agent of City is cause for immediate termination of this Agreement.

KRA has no property interest or possessory interest in the Amphitheatre greater than any other resident that has reserved a date in the facility. Once the City issues a permit, the City shall not unilaterally cancel a planned concert/theatre production without good cause. KRA shall have the right to manage the City sponsored concerts/theatre productions at the Amphitheatre pursuant to the terms in this Agreement.

16. Non-Discrimination. KRA agrees not to discriminate against any employee or applicant for employment because of race, creed, ancestry, sexual orientation, disability, color, sex, marital status, age, religion or national origin, and further agrees not to discriminate for the same aforementioned reasons against any person or persons in connection with admission, services, or privileges offered to or enjoyed by the general public.

17. Agreement. This Agreement is the entire, final and complete agreement of the parties and supersedes and replaces all written and oral agreements heretofore made or existing by and between the parties or their representatives.

IN WITNESS WHEREOF, the parties hereto have executed this document as of the date first above written.

CITY:
CITY OF KEIZER

By: _____
Christopher C. Eppley,
City Manager

Dated: 4-17-12

KRA:
KRA LLC

By: _____ Chairman Pres.
Clint Holland
Chairman

Dated: 4/11/12

Approved as to Form:

_____
E. Shannon Johnson,
Keizer City Attorney

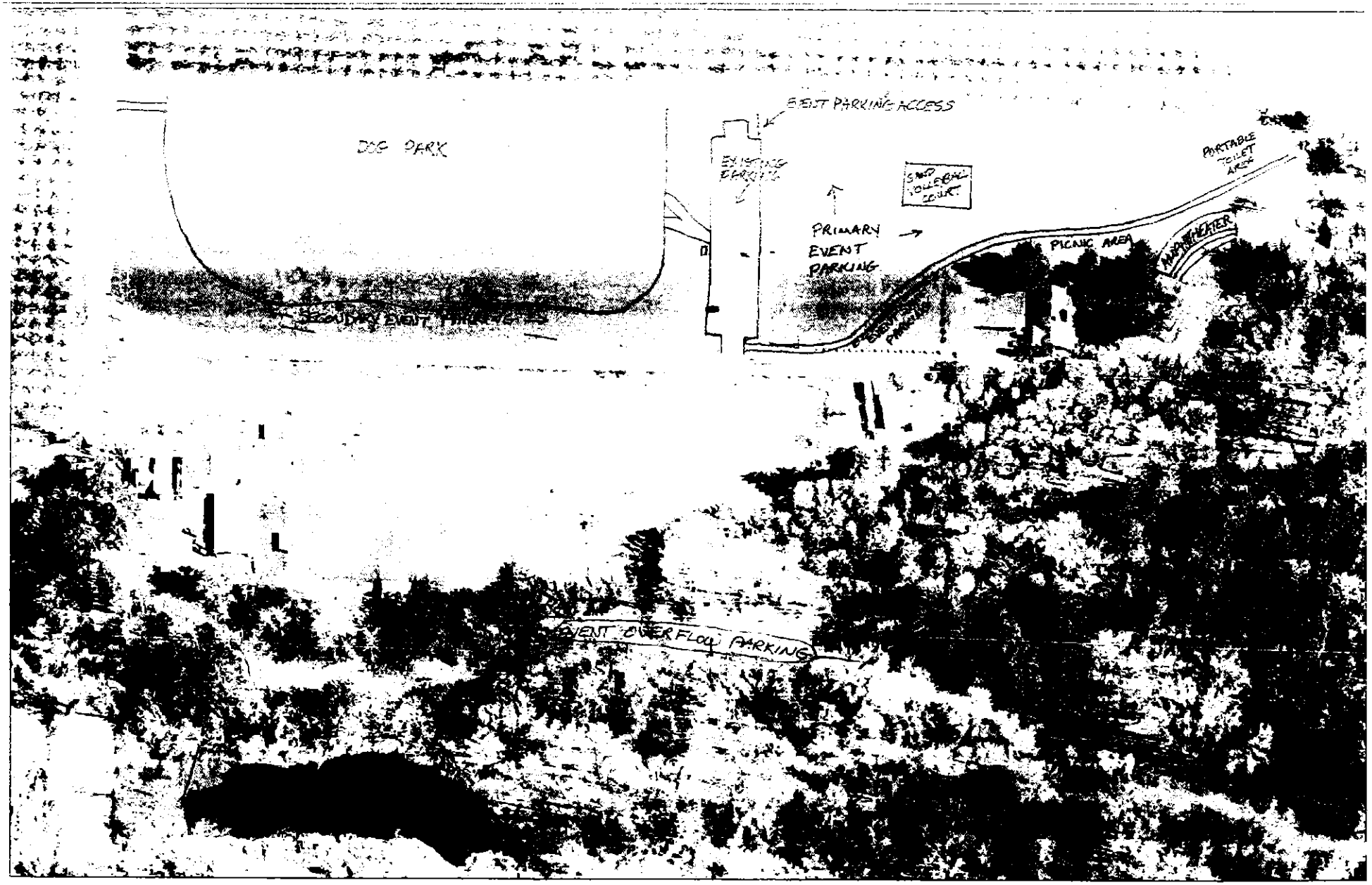


Exhibit A
Page 1 of 1

CITY COUNCIL MEETING: July 21, 2014

AGENDA ITEM NUMBER:_____

TO: **MAYOR CHRISTOPHER AND COUNCIL MEMBERS**

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

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

SUBJECT: **ORDINANCE PROHIBITING THE DISCHARGE OF FIREARMS**

Council adopted Ordinance No. 88-127 on October 3, 1988. Such Ordinance prohibits the discharge of firearms within the City except in certain circumstances. Approximately once a year, a request for a permit to kill livestock is received. Recently, it has been discovered that Ordinance No. 88-127 is silent with regard to the issuance of a permit for this use. State statute allows a person who is licensed to slaughter animals to use firearms for such purpose. It appears that it would be appropriate to issue permits within the City for that purpose.

I have drafted an Ordinance that clarifies when the Community Development Director's approval is required and that a permit is allowed to be issued for slaughtering of animals. Ordinance No. 88-127 also had a permit issuance fee. There is no change in the permit fee which is $10.00.

RECOMMENDATION:

Consider the matter and if appropriate, adopt the attached Ordinance.

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

ESJ/tmh

BILL NO. ____ A BILL ORDINANCE NO. 2014-_____

FOR

AN ORDINANCE

PROHIBITING THE DISCHARGE OF FIREARMS; **REPEALING ORDINANCE NO. 88-127**

The City of Keizer ordains as follows:

Section 1. FIREARMS DISCHARGE PROHIBITED; EXCEPTION BY PERMIT. It shall be unlawful for any person to discharge any firearm within the City; provided, however, that the provisions of this Section shall not apply to Peace Officers when in the performance of their duty, or to the use of firearms in shooting galleries, rifle or pistol ranges, or trap shooting grounds having a permit from the Chief of Police. The Chief of Police shall not issue any such permit unless the shooting gallery, pistol or rifle range or trap shooting grounds are arranged or constructed so that persons within the vicinity thereof or within the City are safe from flying bullets or shot. Permits for shooting galleries, rifle or pistol ranges, or trap shooting grounds shall also have the approval of the Keizer Community Development Director or his/her designee prior to its issuance. The Chief of Police may also grant permits for the use of firearms for the purpose of eliminating obnoxious animals or birds and for the slaughter of animals by a person who is licensed pursuant to state law. Such permits may only be issued after submission of an application which shall show the place of the use of such firearms, the

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

purpose for which the permit is requested, and any other pertinent information that may be requested by the Chief of Police. For the purpose of slaughtering of animals, the application must show that the person is licensed pursuant to state law to slaughter animals. Each permit applicant shall also provide proof of comprehensive personal liability insurance with coverage at least equal to $1,000,000. A permit shall not be issued unless the Chief of Police is satisfied that the use of firearms as authorized in the permit will not result in injury to persons or property.

Section 2. PERMIT FEE. The application fee for the permit shall be $10.00. The application fee is non-refundable.

Section 3. EXPIRATION OF PERMIT. All permits issued under this Ordinance shall expire one year after the date of issue unless sooner revoked.

Section 4. REVOCATION OF PERMIT. A permit issued under this Ordinance may be revoked by the Chief of Police for any violation of this Ordinance, or for a violation of the terms of the permit, or as the result of any action by the permit holder or any change in a condition regarding the permit which may make discharging a firearm result in injury to person or property.

Section 5. VIOLATIONS. Violation of this Ordinance is an infraction.

Section 6. REPEAL. Ordinance No. 88-127, Prohibiting the Discharge of Firearms, enacted October 3, 1988, is hereby repealed in its entirety.

///

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

Section 7. EFFECTIVE DATE. This Ordinance shall take effect thirty (30) days after its passage.

PASSED this _____ day of _____, 2014.

SIGNED this _____ day of _____, 2014.

_____
Mayor

_____
City Recorder

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

CITY COUNCIL MEETING: July 21, 2014

AGENDA ITEM NUMBER:_____

TO: **MAYOR CHRISTOPHER AND COUNCIL MEMBERS**

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

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

SUBJECT: **CELLULAR TOWER LEASE/OPTION**

AT&T Wireless (New Cingular Wireless PCS, LLC) approached the City about placing a cellular tower on the Bair Park site, not far from the water reservoir. Staff has been negotiating with AT&T Wireless and the parties have preliminarily agreed on the terms of a cellular tower lease/option. Some of the terms in the proposed lease/option are outlined below for your convenience:

1. The lease is for 25 years in five-year options.
2. The rent is $2100 per month.
3. There is a rent escalator/inflation clause of 3% per year.
4. The option period is for 120 days for $2100.00.
5. The collocation fee is $800 per month and an escalator/inflation clause of 3% per year.
6. There is an allowance to place a police/emergency antenna on top of the tower, in the event that the City will need one in the future. This would be without any charge.

RECOMMENDATION:

Adopt the attached Resolution authorizing the City Manager to sign the Cellular Tower Lease/Option with New Cingular Wireless PCS, LLC.

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

ESJ/tmh

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2014-_____

AUTHORIZING CITY MANAGER TO SIGN CELLULAR TOWER LEASE/OPTION WITH NEW CINGULAR WIRELESS PCS, LLC FOR LEASE OF CITY PROPERTY FOR WIRELESS COMMUNICATION FACILITY

WHEREAS, the City and New Cingular Wireless PCS, LLC have entered into negotiation for the lease of City property located in Bair Park to New Cingular Wireless PCS, LLC for the installation of a wireless communication facility or cellular tower site;

WHEREAS, City staff and New Cingular Wireless PCS, LLC have preliminarily agreed on the terms of a cellular tower lease/option;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that the City Manager is authorized to enter into the attached Cellular Tower Lease/Option with New Cingular Wireless PCS, LLC.

BE IT FURTHER RESOLVED that the City Manager is authorized to take all acts necessary to consummate the Cellular Tower Lease/Option as contemplated therein.

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

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

PASSED this _____ day of _____, 2014.

SIGNED this _____ day of _____, 2014.

_____
Mayor

_____
City Recorder

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

Market: PNW
Cell Site Number: SM44
Cell Site Name: Clear Lake
Fixed Asset Number: 10132657

CELLULAR TOWER LEASE/OPTION

THIS CELLULAR TOWER LEASE / OPTION (this "Lease") is entered into by and between City of Keizer, an Oregon Municipal Corporation, with an address at 930 Chemawa Road NE, Keizer, Oregon 97303 ("Landlord") as lessor, and New Cingular Wireless PCS, LLC, a Delaware limited liability company with its principal office located at 575 Morosgo Drive NE, 13F, West Tower, Atlanta, GA 30324 ("Tenant") as lessee. Landlord and Tenant are at times collectively referred to as "Parties" or individually as a "Party".

1. Option to Lease.

(a) In consideration of the payment of Two Thousand One Hundred Dollars ($2,100.00) (the "Option Fee") by Tenant to Landlord, Landlord hereby grants to Tenant an option to lease a portion of the real property described in the attached Exhibit A (the "Property"), on the terms and conditions set forth herein (the "Option"). The Option shall be for a term of one hundred twenty (120) days, commencing on the Effective Date (as defined in Section 22 below) (the "Option Period").

(b) During the Option Period and during the Term of this Lease, Tenant will have the right to obtain, and Landlord agrees to cooperate with Tenant in obtaining, at Tenant's expense but without any change to the terms of this Lease, all licenses and permits or authorizations required for Tenant's use of the Premises (as defined below) from all applicable government and/or regulatory entities (including, without limitation, zoning and land use authorities, and the Federal Communication Commission ("FCC") (collectively "Governmental Approvals"), including appointing Tenant as agent for all land use and zoning permit applications, and Landlord agrees to cooperate with and to allow Tenant, at no cost to Landlord, to obtain a title report, zoning approvals and variances, land-use and building permits and Landlord expressly grants to Tenant a right of access to the Property to perform surveys, soils tests, and other engineering procedures or environmental investigations on the Property, including, without limitation, the right to conduct and prepare a Phase One environmental assessment and/or baseline environmental assessment of the Property, or equivalent as permitted by applicable Federal or state law, necessary to determine that Tenant's use of the Premises will be compatible with Tenant's engineering specifications, system design, operations and Governmental Approvals. Notwithstanding the foregoing, Tenant may not change the zoning classification of the Property or offer, agree to or accept any Government Approvals in conflict with or which require any alteration or modification of the terms of this Lease without first obtaining Landlord’s written consent, not to be unreasonably withheld, delayed or conditioned. During the Option Period, Tenant may exercise the Option by so notifying Landlord in writing, at Landlord's address in accordance with Section 12 hereof.

(c) If Tenant exercises the Option, then, subject to the terms and conditions set forth herein, Landlord hereby leases to Tenant the use of that forty-five foot by fifty-five foot (45’ x 55’) portion of the Property for the placement of the Antenna Facilities and Tower (as defined

below), together with easements for access and utilities as set forth in Section 7(i) below, according to the survey and legal description set forth in Exhibit B attached hereto (collectively referred to hereinafter as the "Premises"). The Premises comprise approximately 2,475 square feet, exclusive of easements.

2. Term. The initial term of this Lease shall be five (5) years commencing on the date of the exercise of the Option (the "Commencement Date"), and terminating at midnight on the last day of the initial term (the "Initial Term"). The word "Term" refers to both the Initial Term and all Renewal Terms exercised (as defined below).

3. Permitted Use. The Premises may be used by Tenant for the transmission and reception of radio communication signals and for the construction, installation, operation, maintenance, repair, replacement and upgrade of related communication facilities (such as tower and base, antennas, microwave dishes, equipment shelters and/or cabinets, cables, fencing, back-up power generator and accessories) but only for the provision of what is commonly known as communication services (whether or not technically referred to as Personal Communications Service, or some other term) by the use of "personal wireless service facilities" (as such phrase is defined in §704 of the Federal Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996), partially codified at 47 U.S.C. § 332(c)(7)(C)(2), hereinafter "1996 Act Section 704") and not for any other purpose ("Permitted Use"). Tenant shall, at its expense, comply with all present and future federal, state, and local laws, ordinances, rules and regulations (including but not limited to laws and ordinances relating to health, safety, radio frequency emissions, and radiation) in connection with the use of (and operations, maintenance, construction and/or installations at) the Premises.

4. Rent. Tenant shall pay Landlord, as rent, Twenty-Five Thousand, Two Hundred Dollars ($25,200) for the first year of the Initial Term of this Lease, in equal monthly installments of Two Thousand One Hundred and No/100 Dollars ($2,100.00), and starting on the first annual anniversary of the Commencement Date, and each annual anniversary thereafter (including during "Renewal Terms", as defined below), increased and compounding by three percent (3%) per year (collectively "Rent"). The first installment of monthly Rent shall be paid to Landlord within thirty (30) days of the Commencement Date, and thereafter on or before the fifth day of each month. Any Rent not paid within ten (10) days of Tenant's receipt of written notice that such amount is past due shall be assessed a 5% late fee and shall bear interest at 2% per month or (if less) at the highest rate allowed by law, from due until paid in full. If this Lease is terminated at a time other than on the last day before the anniversary date, then except as provided below Rent shall be prorated as of the date of termination for any reason (other than an uncured default by Tenant) and all prepaid Rent shall be immediately refunded to Tenant.

5. Renewal. Tenant shall have the right to extend this Lease for four (4) additional, five-year terms (each a "Renewal Term"). Each Renewal Term shall be on the same terms and conditions as set forth herein, with Rent continuing to increase and compound by three percent (3%) per year. This Lease shall automatically renew for each successive Renewal Term unless Tenant notifies Landlord, in writing, of Tenant's intention not to renew this Lease, at least sixty (60) days prior to the expiration of the Initial Term or any Renewal Term. Any holding over by Tenant after the expiration of the Initial Term and any Renewal Term, with the consent of the Landlord, shall be construed to be a tenancy from month to month on the terms and on the conditions set forth herein, except that the Rent under Section 4 and/or Section 5 shall be at one

hundred twenty-five percent (125%) of the amount set forth therein, prorated and paid monthly in advance.

6. Interference, Testing and Reservation.

(a) Tenant shall not use the Premises in any way which interferes with the use of any portion of the Property by Landlord, or by lessees or licensees of Landlord with rights in any portion of the Property prior to the Commencement Date ("Pre-Existing Users"). Similarly, from and after the Commencement Date, Landlord shall not use, nor shall Landlord permit its lessees, licensees, grantees, employees, invitees or agents to use, any portion of the Property in any way which materially interferes with the operations of Tenant. Such interference shall be deemed a material breach by the interfering Party, who shall, upon written notice from the other, be responsible for terminating said interference. In the event any such interference does not cease promptly, the Parties acknowledge that continuing interference may cause irreparable injury and, therefore, the injured Party shall have the right, in addition to any other rights that it may have at law or in equity, to bring a court action to enjoin such interference or to terminate this Lease immediately upon written notice.

(b) Both Landlord and Tenant shall be allowed to conduct radio frequency emission and interference studies from time to time to determine whether Tenant's use of the Antenna Facilities (as defined below) will interfere with any Pre-Existing User's current or proposed use of the Premises or Property; provided the rights for such proposed use were granted prior to the Commencement Date. In the event that such a study indicates that Tenant's use will potentially interfere with such Pre-Existing User's current or proposed use of the Premises or Property, Tenant shall have ninety (90) days to remedy the interference to Landlord's reasonable satisfaction. If the problem is not so remedied in ninety (90) days, then Landlord may require Tenant, at Tenant's full expense, to relocate Tenant's Antenna Facilities so as to remove or minimize the interference, to the extent Landlord reasonably deems necessary. Landlord shall permit Tenant to place a temporary Antenna Facility (Cell on Wheels or similar installation) on Landlord's Property or at some other location acceptable to Tenant and Landlord, during relocation of the Premises.

(c) Landlord may, at its expense, perform tests as necessary to determine compliance of the Antenna Facilities and equipment located on the Premises with Federal radio frequency exposure limit rules, currently set forth at 47 C.F.R. Section 1.1310, or subsequent Federal rules as from time to time in effect.

(d) Tenant shall conduct an initial test for compliance with Federal radio frequency exposure limit rules prior to placing Tenant's equipment (or that of any sub-lessees of Tenant) on the Premises into commercial operation, and Tenant shall perform additional tests upon any significant change in the equipment on the Premises, such as subleases to third parties for them to install communications equipment on the Premises. All such testing shall be performed by a qualified radio engineer, and a copy of the test results shall be provided to all Parties. If such tests show noncompliance with applicable radio frequency exposure limit rules then in effect, then all communications equipment on the Premises shall be shut down (except for work necessary to bring it into compliance) until subsequent tests again show compliance with such rules.

(e) Landlord does not grant, and reserves for itself, its lessees, successors and assigns, (i) all mineral rights, seismic rights and rights to oil, gas, other hydrocarbons or minerals on, as to, under or about any portion of the Premises; (ii) rights to generate electricity from the wind or wind power on, as to or about any portion of the Premises; and (iii) the right to grant to others the rights hereby reserved.

7. Tenant Improvements; Utilities; Access.

(a) Tenant shall have the right, at its expense, to erect and maintain on the Premises improvements, personal property and facilities necessary to operate its communications system, including, without limitation, radio transmitting and receiving antennas, microwave dishes, tower and base, equipment shelters and/or cabinets and related cables and utility lines, fencing, a backup power generator and a location based system, including, without limitation, antenna(s), coaxial cable, base units and other associated equipment (collectively, the "Antenna Facilities" or "Tower" where reference is made to the communications tower specifically). Exhibit B shall contain a survey and legal description of the Premises (including Easements, as defined below); a site plan which includes all buildings, structures, the Tower, any guy wires, ice bridge, utility boxes, fences, any generators or provision for temporary generators, any fuel tanks or provision for temporary fuel tanks, parking and fences, excluding any antennas and all other Tower mounted equipment, equipment cabinets, backup battery cabinets and all other equipment to be located within the equipment shelter; elevation drawings for the Tower, ice bridge and equipment shelter; fence detail; and specifications for all exterior colors, paint, other finishes and landscaping. If Tenant or its agents or contractors have provided Landlord with photo simulations of what the Premises and/or Property will look like upon construction of the Antenna Facilities then such photo simulations are attached as Exhibit D.

(b) Prior to Tenant commencing the initial construction of its Antenna Facilities, Tenant shall submit plans and specifications for all improvements to Landlord for Landlord's written approval, not to be unreasonably withheld, delayed or conditioned (this standard means approval is deemed to have occurred if there is no response within 20 days of submittal). The initial installation of the Antenna Facilities, and any subsequent changes to the exterior equipment shelter or Tower (excluding the equipment and antennas therein and thereon) shall not commence until plans for such work have been approved by the Landlord and all necessary permits have been properly issued. Under no circumstances shall Landlord condition its approval of the site plans on additional monetary compensation, unless the alterations include use of space outside the Premises.

(c) Tenant shall have the right to modify, supplement, expand, alter, replace, enhance or upgrade the Antenna Facilities within the Premises at any time during the Term of this Lease, without Landlord's consent, to the extent that such changes do not materially change the size of the Tower or exterior appearance of the equipment shelter from that shown on Exhibit B and Exhibit D. Any such changes from Exhibit B and/or Exhibit D shall require Landlord's written approval, and such approval shall not be unreasonably withheld, delayed or conditioned.

(d) Tenant shall cause all construction to occur lien-free and in compliance with all applicable laws and ordinances. If any lien is filed against the Premises or Property as a result of acts or omissions of Tenant or Tenant's employees, agents or contractors, Tenant shall discharge the lien or bond the lien off in a manner reasonably satisfactory to Landlord within thirty (30)

days after Tenant receives written notice that the lien has been filed.

(e) Landlord acknowledges that except for Tenant's non-compliance with this Lease it shall not interfere with Tenant's construction within the Premises or Easements (as such term is defined below), including, without limitation, attempting to direct construction personnel as to the location of or method of installation of the Antenna Facilities and Easements.

(f) Tenant, at its expense, shall use any and all appropriate means of restricting access to the Antenna Facilities, including the construction of a permanent fence as set forth on Exhibit B and/or Exhibit D, and if necessary, a temporary fence during construction.

(g) Tenant shall, at Tenant's expense, keep and maintain the Antenna Facilities now or hereafter located on the Property in commercially reasonable condition and repair during the Term of this Lease, normal wear and tear and casualty excepted. Within sixty (60) days after the termination or expiration of this Lease, Tenant at its expense shall restore and return the Premises to Landlord in the same condition as they were prior to this Lease. Tenant shall remove footings, foundations and concrete to a depth of two feet (2') below grade. If Landlord requests that Tenant not remove all or a portion of the improvements, upon Tenant's reasonable written approval thereof, title to the affected improvements shall thereupon transfer to Landlord, and thereafter the improvements shall be the sole and entire property of Landlord, and Tenant shall be relieved of its duty to otherwise remove same. Any personal property, equipment or other improvements which are not removed within sixty (60) days after the termination of this Lease shall be deemed abandoned and become the property of Landlord, at Landlord's option. Notwithstanding any other provision of this Lease, Tenant's obligation to pay Rent hereunder shall continue until Tenant has complied with this subsection (g). Notwithstanding the foregoing, Tenant will not be responsible for the replacement of any trees, shrubs or other vegetation and shall have no obligation to remove any underground utilities.

(h) Tenant shall have the right to install utility lines serving the Premises, at Tenant's expense, and to improve the present utilities on the Property, all at Tenant's expense. Landlord agrees to use reasonable efforts in assisting Tenant to acquire necessary utility service, at no expense to Landlord. Tenant shall install separate meters for utilities on the Property used by Tenant. Tenant shall pay when due all charges for utilities serving the Premises during the Term of the Lease.

(i) As partial consideration for Rent paid under this Lease, Landlord hereby grants Tenant an easement in, under and across the Property for ingress, egress, utilities and access (including access for the purposes described in Section 1) to the Premises adequate to install and maintain utilities, which include, but are not limited to, the installation of power and telephone service cable, and to access and service the Premises and the Antenna Facilities at all times during the Initial Term of this Lease and any Renewal Term (collectively, the "Easements"). The Easements and their legal description are shown on Exhibit B attached hereto. The Easements are non-exclusive, and Landlord retains for itself, its lessees, successors and assigns, the right fully to use and enjoy said Easements and any roads or roadways located thereon, provided such use does not cause unreasonable interference with Tenant's Permitted Use thereof. The Easements shall have the same Term as this Lease.

(j) Tenant shall have 24-hours-a-day, 7-days-a-week access to the Premises ("Access") at all times during the Initial Term of this Lease and any Renewal Term. Landlord and its agents shall have the right to enter the Premises at reasonable times to examine and inspect the Tower, equipment and structures and the Premises; however, Landlord, its employees or agents shall not impede or deny Access to Tenant, its employees or agents and shall not touch any of the Tenant's equipment or climb the Tower without the presence and approval of an authorized representative of Tenant. In the event that Landlord must limit or prohibit access, or otherwise require the shutting down of Tenant's services, Landlord shall permit Tenant to place a temporary Antenna Facility (Cell on Wheels or similar installation) on Landlord's Property or at some other location acceptable to Tenant, at Landlord's costs.

(k) Tenant shall, prior to commencing any construction on the Premises, post a performance bond in form and with a surety company reasonably acceptable to Landlord, assuring that the improvements will be constructed without the attachment of any construction liens, which bond shall expire after the completion of the lien filing period. Tenant shall following completion of construction post a removal bond (or, at Tenant's option, a letter of credit) from a surety or bank reasonably acceptable to Landlord, and in an amount reasonably deemed necessary to assure that the funds will be available at the termination of the Lease for removal of the Antenna Facilities.

(l) Tenant may not place or allow the placement of any signs or graffiti on the Premises, except for those required for emergency notification and identification, or as required by law or rule. After thirty (30) days' notice to remove, Landlord at any time may enter the Premises and undertake any activities necessary to abate or remove graffiti located therein. Tenant shall reimburse Landlord all costs incurred by Landlord in connection with such abatement or removal within thirty (30) days of Landlord's presenting Tenant with a statement of such costs, including reasonable supporting documentation.

(m) Tenant shall, at its own expense, maintain the Premises and all improvements, equipment and other personal property on the Premises in good working order, condition and repair. Tenant shall keep the Premises free of debris and anything of a dangerous, noxious or offensive nature or which would create a hazard or source of undue vibration, heat, noise or interference.

(n) Notwithstanding any provision in this Lease to the contrary, Landlord shall have the right only one (1) time during the Term of this Lease, to relocate the Tower and Antenna Facilities, or any portion of them, at Landlord's expense, to another location suitable for Tenant's use. Tenant shall be given at least twelve (12) months notice of such relocation, shall fully cooperate in such relocation, and Landlord shall reimburse all Tenant's costs associated therewith. Landlord shall permit Tenant to place a temporary antenna facility (Cell on Wheels or similar installation) on Landlord's Property or at some other location acceptable to Tenant, at Landlord's costs until such relocation is complete. Tenant shall use commercially reasonable efforts to complete all relocation work within the twelve (12) month notice period. There shall be a fifty percent (50%) reduction in the then current Rent until the relocation of the Tower and Antenna Facilities is complete.

(o) Tenant shall be allowed to place a permanent generator on the Premises.

8. Termination. Except as otherwise provided herein, this Lease may be terminated, without any penalty or further liability as follows:

(a) upon thirty (30) days' written notice by Landlord to Tenant, if Tenant fails to cure a default for payment of amounts due under this Lease within that thirty (30) day period;

(b) immediately if within the first 180 days following the Commencement Date Tenant notifies Landlord of unacceptable results of any title report, environmental or soil tests prior to Tenant's installation of the Antenna Facilities on the Premises;

(c) upon thirty (30) days written notice by Tenant if despite diligent effort by Tenant, Tenant is unable to obtain, maintain, or otherwise forfeits, cancels or has been canceled, or allows to expire without renewing any license (including, without limitation, an FCC license), permit or any Governmental Approval necessary for the installation and/or operation of the Antenna Facilities;

(d) upon thirty (30) days' written notice by Tenant if destruction or damage to the Antenna Facilities substantially and adversely affects their effective use; or

(e) at the time title, or the right to control or to occupy the Premises transfers to a condemning authority, pursuant to a taking of all or a portion of the Premises sufficient to render the Premises unsuitable for Tenant's use. Landlord and Tenant shall each be entitled to pursue their own separate awards with respect to such taking. Sale of all or part of the Premises to a purchaser with the power of eminent domain in the face of the exercise of the power shall be treated as a taking by condemnation.

(f) upon ninety (90) days' written notice by Landlord to Tenant if this Lease and/or Tenant's operations thereunder impair, increase the cost of or prevent financing (such as the issuance of bonds or revenue bonds, including bonds whose income is generally exempt from Federal income tax under the U.S. Internal Revenue Code), by Landlord or any municipal utility of which the Property is a part.

(g) upon sixty (60) days' prior written notice by Tenant to Landlord at any time after the fifth anniversary of the Commencement Date, for any reason or no reason, so long as Tenant pays Landlord an early termination fee equal to twelve (12) months' Rent, at the then-current rate, and removes the Communication Facility in compliance with the terms of Section 7(g); provided that no such termination fee will be payable on account of the termination of this Agreement by Tenant under any other Section of this Lease.

9. Default and Right to Cure.

(a) Notwithstanding anything contained herein to the contrary and without waiving any other rights granted to it at law or in equity, each Party shall have the right, but not the obligation, to terminate this Lease on written notice pursuant to Section 12 hereof, to take effect immediately, if the other Party (i) fails to perform any material covenant for a period of thirty (30) days after receipt of written notice thereof to cure or (ii) commits a material breach of this Lease and fails to commence such cure immediately and diligently pursue such cure to its completion within sixty (60) days' written notice to the defaulting Party.

(b) In addition to any uncured default by Tenant under Subsection 9(a), Tenant shall also be in default if it (i) fails to make any payment of Rent or other sums to Landlord when due, and does not cure such default within thirty (30) days after receipt of written notice from Landlord of such failure; (ii) abandons or vacates the Premises; (iii) is adjudicated as bankrupt or makes any assignment for the benefit of creditors; or (iv) if Tenant becomes insolvent.

(c) In the event of an uncured default by Tenant, Landlord shall have the right, at its option, in addition to and not exclusive of any other remedy Landlord may have by operation of law or in equity, to either:

(1) declare this Lease terminated, in which event Tenant shall remove the Tower (in accordance with the terms of Section 7(g)) and pay Landlord a sum of money equal to the total of (i) the amount of the unpaid Rent accrued through the date of termination; (ii) a liquidated damages fee equal to six (6) months of the then current Rent; and (iii) any other amount reasonably necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform its obligations under this Lease, or

(2) cure the default for the account of and at the expense of the Tenant; provided that Landlord shall have no right to turn off any of the utilities servicing the Antenna Facilities, no right to make a hard connection to any of the Antenna Facilities and no right to climb the Tower without an authorized representative of Tenant present.

(d) In the event of an uncured default by Landlord, Tenant will have: (i) the right to cure Landlord's default and to deduct the costs of such cure from any monies due to Landlord from Tenant, and (ii) exercise any and all rights and remedies available to it under law and equity, including but not limited to the right to immediately terminate this Lease upon written notice thereof to Landlord.

(e) If suit shall be brought by Landlord for recovery of possession of the Premises, removal of Tenant's equipment, for the recovery of any Rent or any other amount due under the provisions of this Lease, or because of the breach of any other covenant, the Tenant shall pay to the Landlord all expenses incurred therefore, including reasonable attorney fees.

(f) If Landlord is compelled to pay or elects to pay any sum of money or to do any act which will require the payment of any sum of money or is compelled to incur any expense, including reasonable attorney fees in instituting, prosecuting or defending any action to enforce the Landlord's rights under this Lease, the sums so paid by Landlord, with all interest, costs and damages shall be deemed to be Rent otherwise due and shall be added to the Rent and shall be due from the Tenant to Landlord on the first day of the month following the incurring of the respective expenses.

10. Taxes.

Tenant shall pay any personal property tax and real property tax, business fee, business tax or any other tax or fee which is directly or indirectly attributable to Tenant's leasehold interest in the Premises and its (or its Collocator's, as defined below) improvements made on the Property. Landlord hereby grants to Tenant the right (with written notice to Landlord complying with Section 12 below) to challenge, whether in a court, administrative proceeding, or other

venue, on behalf of Landlord and/or Tenant, any personal property tax, real property tax or other fee or assessment that may affect Tenant. If Landlord receives notice of any personal property or real property tax assessment against the Landlord, which may affect Tenant and is directly or indirectly attributable to Tenant's installation, Landlord shall provide timely notice of the assessment to Tenant sufficient to allow Tenant to consent to or challenge such assessment; such notice must comply with Section 12 below. Nothing herein shall require Tenant to pay any inheritance, franchise, income, payroll, excise, privilege, rent, capital stock, stamp, documentary, estate or profit tax, or any tax of similar nature that is or may be imposed upon Landlord.

11. Insurance, Subrogation and Indemnification.

(a) Tenant shall provide commercial general liability insurance in an aggregate amount of Five Million and no/100 Dollars ($5,000,000) with a minimum combined single limit for each occurrence of One Million Dollars ($1,000,000); "All Risk" property insurance for its property replacements costs, which Tenant may self-insure; and statutory Worker's Compensation Insurance as required by law at a minimum of One Million and no/100 dollars ($1,000,000); and Automobile liability insurance covering all owned, hired, and non-owned vehicles in use by Tenant and its employees with personal injury protection insurance and property protection insurance to comply with the provisions of state law with minimum limits of Two Million Dollars ($2,000,000) as the combined single limit for each occurrence for bodily injury and property damage. Landlord shall be named as an additional insured on the commercial general liability and automobile liability policies and shall be provided with a Certificate of Insurance as requested by Landlord at the Effective Date of this Lease and subsequently. Tenant may satisfy this requirement by obtaining the appropriate endorsement to any master policy of liability insurance Tenant may maintain.

(b) Tenant shall provide at the start of and during the period of any construction, with an installation floater or equivalent property coverage covering cables, materials, machinery and supplies of any nature whatsoever which are to be used in or incidental to the installation of the Tower. Tenant may self-insure the installation floater coverage. Upon completion of the installation of the Tower, Tenant shall substitute for the foregoing insurance policies of fire, extended coverage and vandalism and malicious mischief insurance on the Premises. The amount of insurance at all times shall be representative of the insurable values installed or constructed.

(c) Tenant shall require that each and every one of its contractors and their subcontractors who perform work on the Premises to carry, in full force and effect, reasonable and prudent coverage and limits, including workers' compensation, commercial general liability, and automobile liability insurance coverages.

(d) The commercial general liability and automobile liability policies required under this Lease shall name Landlord and any subsidiary entities of Landlord, now existing or hereafter created, and their respective officers, boards, commissions, trustees, employees, and agents as additional insureds (herein referred to as the "Additional Insured"). Additional Insured coverage:

(i) shall be limited to bodily injury, property damage or personal and advertising injury caused, in whole or in part, by Tenant, its employees, agents or independent contractors;

(ii) shall not extend to claims for punitive or exemplary damages arising out of the acts or omissions of Landlord, its employees, agents or independent contractors or where such coverage is prohibited by law or to claims arising out of the gross negligence of Landlord, its employees, agents or independent contractors; and

(iii) shall not exceed Tenant's indemnification obligation under this Agreement, if any.

Each policy which adds Additional Insured hereunder, shall contain cross-liability wording, equivalent to:

> "In the event of a claim being made hereunder by one insured for which another insured is or may be liable, then this policy shall cover such insured against whom a claim is or may be made in the same manner as if separate policies had been issued to each insured hereunder."

(e) Certificates of insurance for each insurance policy required to be obtained by Tenant in compliance with this Section shall be filed and maintained with Landlord annually during the Term of the Lease. Tenant shall advise Landlord as soon as reasonably possible of any claim or litigation that may result in liability to Landlord or material reduction in available limits of coverage under the insurance policies described above. Tenant shall provide Landlord at least thirty (30) days prior written notice of any cancellation or non-renew any of the required insurance policies set forth herein that are not replaced.

(f) All insurance shall be effected under valid and enforceable policies, insured by insurers eligible to conduct business in the State of Oregon or (if allowed by the laws of the State of Oregon) surplus line carriers on the State of Oregon Insurance Commissioner's approved list of companies qualified to do business in the State of Oregon. All insurance carriers and surplus line carriers shall be rated A-, VII or better by A.M. Best Company.

(g) Notwithstanding the foregoing, Tenant shall have the right to self-insure the coverage required in this Section 11. Tenant shall comply with all legal obligations applicable to qualified and maintain a self-insurer designation. In the event Tenant elects to self-insure its obligation, to include the Additional Insured, the following provisions shall apply:

(i) Landlord shall promptly and no later than thirty (30) days after notice thereof provide Tenant with written notice of any claim, demand, lawsuit, or the like for which it seeks coverage pursuant to this Section and provide Tenant with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like;

(ii) Landlord shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of Tenant; and

(iii) Landlord shall fully cooperate with Tenant in the defense of the claim, demand, lawsuit, or the like.

(h) Once during each five (5) year Initial Term or Renewal Term of this Lease, Landlord may review the insurance coverages to be carried by Tenant. If Landlord determines that higher limits of coverage are reasonably necessary to protect the interests of Landlord or the Additional Insureds, Tenant shall be so notified and shall obtain the additional limits of

insurance, at its sole cost and expense, but each new limit shall not exceed the corresponding limit set forth in (a) above escalated for inflation (computed according to the Consumer Price Index for All Urban Consumers, All Items, All Areas, December 2005=100, with November 2006 as the base point).

(i) Landlord (if and to the extent allowed by law) and Tenant each agree to indemnify and hold harmless the other Party from and against any and all claims, damages, cost and expenses, including reasonable attorney fees, to the extent caused by or arising out of (i) the negligent or grossly negligent acts or omissions by the indemnifying Party or the employees, agents, contractors, licensees, tenants and/or subtenants of the indemnifying Party; (ii) a breach of any obligation of the indemnifying Party under this Lease; (iii) any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against the indemnified Party by reason of any act or omission of the indemnifying Party, its personnel, employees, agents, trustees, contractors or subcontractors, resulting in personal injury, bodily injury, sickness, disease or death to any person or damage to, loss of or destruction of tangible or intangible property, libel, slander, invasion of privacy and unauthorized use of any trademark, trade name, copyright, patent, service mark or any other right of any person, firm or corporation, which may arise out of or be in any way connected with the construction, installation, operation, maintenance, use or condition of the Premises, the Property or the indemnifying Party's failure to comply with any federal, state or local statute, ordinance or regulation. Notwithstanding the preceding, Landlord shall not be liable for injury or damage occurring to any person or property from arising out of Tenant's construction, maintenance, repair, use, operation, condition or dismantling of the Antenna Facilities, Tower or Premises, unless caused or contributed to by the gross negligence or willful misconduct of the Landlord, or its employees, agents or contractors, and Tenant hereby agrees to indemnify and hold harmless the Landlord against and from any claim asserted or liability imposed upon the Landlord for such injury or damage that Tenant is solely liable for.

(j) Tenant undertakes and assumes for its officers, agents, affiliates, contractors and subcontractors and employees (collectively "Tenant" for the purpose of this subsection), all risk of dangerous conditions, if any, on or about the Property.

(k) Notwithstanding the foregoing, indemnification under this Section 11 and Section 14 shall not extend to indirect, special, incidental or consequential damages, including, without limitation, loss of profits, income or business opportunities to the indemnified Party or anyone claiming through the indemnified Party. Notwithstanding anything to the contrary in this Lease, the Parties hereby confirm that the provisions of this Section 11(i) through (l) shall survive the expiration or termination of this Lease.

(l) In the event any action or proceeding shall be brought against a Party by reason of any matter for which the Party is indemnified under Sections 11 or 14, the indemnifying Party shall, upon notice from the indemnified Party, at the indemnifying Party's sole cost and expense, resist and defend the same with legal counsel mutually selected by the indemnifying Party and indemnified Party; provided however, that the indemnifying Party shall not admit liability in any such matter on behalf of the indemnified Party without the written consent of the indemnified Party and provided further that the indemnified Party shall not admit liability for, nor enter into any compromise or settlement of, any claim for which they are indemnified hereunder, without

the prior written consent of the indemnifying Party.

12. Notices.

(a) All notices, requests, demands and other communications shall be in writing and are effective three (3) business days after deposit in the U.S. mail, certified and postage paid, or upon receipt if personally delivered or sent by next-business-day delivery via a nationally recognized overnight courier to the addresses set forth below. Landlord or Tenant may from time to time designate any other address for this purpose by providing at least 30 days prior written notice to the other Party.

If to Tenant, to:

New Cingular Wireless PCS, LLC
Attn: Network Real Estate Administration
RE: Cell Site #: SM44;
Cell Site Name: Clear Lake (OR)
Fixed Asset #: 10132657
575 Morosgo Drive NE, 13F, West Tower
Atlanta, GA 30324

With a copy to:

New Cingular Wireless PCS, LLC
Attn: AT&T Legal Dept-Network Operations
Re: Cell Site #: SM44;
Cell Site Name: Clear Lake (OR)
Fixed Asset #: 10132657
208 S. Akard Street
Dallas TX 75202-4206

If to Landlord, to:

City of Keizer
Attn: City Recorder
930 Chemawa Road NE
PO Box 21000
Keizer, OR 97307

With a copy to:

City of Keizer
Attn: City Attorney
930 Chemawa Road NE
PO Box 21000
Keizer, OR 97307

(b) Notice for all operational and emergency contacts shall initially be as follows. Landlord and Tenant shall each notify the other as the following change from time to time:

If to Tenant, for general operational matters:

New Cingular Wireless PCS, LLC
Attn: AT&T Network Operations
Re: Cell Site #: SM44;
Cell Site Name: Clear Lake (OR)
Fixed Asset #: 10132657
208 S. Akard Street
Dallas, TX 75202-4206

Tenant Emergency Services contact:

Network operations center – 800-325-1898

If to Landlord, for general operational matters:

City of Keizer
Attn: Public Works Director
930 Chemawa Road NE
PO Box 21000
Keizer, OR 97307

Landlord Emergency Services contact:

Public Works After-Hours Emergency:
503-393-1608

13. Quiet Enjoyment, Title and Authority. Landlord covenants and warrants to Tenant that (i) Landlord has full right, power and authority to execute this Lease; (ii) it has title to the Property free and clear of any liens or mortgages, except those disclosed to Tenant, of record, or which will not interfere with Tenant's rights to or use of the Premises; and (iii) execution and performance of this Lease will not violate any laws, ordinances, covenants, or the provisions of any mortgage, lease, or other agreement binding on Landlord. Landlord covenants that at all times during the Term of this Lease, Tenant's quiet enjoyment of the Premises or any part thereof shall not be disturbed as long as Tenant is not in default beyond any applicable grace or cure period.

14. Environmental Laws.

(a) Landlord represents that to Landlord's actual knowledge, (i) the Property is free of hazardous substances, including asbestos-containing materials and lead paint, and (ii) the Property has never been subject to any contamination or hazardous conditions resulting in any environmental investigation, inquiry or remediation. Landlord agree that it will be responsible for compliance with any and all applicable governmental laws, rules, statutes, regulations, codes, ordinances, or principles of common law regulating or imposing standards of liability or standards of conduct with regard to protection of the environment or worker health and safety, as may now or at any time hereafter be in effect, to the extent of Landlord's activity conducted in or on the Property.

(b) Tenant, its officers, agents, affiliates, contractors and subcontractors and employees, shall not introduce or use any Hazardous Substance on the Property, Premises or Easements in violation of any applicable law.

(c) "Hazardous substance" means any substance or material defined or designated as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, or other similar term pursuant to any federal, state or local environmental law, regulation or rule presently in effect or promulgated in the future, as such laws, regulations or rules may be amended from time to time; and it shall be interpreted to include, but not be limited to, any substance which after release into the environment will or may reasonably be anticipated to cause sickness, death or disease.

(d) Landlord and Tenant agree to defend, indemnify and hold harmless the other from and against any and all administrative and judicial actions and rulings, claims, causes of action, demands and liability including, but not limited to, damages, costs, expenses, assessments, penalties, fines, losses, judgments and reasonable attorney fees that may be suffered or incurred due to the existence or discovery of any Hazardous Substances on the Property or the migration of any Hazardous Substance to other properties or the release of any Hazardous Substance into the environment, that relate to or arise from such Indemnifying Party's activities, or those of its officers, agents, affiliates, contractors and subcontractors and employees. The indemnification in

this section specifically includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any governmental authority. This Section 14 shall survive the termination or expiration of this Lease.

15. Assignment and Subleasing.

(a) Tenant shall have the right to assign or otherwise transfer this Lease to any person or business entity (i) which holds a currently valid FCC license to provide to the public from the Premises what are commonly known as communication services, (ii) which is a parent, subsidiary or Affiliate of Tenant, is merged or consolidated with Tenant or purchases more than fifty percent (50%) of either an ownership interest in Tenant or the assets of Tenant in the "Metropolitan Trading Area" or "Basic Trading Area" (as those terms are defined by the FCC) in which the Property is located, or (iii) whose primary business is managing and maintaining wireless communications towers. Notwithstanding the forgoing, such assignee must have a credit rating from one of the three largest national credit rating agencies greater than or equal to than that of Tenant at the time of the assignment, or Landlord consent prior to such assignment will be required. Upon notice to Landlord of such assignment, Tenant shall be relieved of all liabilities and obligations hereunder and Landlord shall look solely to the assignee for performance under this Lease and all obligations hereunder; provided assignee accepts this Lease in full, without amendments or changes thereto, steps into the shoes of Tenant, excluding being responsible and liable for events or defaults which occurred prior to the assignment, unless such events and default continue after the effective date of such assignment, and cures any outstanding defaults.

(b) Tenant shall have the right to sublet or license space within the Premises to a third party (“Collocator”) without Landlord’s consent, provided Tenant shall pay Landlord a flat fee of Eight Hundred and No/100 Dollars ($800.00) per month (“Collocation Fee”) for each such Collocator, commencing on the date such Collocator installs any equipment within the Premises and terminating on the date all such Collocator’s equipment is removed from the Premises, any partial month to be prorated. From and after the date Tenant begins paying any Collocation Fee (“Collocation Commencement Date”), such Collocation Fee shall be subject to an annual three percent (3%) increase on each anniversary of the Collocation Commencement Date.

(c) Additionally, Tenant may mortgage or grant a security interest in this Lease and the Antenna Facilities, and may assign this Lease and the Antenna Facilities to any bona fide mortgagees or holders of security interests, including their successors or assigns (collectively "Mortgagees"), provided such Mortgagees agree to be bound by the terms and provisions of this Lease. In such event, Landlord shall execute such consent to leasehold financing as may reasonably be required by Mortgagees. Landlord agrees to notify Tenant and Tenant’s Mortgagees simultaneously of any default by Tenant and to give Mortgagees the same right to cure any default as Tenant or to remove any property of Tenant or Mortgagees located on the Premises, except that the cure period for any Mortgagees shall not be less than thirty (30) days after receipt of the default notice, as provided in Section 9 of this Lease. All such notices to Mortgagees shall be sent to Mortgagees at the address specified by Tenant. Failure by Landlord to give Mortgagees such notice shall not diminish Landlord's rights against Tenant, but shall preserve all rights of Mortgagees to cure any default and to remove any property of Tenant or Mortgagees located on the Premises as provided in Section 17 of this Lease.

(d) Any person or entity to which this Lease is assigned pursuant to the provisions of the Bankruptcy Code, 11 USC Sections 101, et seq., shall be deemed without further act to have assumed all of the obligations of Tenant arising under this Lease both before and after the date of such assignment. Any such assignee shall upon demand execute and deliver to Landlord an instrument confirming such assumption. Any monies or other considerations payable or otherwise to be delivered in connection with such assignment shall be paid to Landlord, shall be the exclusive property of Landlord, and shall not constitute property of the Tenant or of the estate of Tenant within the meaning of the Bankruptcy Code. Any monies or other considerations constituting Landlord's property under the preceding sentence not paid or delivered to Landlord shall be held in trust for the benefit of Landlord and be promptly paid to Landlord.

(e) Landlord may assign or transfer this lease, and, upon written notice to Tenant of such assignment, shall be relieved of all liabilities and obligations hereunder provided that such assignee or transferee agrees in writing to fulfill the duties and obligations of the Landlord in this Lease, including the obligation to respect Tenant's rights to non-disturbance and quiet enjoyment of the Premises during the remainder of the Term hereof.

(f) **"**Affiliate**"** means with respect to a party to this Lease, any person or entity that (directly or indirectly) controls, is controlled by, or under common control with, that party. "Control" of a person or entity means the power (directly or indirectly) to direct the management or policies of that person or entity, whether through the ownership of voting securities, by contract, by agency or otherwise. All references to "Tenant" shall be deemed to include any Affiliate of New Cingular Wireless PCS, LLC, using the Premises for any Permitted Use or otherwise exercising the rights of Tenant pursuant to this Lease.

(g) Landlord shall have the option to use space on the Tower for its emergency and/or police antenna(s), provided that the Parties first enter into a mutually acceptable sublease or license agreement governing the terms of such use and provided further that the Tower is structurally capable of supporting Landlord's proposed facilities at the time Landlord makes such request for use. Landlord shall not be charged rent for such use, but shall be solely responsible for obtain and paying for all utilities necessary to operate its antenna(s) directly from the servicing utility provider. If Landlord requires use of Tenant's utilities at any time, Landlord will be responsible to reimburse Tenant for its applicable utility usage.

16. Successors and Assigns. This Lease and the Easements granted herein shall run with the Property, and shall be binding upon and inure to the benefit of the Parties, their respective successors, personal representatives and assigns.

17. Waiver of Landlord's Lien. Landlord hereby waives any and all lien rights it may have, statutory or otherwise, concerning the Antenna Facilities or any portion thereof, which shall be deemed personal property for the purposes of this Lease, whether or not the same is deemed real or personal property under applicable laws, and Landlord gives Tenant and Mortgagees the right to remove all or any portion of the same from time to time, whether before or after a default under this Lease, in Tenant's and/or Mortgagee's sole discretion and without Landlord's consent.

18. Dispute Resolution.

(a) Except as otherwise provided in this Lease, any controversy between the Parties arising out of this Lease or breach thereof, is subject to the mediation process described below.

(b) A meeting will be held promptly between the Parties to attempt in good faith to negotiate a resolution of the dispute. Individuals with decision making authority (or, in the case of a Landlord which is a public body, the authority to recommend decisions to Landlord's Board or legislative body) will attend the meeting regarding the dispute. If within twenty (20) days after such meeting the Parties have not succeeded in resolving the dispute (subject to approval by Landlord's Board or legislative body), they will, within twenty (20) days thereafter submit the dispute to a mutually acceptable third Party mediator who is acquainted with dispute resolution methods. Landlord and Tenant will participate in good faith in the mediation and in the mediation process. The mediation shall be nonbinding. Neither Party is entitled to seek or recover punitive damages in considering or fixing any award under these proceedings.

(c) The costs of mediation, including any mediator's fees, and costs for the use of the facilities during the meetings, shall be born equally by the Parties. Each Party's costs and expenses will be born by the Party incurring them.

19. Treatment in Bankruptcy. The Parties to this Lease hereby expressly agree and acknowledge that it is the intention of both Parties that in the event that during the Term of this Lease Tenant shall become a debtor in any voluntary or involuntary bankruptcy proceeding (a "Proceeding") under the United States Bankruptcy Code, 11 U.S.C. § 101, *et seq.* (the "Code"), this Lease is and shall be treated as an "unexpired lease of nonresidential real property" for purposes of Section 365 of the Code, 11 U.S.C. § 365, and, accordingly, shall be subject to the provisions of subsections (d)(3) and (d)(4) of said Section 365.

20. Force Majeure. If a Party is delayed or hindered in, or prevented from the performance required under this Lease (except for payment of monetary obligations) by reason of earthquakes, landslides, strikes, lockouts, labor troubles, failure of power, riots, insurrections, war, acts of God or other reasons of like nature, not the fault of the Party delayed in performing work or doing acts, and where reasonable measures by such Party could not have avoided or mitigated the effects of such acts, then such Party is excused from such performance for the period of delay. The period for the performance of any such act shall then be extended for the period of such delay. In the event that Tenant invokes this provision because damage to the Premises has hindered, delayed, or prevented Tenant from using the Premises, Tenant may immediately erect any temporary facilities on the Premises necessary to resume service, provided that such temporary facilities do not unreasonably interfere with Landlord's use of the Property or ability to repair or restore the Premises. If, in Landlord's sole and absolute discretion, it elects to repair or restore the Premises, upon completion of such repair or restoration, if Tenant hasn't exercised its option to terminate this Lease pursuant to Section 8(d) herein above, Tenant is obligated to repair or rebuild the Tower and Antenna Facilities in accordance with the terms of this document.

21. Non-Waiver. Failure of either Party to insist on strict performance of any of the conditions, covenants, terms or provisions of this Lease or to exercise any of its rights hereunder shall not waive such rights, but both Parties shall have the rights to enforce such rights at any time and take such action as might be lawful or authorized hereunder, either in law or equity.

The receipt of any sum paid by Tenant to Landlord after a breach of this Lease shall not be deemed a waiver of such breach unless expressly set forth in writing.

22. Miscellaneous.

(a) The effective date of this Lease is the date of execution by the last Party to sign (the "Effective Date").

(b) Each Party agrees to furnish to the other, within twenty (20) days after request, such truthful estoppel information as the other may reasonably request.

(c) This Lease constitutes the entire agreement and understanding of the Parties, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendments to this Lease must be in writing and executed by both Parties.

(d) Each Party agrees to cooperate with the other in executing any documents (including a Memorandum of Lease in substantially the form attached hereto as Exhibit C) necessary to protect its rights or use of the Premises. The Memorandum of Lease may be recorded in place of this Lease by either Party. At its sole expense, Tenant may obtain title insurance on its interest in the Premises. Landlord agrees to execute such documents as the title company may reasonably require in connection therewith.

(e) This Lease shall be construed in accordance with the laws of the State of Oregon.

(f) If any term of this Lease is found to be void or invalid, such finding shall not affect the remaining terms of this Lease, which shall continue in full force and effect. The Parties agree that if any provisions are deemed not enforceable, they shall be deemed modified to the extent necessary to make them enforceable. Any questions of particular interpretation shall not be interpreted against the draftsman, but rather in accordance with the fair meaning thereof. No provision of this Lease will be deemed waived by either Party unless expressly waived in writing signed by the waiving Party. No waiver shall be implied by delay or any other act or omission of either Party. No waiver by either Party of any provision of this Lease shall be deemed a waiver of such provision with respect to any subsequent matter relating to such provision.

(g) The persons who have executed this Lease represent and warrant that they are duly authorized to execute this Lease in their individual or representative capacity as indicated.

(h) This Lease shall be executed in duplicate originals.

(i) All Exhibits referred to herein or attached hereto are incorporated herein for all purposes.

(j) If Landlord is represented by any broker or any other leasing agent, Landlord is responsible for all commission fee or other payment to such agent, and agrees to indemnify and hold Tenant harmless from all claims by such broker or anyone claiming through such broker. If Tenant is represented by any broker or any other leasing agent, Tenant is responsible for all

commission fee or other payment to such agent, and agrees to indemnify and hold Landlord harmless from all claims by such broker or anyone claiming through such broker.

(k) Landlord hereby expressly disclaims all Warranties of Merchantability and Fitness for a Particular Purpose associated with the Premises. Tenant accepts the Premises "As Is."

23. Landlord Held Harmless as Municipal Government. Tenant agrees and understands that Landlord's responsibility and obligations under this Lease/Option do not and cannot bind Landlord as to its duties as a municipal government, which are necessarily separate and apart from its obligations hereunder. To that end, with regard to any actions that may affect Tenant's operation on the Property in any manner whatsoever, Tenant agrees that enforcement in good faith of any lawful ordinances or regulations or any other acts Landlord may take with regard to the adoption of appropriate and necessary laws and ordinances, or any other acts Landlord may take in its role as a municipal government shall not be restricted by the fact that Landlord entered into this Lease/Option. However, nothing in this Section shall be interpreted to permit Landlord to act or fail to act in any way inconsistent with any common law, constitutional or statutory rights of Tenant or the established duties and obligations of Landlord as a municipal body.

*****SIGNATURES ON FOLLOWING PAGE*****

LANDLORD:

City of Keizer, an Oregon Municipal Corporation

By: _____

Printed Name: _____

Its: _____

Date: _____

TENANT:

New Cingular Wireless PCS, LLC,
a Delaware limited liability company
BY: AT & T Mobility Corporation
Its: Manager

By: _____

Printed Name: _____

Its: _____

Date: _____

*****ACKNOWLEDGEMENTS ON FOLLOWING PAGE*****

TENANT ACKNOWLEDGMENT

STATE OF _____)
) ss:
COUNTY OF _____)

On the _____ day of _____, 20__, before me personally appeared _____, and acknowledged under oath that he/she is the _____ of AT&T Mobility Corporation, the Manager of New Cingular Wireless PCS, LLC, the Tenant named in the attached instrument, and as such was authorized to execute this instrument on behalf of the Tenant.

_____
Notary Public: _____
My Commission Expires: _____

LANDLORD ACKNOWLEDGMENT

STATE OF _____)
) ss:
COUNTY OF _____)

On the _____ day of _____, 20__ before me, personally appeared _____, who acknowledged under oath, that he/she is the person/officer named in the within instrument, and that he/she executed the same in his/her stated capacity as the voluntary act and deed of Landlord for the purposes therein contained.

_____
Notary Public: _____
My Commission Expires: _____

EXHIBIT A

Legal Description

Legal Description of Parent Parcel Owned by Landlord

The Property is legally described as follows:

Beginning at a point which is 137.28 feet West, 588.06 feet North, and 270.08 feet East from the 1/4 corner between Sections 23 and 26 in Township 6 South, Range 3 West of the Willamette Meridian in Marion County, Oregon; thence North 171.47 feet to the South edge of a 20 foot road; thence East 133.69 feet; thence South 171.47 feet; thence West 133.69 feet to the point of beginning.

EXHIBIT B

The legal description of the Premises being Leased by Tenant and the location of the Premises within the Property (together with access and utilities) are more particularly described and depicted on the Site Plan as follows:

(ATTACH SITE PLAN)

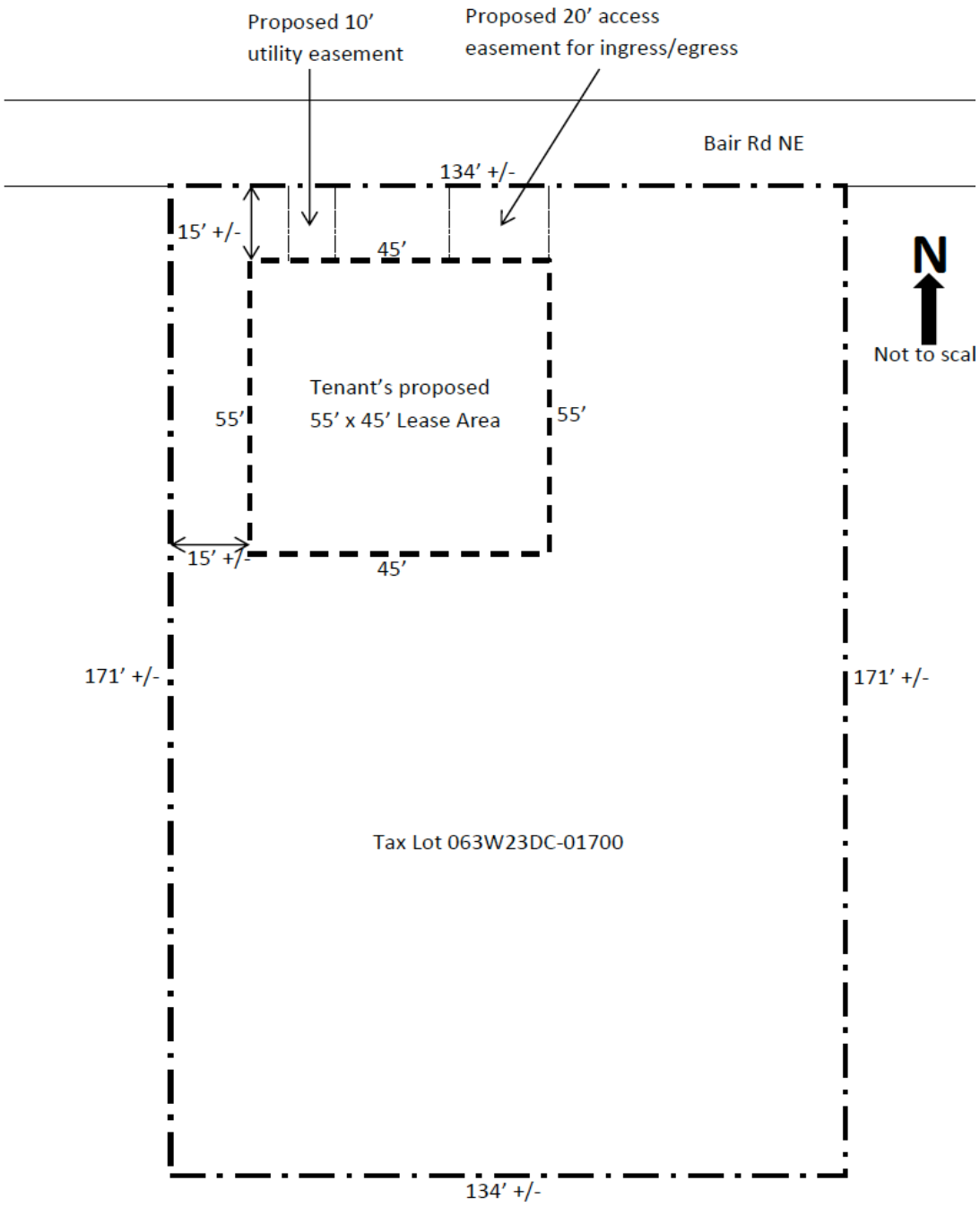


EXHIBIT C

Memorandum
of
Lease

[ATTACH MEMORANDUM OF LEASE]

Return to:
Richard J. Busch
Busch Law Firm PLLC
25025 SE Klahanie Blvd. F203
Issaquah, WA 98029

MEMORANDUM
OF
LEASE

Grantor Name:	City of Keizer, an Oregon Municipal Corporation		
Grantee Name:	New Cingular Wireless PCS, LLC		
Legal Description:	PTN of Sec.23 & 26, T6S, R3W, W.M. Official legal description attached as Exhibit 1		
Assessor's Tax Parcel ID #:	R19765		
Recording Numbers of Prior Recorded Documents:	Does not apply		
Tax Mailing Address:	Does not apply	True consideration paid:	Does not apply
Cell Site #:	SM44	Fixed Asset #:	10132657
Cell Site Name:	Clear Lake		
State:	Oregon	County:	Marion

This Memorandum of Lease is entered into on this ____ day of _____, 20___, by and between City of Keizer, an Oregon Municipal Corporation, having a mailing address of 930 Chemawa Road NE, Keizer, Oregon 97303 (hereinafter referred to as "**Landlord**") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 575 Morosgo Drive NE, 13F, West Tower, Atlanta, GA 30324 (hereinafter referred to as "**Tenant**").

1. Landlord and Tenant entered into a certain Cellular Tower Lease / Option ("**Agreement**") on the _____ day of _____, 20___, for the purpose of installing, operating and maintaining a communications facility and other improvements. All of the foregoing is set forth in the Agreement.

2. The initial lease term will be five (5) years commencing on the effective date of written notification by Tenant to Landlord of Tenant's exercise of its option, with four (4) successive five (5) year options to renew.

3. The portion of the land being leased to Tenant and associated easements are described in **Exhibit 1** annexed hereto.

4. This Memorandum of Lease is not intended to amend or modify, and shall not be deemed or construed as amending or modifying, any of the terms, conditions or provisions of the Agreement, all of which are hereby ratified and affirmed. In the event of a conflict between the provisions of this Memorandum of Lease and the provisions of the Agreement, the provisions of the Agreement shall control. The Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, successors, and assigns, subject to the provisions of the Agreement.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Lease as of the day and year first above written.

"**LANDLORD**"

City of Keizer, an Oregon Municipal Corporation

By: _____
Print Name: _____
Its: _____
Date: _____

"**TENANT**"

New Cingular Wireless PCS, LLC,
a Delaware limited liability company
By: AT&T Mobility Corporation
Its: Manager

By: _____
Print Name: _____
Its: _____
Date: _____

[**ACKNOWLEDGMENTS APPEAR ON THE NEXT PAGE**]

TENANT ACKNOWLEDGMENT

STATE OF _____)
) ss:
COUNTY OF _____)

On the _____ day of _____, 20__, before me personally appeared _____, and acknowledged under oath that he/she is the _____ of AT&T Mobility Corporation, the Manager of New Cingular Wireless PCS, LLC, the Tenant named in the attached instrument, and as such was authorized to execute this instrument on behalf of the Tenant.

_____
Notary Public: _____
My Commission Expires: _____

LANDLORD ACKNOWLEDGMENT

STATE OF _____)
) ss:
COUNTY OF _____)

On the _____ day of _____, 20__ before me, personally appeared _____, who acknowledged under oath, that he/she is the person/officer named in the within instrument, and that he/she executed the same in his/her stated capacity as the voluntary act and deed of Landlord for the purposes therein contained.

_____
Notary Public: _____
My Commission Expires: _____

EXHIBIT 1

DESCRIPTION OF PREMISES

to the Memorandum of Lease dated _____, 20__, by and between City of Keizer, an Oregon Municipal Corporation, as Landlord, and New Cingular Wireless PCS, LLC, a Delaware limited liability company, as Tenant.

The Property is legally described as follows:

Beginning at a point which is 137.28 feet West, 588.06 feet North, and 270.08 feet East from the 1/4 corner between Sections 23 and 26 in Township 6 South, Range 3 West of the Willamette Meridian in Marion County, Oregon; thence North 171.47 feet to the South edge of a 20 foot road; thence East 133.69 feet; thence South 171.47 feet; thence West 133.69 feet to the point of beginning.

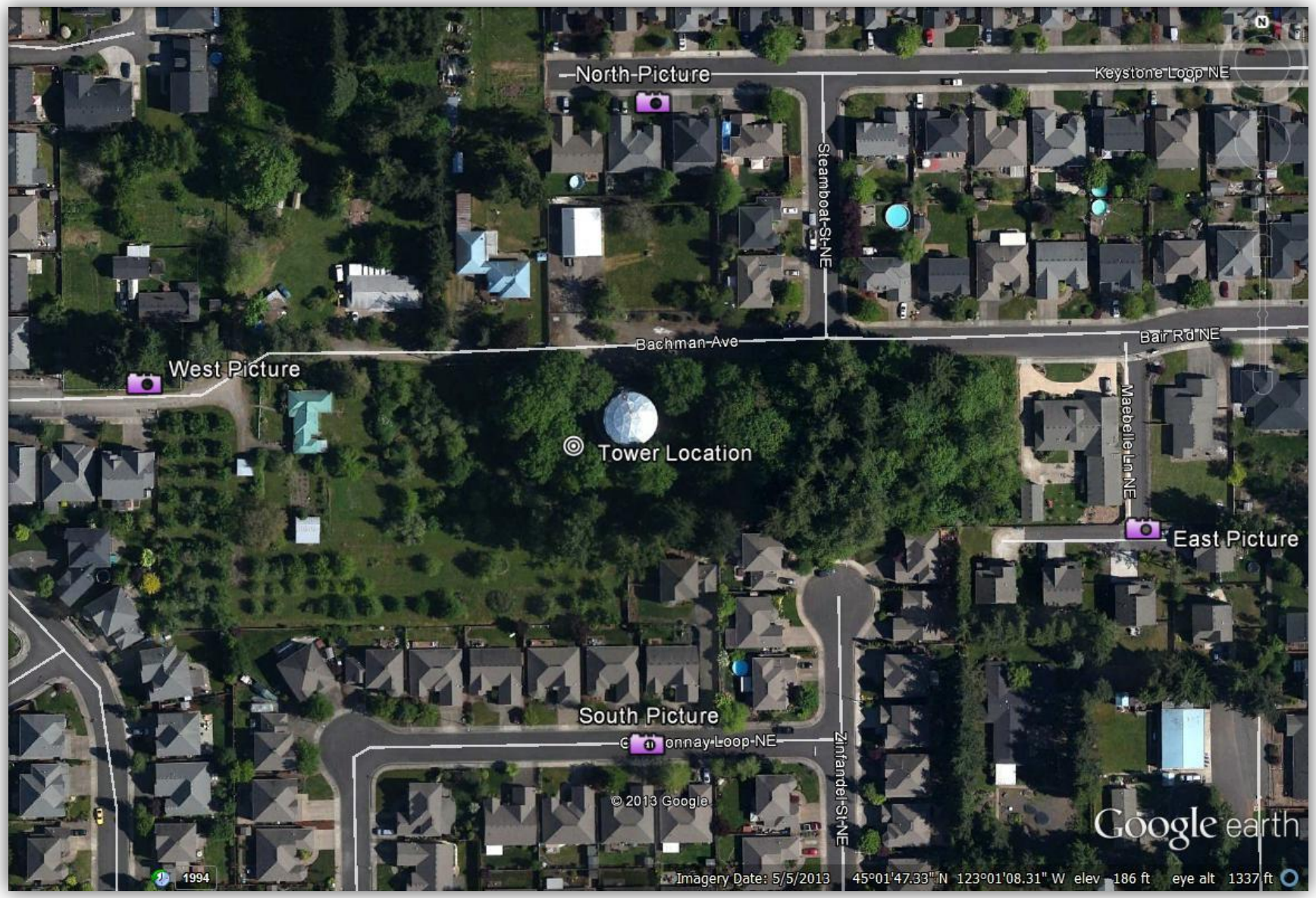
The Premises are described and/or depicted as follows:

The Premises consists of a 45’ x 55’ area near the Northwest portion of the Property; the 20’ wide Access Easement begins at Bair Road NE and runs South approximately 15’ to the Northeast portion of the Premises: the 10’ wide Utility Easement begins at Bair Road NE and runs South approximately 15’ to the Northwest portion of the Premises.

EXHIBIT D

Photo Simulations of the Appearance of the Premises and Property Upon Completion of Construction

[ATTACH PHOTO SIMULATIONS]



CORNERSTONE ENGINEERING, INC.

SM44 CLEAR LAKE
PICTURE LOCATION MAP

at&t

CORNERSTONE ENGINEERING, INC.

SM44 CLEAR LAKE
EXISTING NORTH ELEVATION

at&t

CORNERSTONE ENGINEERING, INC.

SM44 CLEAR LAKE
PROPOSED NORTH ELEVATION

at&t

CORNERSTONE ENGINEERING, INC.

SM44 CLEAR LAKE

EXISTING SOUTH ELEVATION

at&t

CORNERSTONE ENGINEERING, INC.

SM44 CLEAR LAKE

PROPOSED SOUTH ELEVATION

at&t

CORNERSTONE ENGINEERING, INC.

SM44 CLEAR LAKE

EXISTING AND PROPOSED EAST ELEVATION

at&t

CORNERSTONE ENGINEERING, INC.

SM44 CLEAR LAKE

EXISTING WEST ELEVATION

at&t

CORNERSTONE ENGINEERING, INC.

SM44 CLEAR LAKE

PROPOSED WEST ELEVATION

at&t

CITY COUNCIL MEETING: July 21, 2014

AGENDA ITEM NUMBER:_____

TO: **MAYOR CHRISTOPHER AND COUNCIL MEMBERS**

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

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

SUBJECT: **U.S. BANK AGREEMENT**

The City has an opportunity to receive rebates by using the commercial card solution program offered by U.S. Bank through the Oregon Cooperative Procurement Program (ORCPP). In addition to receiving rebates, this program allows easier flexibility for the Finance Director to administer commercial card usage. By using the ORCPP, the City eliminates the expense of the bidding, evaluation, and negotiating process. Attached for your convenience are the agreements that the Political Subdivision Addendum references. This agreement is continuous and has a 90 day prior written notice of termination. Staff believes that it is appropriate to enter into this agreement.

RECOMMENDATION:

Adopt the attached Resolution authorizing the City Manager to enter into the Political Subdivision Addendum with U.S. Bank.

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

ESJ/tmh

PARTICIPATING ADDENDUM

to the

Commercial Card Solution

Washington State Contract #00612

For Purchasing, Travel, One Cards, Declining Balance, and Fleet Cards

Issued on behalf of the Western States Contracting Alliance (WSCA-NASPO)

Between

U.S. Bank National Association

and

State of Oregon, acting by and through the Department of Administrative Services, Enterprise Goods and Services, Procurement Services

("Participating Entity" or "DAS PS")

For questions on execution of a Participating Addendum, please contact:

WSCA-NASPO
Cooperative Development Coordinator
Tim Hay
Telephone: 503-428-5705
Email: thay@wsca-naspo.org<mailto:thay@wsca-naspo.org

Contents

1. SCOPE & SERVICES 1
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3. PRIMARY CONTACTS 2
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8. INCENTIVE SHARE 4
9. CONTRACTOR'S MASTER AGREEMENT 4
10. TERMS AND CONDITIONS 4
11. CONTRACT SIGNATURES 4

APPENDIX

1. SCOPE & SERVICES

1.1 Scope

This Participating Addendum ("Addendum") between the Participating Entity identified herein and executing this Participating Addendum and U.S. Bank National Association ("U.S. Bank") relates to the WSCA-NASPO Contract led by the State of Washington.

1.2 Term of Contract and Participating Addendum

The initial Contract term is five (5) years, from January 1, 2014 through December 31, 2018, with the option to extend for up to two (2) years at the mutual agreement of the Lead State and U.S. Bank. The entire term shall not exceed seven (7) years.

The effective date of this Participating Addendum shall be upon signing by or on the behalf of the latter of the two parties, U.S. Bank and the Participating Entity ("Effective Date of the Participating Addendum").

The term of the Participating Addendum shall run from the Effective Date of the Participating Addendum through the end of the term of the Contract unless the Participating Addendum is terminated earlier. The term of the Participating Addendum shall not exceed the term of the Contract.

1.3 Commencement of the New Revenue Share Opportunity for each Participating Entity

The first revenue share payment pursuant to this Participating Addendum, if any is earned, shall be made within sixty (60) days after the end of the first Agreement Quarter. The first Agreement Quarter is defined as the first full Calendar Quarter which consists of the three (3) month calendar period beginning in January, April, July or October following the Effective Date of the Participating Addendum.

1.4 Final Revenue Share Opportunity Pursuant to the First WSCA contract for Renewing Entities

U.S. Bank shall pay to each entity signing a Participating Addendum that is also currently participating under the Master Services Agreement number 5-06-99-01 dated October 19, 2006 between the State of California and U.S. Bank ("the First WSCA Contract") a final revenue share pursuant to the terms of the First WSCA Contract, if any is earned, calculated from the beginning of the final Agreement Quarter of that entity's participation in the First WSCA Contract to the last day of that Agreement Quarter (the "Final Revenue Share Payment"). The Final Revenue Share Payment, if any, shall be made within sixty (60) days after the end of the final Agreement Quarter under the First WSCA Contract.

1.5 Services

This Addendum encompasses Category 1 and 2 of the Contract 00612. Participating Entities may choose to use Category 1, Category 2, or both categories of the Contract.

Category 1 - Purchasing, Travel, One Cards, Declining Balance/Managed Spend Cards.
Category 2 - Fleet Cards.

Participating Entities shall indicate which products they are requesting to use on the Product Offering list set out herein at Section 4.

2. PARTICIPATION

2.1 Participation Sign-up

First Step: Entities seeking to join the card program must be approved by the respective State Chief Procurement Official.

Second Step: The Participating Entity shall complete this required Participating Addendum for requested products in Category 1 and/ or Category 2. The completed form shall be sent to the primary contact for the State of Washington for routing and processing.

Third Step: The Participating Entity must be credit approved by the Contractor.

U.S. Bank requires Political Subdivisions to complete a Political Subdivision Addendum form in order to participate (*Appendix A, Document 1*). The form must be filled out by an approved representative from the Political Subdivision. The form shall be submitted to the primary contact at U.S. Bank. Category 1 and Category 2 have separate primary contacts as laid out in section 3 of this Addendum.

2.2 Late Penalty Payments

Late Penalty Payments should follow the guidelines established by each individual State and will be as specified in their prompt payment act and their Rebate associated annual penalty interest rate.

3. PRIMARY CONTACTS

The primary contact for this contract will be the authorized signatory on the Addendum for each state.

Contractor -- Category 1 –P-Card, One Cards, and Declining Balance/Managed Spend Card

Name:	Robert Hebert
Contractor:	U.S. Bank
Address:	901 Marquette Ave., Minneapolis, MN 55402
Telephone:	623-455-3621
Email:	Robert.hebert@usbank.com
Web Address:	www.usbank.com

Contractor -- Category 2 –Fleet Card

Name:	John Reber
Contractor:	U.S. Bank
Address:	901 Marquette Ave., Minneapolis, MN 55402
Telephone:	832-486-1225
Email:	John.reber@usbank.com
Web Address:	www.usbank.com

Participating Entity

Name:	Tim Jenks
State:	State of Oregon
Participating Entity:	State of Oregon, acting by the Department of Administrative Services, Enterprise Goods and Services, Procurement Services
Address:	1225 Ferry Street SE, U140, Salem, Oregon 97301-4285
Telephone:	503-378-4778
Email:	Tim.Jenks@state.or.us

4. **PRODUCT OFFERING**
Participating Entity shall indicate below which products they are requesting to use
Product Descriptions can be found in *Appendix A, Document 4*

A. ☒ Purchase Card with Corporate Liability *(Travel Accident Insurance not included with this product)*
- ☒ Central Billing Accounts (Central Purchase Account/Event Planner/Central Relocation)
- ☒ Managed Spend Declining Balance functionality)
- ☒ Emergency Response Cards

B. ☒ One Card with Corporate Liability *(Travel Accident Insurance included with this product)*
- ☒ Central Billing Accounts (Central Travel Account/Event Planner/Central Relocation)
- ☒ Managed Spend Declining Balance functionality)
- ☒ Emergency Response Cards
- ☒ ATM Access / Cash Advances

C. ☒ Fleet Card with Corporate Liability

D. ☒ Corporate Card *(Travel Accident Insurance included)*
- ☒ Contingent Liability
- ☒ Joint and Several Liability

CREDIT CARD PROVIDER NETWORK

The following credit card providers have been selected by U.S. Bank and are authorized to perform services under this contract:

Category 1 - Visa
Category 2 - Voyager

INCORPORATION OF DOCUMENTS

Each of the documents listed below is, by this reference, incorporated into this Addendum as though fully set forth herein and can be found in on the last page of this document.

1. **Appendix 1:** State Specific Terms and Conditions
2. **Appendix 2:** U.S. Bank Commercial Card Master Agreement
3. **Appendix 3:** U.S. Bank Fleet Card Agreement
4. **Appendix 4:** U.S. Bank Product Descriptions
5. **Appendix 5:** Applicable Card Fee and Rebate Information
6. **Appendix 6:** Standard Contract Definitions

ORDER OF PRECEDENCE

In the event of a conflict in such terms, or between the terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

1. Participating Entity's Participating Addendum ("PA");
2. State Specific Terms and Conditions, Appendix B
3. WSCA-NASPO/ Contract Terms and Conditions
4. U.S. Bank Commercial Card Master Agreement and/or Fleet Card Agreement
5. Approved portions of Contractor's response dated January 24, 2013 to the Solicitation.

INCENTIVE SHARE

4.1 Incentive Share Schedule

Contract Incentive Shares will be paid quarterly within 60 days following the last day of each Calendar Quarter:

Quarter 1: January 1 - March 31st
Quarter 2: April 1 - June 30th
Quarter 3: July 1 - September 30th
Quarter 4: October 1 - December 31st

4.2 Incentive Share Calculation and Disbursement

Contract Incentive Share payments will be sent directly to the appointed account for each Participating Entity by U.S. Bank.

A Participating Entity that does not earn a minimum of $75.00 for combined incentive share components 1-3 per quarter will forfeit its incentive share for that quarter.

The amount of the Incentive Share will be determined by combining Volume Sales for the State in question, Prompt Payment/Speed of Pay, and Large Ticket Sales.
Incentive Share (Rebate) Formulas can be found in ***Appendix A, Document 6.***

CONTRACTOR'S MASTER AGREEMENT

The signatories to this Addendum agree they will adhere to the guidelines outlined by U.S. Bank in its Commercial Card Master Agreement.

TERMS AND CONDITIONS

Contractor and participants will adhere to the Oregon Terms and Conditions set forth in Appendix B.

CONTRACT SIGNATURES

This Addendum and the Contract set forth the entire agreement, and all the conditions, understandings, promises, warranties and representations among the parties with respect to this Addendum and the Contract and supersedes any prior communications, representations, agreements whether oral, or written, with respect to the subject matter hereof.

Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of this Addendum and the Contract, that are included in any purchase order or otherwise shall be void. The terms and conditions of this Addendum and the Contract shall govern in the case of any such inconsistent, contrary, or additional terms.

Contracts can be found on the following websites:

http://www.aboutwsca.org/contract.cfm/contract/13wn-2006

http://www.oregon.gov/Pages/a_to_z_listing.aspx

http://www.oregon.gov/DAS/EGS/ps/ORCPP/orcppMemberList.pdf

Tax Certification. The individual signing on behalf of Contractor hereby certifies and swears under penalty of perjury: (a) the number shown in the Participating Addendum is Contractor's correct taxpayer identification; (b) Contractor is not subject to backup withholding because (i) Contractor is exempt from backup withholding, (ii) Contractor has not been notified by the IRS that Contractor is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified Contractor that Contractor is no longer subject to backup withholding; and (c) s/he is authorized to act on behalf of Contractor, s/he has authority and knowledge regarding Contractor's payment of taxes, and to the best of her/his knowledge, Contractor is not in violation of any Oregon Tax Laws. (For purposes hereof, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and the elderly rental assistance program under ORS 310.630 to 310.706 and local taxes administered by the Department of Revenue under ORS 305.620.)

IN VIEW OF THE ABOVE, the parties listed below agree to execute this Addendum by their signatures, on the dates below.

Participating Entity:	**Contractor:**
State of Oregon, acting by and through the Department of Administrative Services, Enterprise Goods and Services, Procurement Services	**U.S. Bank National Association**
By: Kelly R. Mix	By: Kelly M. Caspers 3-10-14
Name: Kelly R. Mix Date 3/14/14	Name: Date:
Title: Procurement Servs Mgr.	Title: Vice President

Please email PDF copy of this fully executed document to PA@wsca-naspo.org to provide documentation of participation.

STATE OF OREGON TERMS AND CONDITIONS

The following terms and conditions apply to all agreements issued pursuant to this Addendum:

1. **Definitions.** The following terms have the meanings set forth below. Capitalized terms not defined in this Addendum have the meaning ascribed to them in the Contract, the Addendum and its exhibits.

   "Authorized Purchaser" means an agency of the State of Oregon or any ORCPP member that submits a Political Subdivision Addendum to Contractor. Authorized Purchaser may be a Government Entity Agency or a Political Subdivision.

   "DAS PS" means the State of Oregon acting by and through the Department of Administrative Services, Enterprise Good and Services, Procurement Services.

   "Government Entity" or "State", for the purposes of this Addendum, means the State of Oregon.

   "Government Entity Agencies" or "State agencies", for the purposes of this Addendum, means those Government Entity departments and agencies that rely upon the Government Entity for funding, or are appropriated funds by the Government Entity for the charges on the accounts issued to the employees of those departments and agencies. In order for Government Entity Agencies to participate in the Commercial Card Program, the Government Entity will furnish to U.S. Bank a Government Entity Agency Addendum listing those agencies allowed to participate. The Government Entity has the right to exclude any agencies from the Agreement by providing written notice to Contractor at any time.

   "ORCPP" means the Oregon Cooperative Purchasing Program, under which government and public agencies and other public organizations within the State of Oregon are authorized to purchase the goods and services available under a price agreement entered into by the State. ORCPP members are "Political Subdivisions".

   "Political Subdivisions" means any municipalities, counties, and institutions of higher education that do not rely upon the Government Entity for funding.

   "Contract(s)" means the two State of Washington agreements: (1) Contract # 00612 for Category 1 or (2) Contract #00612 for Category 2, both between Contractor and the State of Washington, on behalf of the Western States Contracting Alliance, as appropriate and their attachments, which together with this Addendum, sets forth terms, conditions and requirements for purchase by Authorized Purchasers of the goods and services described therein.

2. **Political Subdivision Addenda.**

2.1 **Political Subdivision Addenda.** Each Political Subdivision Addendum from an Authorized Purchaser that is not a Government Entity Agency must contain, on the front page, the following language:

THIS PURCHASE IS PLACED AGAINST THE WESTERN STATES CONTRACTING ALLIANCE CONTRACT # 00612, CATEGORY 1 or CATEGORY 2. THE TERMS AND CONDITIONS OF THE CONTRACT(S) AND THE ASSOCIATED PARTICIPATING ADDENDUM ENTERED INTO BY THE STATE OF OREGON, PRICE AGREEMENT NO. _____ APPLY TO THIS PURCHASE AND SUPERSEDE ALL CONFLICTING TERMS AND CONDITIONS, EXPRESS OR IMPLIED.

2.2 **Effect of Political Subdivision Addenda.** Notwithstanding the provisions of the Contracts or any appendix to this Addendum, the State is only liable for purchases made by State of Oregon agencies that issue Purchase Orders. Other Authorized Purchasers are responsible for any purchases under Political Subdivision Addenda they issue. The State expressly disclaims any liability for purchases made by Political Subdivision Authorized Purchasers or any other entity.

2.3 **Verification of Authorized Purchasers.** Contractor is responsible for verifying that it provides goods and services under this Addendum only to Authorized Purchasers. Contractor may verify that a particular entity is an ORCPP member on-line at http://www.oregon.gov/DAS/PFSS/SPO/coop-menu.shtml or by using the Oregon Procurement Information Network (ORPIN) at http://orpin.oregon.gov/open.dll/welcome.

3. **Payment Provisions.** All payments are subject to ORS 293.462.

4. **Financial Information.** Funds available and authorized/non-appropriation.

4.1 Notwithstanding the provisions of the Master Agreements or any appendix to this Addendum, Contractor shall not require the State or Oregon and its agencies, boards and commissions to submit any additional credit information other than the financial information for the State of Oregon and its agencies, boards and commissions is publicly available at: http://www.oregon.gov/treasury.

4.2 The State of Oregon's and its agencies' payment obligations under this Addendum are conditioned upon Authorized Purchaser's receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Authorized Purchaser, in the exercise of its reasonable administrative discretion, to meet its payment obligations under any contract issued under this Addendum. The State of Oregon remains liable to Contractor for those fees and charges which it incurs through use of the commercial card program until those fees and charges are paid. Contractor is not entitled to receive payment under this Addendum or any Contract from any part of Oregon state government other than Authorized Purchaser. Authorized Purchaser represents that it has sufficient appropriations and limitation for the current biennium to make payments under any contract issued under this Addendum.

4.3 **Nothing in this Addendum or any contract is to be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon.**

5. RESERVED.

6. **Warranties.** Authorized Purchasers are entitled to the warranties, rights, remedies, and benefits under the Contract and this Addendum for any purchases made by such Authorized Purchasers pursuant to Political Subdivision Addenda. Without limiting the generality of the warranty provisions of the Contract, Contractor represents and warrants to Authorized Purchaser that:

   a. Contractor has the power and authority to enter into and perform this Addendum and that this Addendum, when executed and delivered, will be a valid and binding obligation of Contractor enforceable in accordance with its terms;
   b. Goods or Products will be new, unused, current production models, where applicable, and will be free from defects in materials, design and manufacture for manufacturer's standard warranty period. Where specifications have been made a part of the solicitation, Contractor further warrants that all Goods or Products conform to the specifications and meet or exceed all quality and safety standards set in the solicitation;
   c. all Services to be performed under this Addendum will be performed in accordance with the prevailing applicable professional or industry standards, and that only workmanship of the generally accepted quality will be employed in the performance of this Addendum;
   d. Contractor shall transfer to Authorized Purchaser all manufacturer warranties covering Goods or Products, if any at time of delivery at no charge, and
   e. all Goods or Products, if any, are free and clear of any liens or encumbrances, and that Contractor has full legal title to such Goods or Products, and that no other person has any right, title or interest in the Goods or Products which is superior to or infringe upon the rights granted to Authorized Purchaser hereunder.

   The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided in the Contract. All warranties provided in this Addendum are cumulative and will be interpreted expansively so as to afford Authorized Purchaser the broadest warranty protection available.

7. **Indemnities.**

7.1 **General Indemnity.** Contractor will defend, save, hold harmless and indemnify the Authorized Purchaser and the State of Oregon and their agencies, subdivisions, officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of or relating to the activities of Contractor or its officers, employees, subcontractors or agents under the Addendum.

7.2 **Infringement Indemnity.** Contractor will, at Contractor's sole expense, defend, save, hold harmless and indemnify Authorized Purchasers and the State of Oregon and their agencies, subdivisions, officers, employees and agents from and against any and all costs, damages, attorneys' fees, and any and all costs incurred in any settlement negotiation or final settlement agreement resulting from, relating to, or arising out of a claim that any aspect of the goods or services furnished under a Purchase Order infringes a patent, utility model, industrial design, copyright, mask work, trademark, trade dress, or any other legally cognizable intellectual property right of any third party (an "Infringement Claim"). Notwithstanding anything to the contrary, Contractor's duty to indemnify the State of Oregon pursuant to this Section 7.2 does not arise if the Infringement Claim is based on materials the State of Oregon provided to Contractor for reproduction.

7.3 **Participation.** Any Authorized Purchaser will have the right to have its own counsel and participate in the defense of any Infringement Claim. If the Authorized Purchaser reasonably concludes that its interests are not being properly protected, it may enter any action. Contractor may not settle any Infringement Claim on the State of Oregon's behalf without the prior written consent of the Oregon Department of Justice. Further, if principles of governmental or public law are involved, the State of Oregon may participate in the defense of any Infringement Claim. Any participation of the State of Oregon pursuant to this subsection will not relieve Contractor of its obligation to save, hold harmless and indemnify the State of Oregon under the Contract, the Addendum or Sections 7.1 and 7.2, provided that the State of Oregon may not settle any Infringement Claim or action without Contractor's prior written consent, which will not be unreasonably withheld.

7.4 **Remedies.** If any goods or services furnished by Contractor are, in Contractor's opinion, likely to become the subject of an Infringement Claim, or if an Authorized Purchaser is prevented from exercising its rights under this Addendum based on any Infringement Claim or court order arising from any Infringement Claim, then Contractor may, at its option and expense, procure for the Authorized Purchaser the right to continue using the allegedly infringing goods or services, or replace or modify the goods or services so that they become non-infringing; provided that the replacement or modified good or service meets the specifications set forth in the applicable Purchase Order to the satisfaction of the Authorized Purchaser. If the foregoing remedies are not available, then Authorized Purchaser will return the allegedly infringing goods or terminate the allegedly infringing services.

8. **Term and Termination of Participating Addendum.**

8.1 **Term.** This Addendum remains in effect until the earlier of (a) the expiration or termination of the Contract, or (b) termination of this Addendum in accordance with its terms.

8.2 **Termination.** DAS may terminate this Addendum, in whole or in part, immediately upon notice to Contractor, or at such later date as DAS may establish in such notice, for any reason, or upon the occurrence of any of the following events:

a. State fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for the goods to be purchased under the Addendum; or

b. Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the purchase of goods under this Addendum is prohibited or the State is prohibited from paying for such goods from the planned funding source.

Termination of the Addendum does not terminate any Purchase Order(s) issued prior to the date of termination. However, upon receipt of written notice of termination, Contractor will stop acceptance of all Political Subdivision Addenda as directed by State.

8.3 Termination under any provision of this Addendum does not extinguish or prejudice State's or an Authorized Purchaser's right to enforce this Addendum or a Purchase Order with respect to Contractor's breach of any warranty or any defect in or default of Contractor's performance that has not been cured, including any right of the State or an Authorized Purchaser to indemnification by Contractor. If this Addendum or a Purchase Order is so terminated, the State or an Authorized

Purchaser will pay Contractor in accordance with the terms of this Addendum for goods delivered and accepted by the Authorized Purchaser.

9. **Termination of Individual Political Subdivision Addenda.**

9.1 Individual Political Subdivision Addenda may be terminated at any time by written consent of Authorized Purchaser and Contractor or Authorized Purchaser may, at its sole discretion, terminate Individual Political Subdivision Addenda, in whole or in part, upon 30 days prior written notice to Contractor.

9.2 Authorized Purchaser may terminate Individual Political Subdivision Addenda, in whole or in part, immediately upon notice to Contractor, or at such later date as Authorized Purchaser may establish in such notice, upon the occurrence of any of the following events:

a. Authorized Purchaser fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for the goods to be purchased under the Purchase Order;

b. Federal or State laws, regulations or guidelines are modified or interpreted in such a way that either the purchase of goods under the Purchase Order is prohibited or Authorized Purchaser is prohibited from paying for such goods from the planned funding source; or

c. Contractor commits any material breach of this Addendum or a Purchase Order

9.3 Upon receipt of written notice of termination, Contractor will stop performance under the Purchase Order as directed by Authorized Purchaser.

9.4 Termination of a Purchase Order does not extinguish or prejudice Authorized Purchaser's right to enforce the Purchase Order with respect to Contractor's breach of any warranty or any defect in or default of Contractor's performance that has not been cured, including any right of Authorized Purchaser to indemnification by Contractor. In addition, termination of a Purchase Order does not extinguish or prejudice Authorized Purchaser's right to enforce the warranty, indemnification, governing law, venue and consent to jurisdiction provisions of this Addendum. If a Purchase Order is so terminated, Authorized Purchaser will pay Contractor in accordance with the terms of this Addendum for goods delivered and accepted by Authorized Purchaser.

10. **Compliance with Applicable Law.** Contractor shall comply with all federal, state and local laws, rules, regulations, executive orders and ordinances applicable to the Goods or Services under this Addendum, and an Authorized Purchaser's performance under a Purchase Order is conditioned on Contractor's compliance with the provisions of ORS 279B.220, 279B.235, 279B.230 and 279B.270. In addition, Contractor warrants the Goods and Services provided under this Addendum will comply with all federal Occupational Safety and Health Administration (OSHA) requirements and with all Oregon safety and health requirements, including those of the State Workers' Compensation Division. Contractor also agrees to comply with (a) Title VI of the Civil Rights Act of 1964, (b) Section v of the Rehabilitation Act of 1973, (c) the Americans with Disabilities Act of 1990 and ORS 659.425, (d) all regulations and administrative rules established pursuant to the foregoing laws and (e) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

11. Confidentiality.

11.1 Each party acknowledges that it and its employees or agents may, in the course of performing its responsibilities under this Addendum, be exposed to or acquire information that is confidential to the other party or the other party's clients. Any and all information of any form obtained by one party or its employees or agents in the performance of this Addendum is confidential information of the other party ("Confidential Information"). The parties shall treat any reports or other documents or items (including software) which result from the use of the Confidential Information by the recipient of such information with respect to confidentiality in the same manner as the Confidential Information. Confidential Information does not include information that (i) is or becomes (other than by disclosure by the party acquiring such information) publicly known or is contained in a publicly available document; (ii) is furnished by the party disclosing such information to others without restrictions similar to those imposed by this Addendum; (iii) is rightfully in the receiving party's possession without the obligation of nondisclosure prior to the time of its disclosure under this Addendum; (iv) is obtained from a source other than the discloser without the obligation of confidentiality, (v) is disclosed with the written consent of the disclosing party, or; (vi) is independently developed by employees or agents of the receiving party who can be shown to have had no access to the Confidential Information.

11.2 The recipient of Confidential Information shall hold Confidential Information in strict confidence, using at least the same degree of care that it uses in maintaining the confidentiality of its own Confidential Information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than as contemplated by this Addendum or reasonably related thereto, and to advise each of its employees and contractors of their obligations to keep Confidential Information confidential.

11.3 Each party shall use commercially reasonable efforts to assist the other in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, each party shall advise the other promptly in the event it learns or has reason to believe that any person who has had access to Authorized Purchaser's Confidential Information has violated or intends to violate the terms of this Addendum and each party will at its expense reasonably cooperate with the other in seeking injunctive or other equitable relief in the name of the other against any such person.

11.4 Each party agrees that, except as provided in this Addendum or directed by the other, it will not at any time during or after the term of this Addendum disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this Addendum each party will turn over to the other all documents, papers and other matter in its possession which embody Confidential Information. Notwithstanding the foregoing, Receiving Party shall be permitted to keep one record copy of such Confidential Information for the purposes of maintaining compliance with the Receiving Party's legal and regulatory requirements.

11.5 Contractor agrees to comply with all reasonable requests by Authorized Purchaser to ensure the confidentiality and nondisclosure of Authorized Purchaser's Confidential Information, including without limitation (i) obtaining nondisclosure agreements from Contractor's employees and agents who are performing Services and providing copies of such agreements to Authorized Purchaser, and (ii) complying with Authorized Purchaser's access and security policies and procedures while on site at State facilities or while accessing State systems.

11.6 In the performance of the Addendum, Contractor may have possession or access to documents, records or items that contain "Personal Information" as that term is used in ORS 646A.602(11), including Social Security numbers. Personal Information is a type of Confidential Information that is highly sensitive and subject to additional protection. Therefore, prior to the receipt of, and during the period in which Contractor has possession of or access to, any Personal Information, Contractor shall have in place, a formal written information security program that provides safeguards to protect Personal Information from loss, theft, and disclosure to unauthorized persons, as required by the Oregon Consumer Identity Theft Protection Act, ORS 646A.600-646A.628.

In addition to and without limiting the generality of the above provisions, Contractor shall not breach or permit breach of the security of any Personal Information that is contained in any document, record, compilation of information or other item to which Contractor receives access, possession, custody or control under this Contract. Contractor shall not disclose, or otherwise permit access of any nature, to any unauthorized person, of any such Personal Information. Contractor shall not use, distribute or dispose of any Personal Information other than expressly permitted by DAS PS or Authorized Purchaser, required by applicable law, or required by an order of a tribunal having competent jurisdiction.

Contractor shall report to DAS PS and Authorized Purchaser, as promptly as possible, any breach of security, use, disclosure, theft, loss, or other unauthorized access of any document, record, compilation of information or other item that contains Personal Information to which the Contractor receives access, possession, custody or control in the performance of this Addendum.

11.7 Each party acknowledges that breach of this Section 11, including disclosure of any Confidential Information will give rise to irreparable injury which is inadequately compensable in damages. Accordingly, each party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Each party acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the other and are reasonable in scope and content.

12. **Application of Public Records Law.** Contractor acknowledges that any disclosures Contractor makes to Authorized Purchaser under this Addendum are subject to application of the Oregon Public Records Law, including but not limited to ORS 192.410 – 192.505, the provisions for the Custody and Maintenance of Public Records, ORS 192.005 – 192.710, and of ORS 646.461 - 646.475. The non-disclosure of documents or of any portion of a document submitted by Contractor to Authorized Purchaser may depend upon official or judicial determinations made pursuant to the foregoing laws. Contractor will be notified prior to Authorized Purchaser's release of documents to Entities other than participating agencies or other State agencies. Contractor shall be exclusively responsible for defending Contractor's position concerning the confidentiality of the requested documents, at its own expense,

13. **Recycled Products.** Contractor will use, to the maximum extent economically feasible in the performance of this Contract, recycled paper (as defined in ORS 279A.010(1)(gg)), recycled PETE products (as defined in ORS 279A.010(1)(hh), and other recycled plastic resin products and recycled products (as "recycled product" is defined in ORS 279A.010(1)(ii).

14. **Notices.** Except as otherwise provided in a Purchase Order, any formal communications between the parties to or notices to be given under a Purchase Order will be given in writing by personal delivery or mailing the notice, postage prepaid, at the address or number set forth on the Purchase Order. Any communication so addressed and mailed will be deemed to have been received five (5) calendar days after mailing. Any communication delivered by facsimile will be deemed to be given when a confirming report for the transmission is generated by the transmitting machine. To be effective against the receiving party, such facsimile transmission must be confirmed by telephone notice to the receiving party's authorized representative, as set forth in the Purchase Order. Any communication or notice by personal delivery will be deemed to be given when actually received by the appropriate authorized representative.

    As between Contractor and State with respect to this Addendum, the Primary Contacts of Contractor and State are set forth above.

15. **Governing Law.** This Addendum and resulting Contracts are governed by and construed in accordance with the laws of the State of Oregon, without regard to principles of conflicts of laws.

16. **Jurisdiction and Venue.** Any claim, action, suit or proceeding (collectively, "Claim") between State or any other agency or department of the State of Oregon, and Contractor, that arises from or relates to this Addendum or a Purchase Order under this Addendum, will be brought and conducted solely and exclusively in the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it will be brought and conducted solely and exclusively in the United States District Court of the District of Oregon. CONTRACTOR, BY EXECUTION OF THIS ADDENDUM OR ACCEPTANCE OF A PURCHASE ORDER SUBMITTED PURSUANT TO THIS ADDENDUM HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Nothing in this section will be construed as a waiver of the State of Oregon's sovereign immunity with respect to any Claim, whether brought under State or Federal law, or in State or Federal Court.

    Any Claims between Contractor and an Authorized Purchaser that is a Political Subdivision that arise from or are related to individual Political Subdivision Addenda or this Addendum will be brought and conducted solely and exclusively within the Circuit Court of the county in the State of Oregon in which such Authorized Purchaser resides or has its principal office, or at Authorized Purchaser's option, within such other county as Authorized Purchaser will be entitled to proceed under the venue laws of Oregon to bring or defend Claims. If any such Claim must be brought in a federal forum, then it will be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. CONTRACTOR, BY EXECUTION OF THIS ADDENDUM OR ACCEPTANCE OF A PURCHASE ORDER SUBMITTED PURSUANT TO THIS ADDENDUM HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Nothing in this section will be construed as a waiver of immunity with respect to any Claim, whether brought under State or Federal law, or in State or Federal Court.

17. **Foreign Contractor.** If Contractor is not domiciled in or registered to do business in the State of Oregon as of the effective date of this Addendum, Contractor will promptly provide to the Oregon Department of Revenue all information required by that Department relative to the Contract.

18. **Independent Contractor.** Contractor shall act at all times as an independent contractor and not as an agent or employee of Authorized Purchaser. Contractor has no right or authority to incur or create any obligation for or legally bind Authorized Purchaser in any way. Contractor is not an "officer", "employee", or "agent" of Authorized Purchaser (or any other agency, office, or department of the

State of Oregon), as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary. Neither party shall make any statements, representations, nor commitments of any kind or to take any action binding on the other except as provided for herein or authorized in writing by the party to be bound.

19. **Access to Records.** Contractor will maintain all fiscal records relating to Political Subdivision Addenda in accordance with generally accepted accounting principles and will maintain any other records relating to Political Subdivision Addenda in such a manner as to clearly document Contractor's performance thereunder. The Authorized Purchaser, the State and its agencies, the Oregon Secretary of State Audits Division and their duly authorized representatives will have access to such fiscal records and to all other books, documents, papers, plans and writings of Contractor which relate to this Addendum to perform examination and audits and make excerpts and transcripts. To the extent provided by law, the federal government will be entitled to the same access as the State of Oregon and Authorized Purchasers. Contractor will retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of seven (7) years from the creation of the record, or such longer period as may be required by applicable law following final payment and termination of this Addendum, or until the conclusion of any audit, controversy or litigation arising out of or related to this Addendum, whichever date is later.

20. **Anticipated Amendments.** The parties may need to amend this Addendum to modify selected terms, conditions, and price(s). This Addendum maybe modified by written document only.

21. **Insurance.** Within ten (10) days of the Effective Date, Contractor must provide insurance as set forth on Appendix D. No Political Subdivision Addenda may be placed or accepted until proof is provided that these requirements have been met.

U.S. BANK COMMERCIAL CARD MASTER AGREEMENT

This Commercial Card Master Agreement (the **"Agreement"**) governs the U.S. Bank Commercial Card Program provided by the WSCA-NASPO Cooperative Purchasing Program Commercial Card Solutions Contract #00612, Category 1 (the **"Commercial Card Program"**) and is an attachment to the Participating Addendum entered into by and between U.S. Bank National Association (**"U.S. Bank"**) and the Government Entity which is a signatory to that Participating Addendum (**"Government Entity"**).

Participation in Commercial Card Program:
Certain entities designated by Government Entity may participate in the Commercial Card Program.

"Government Entity Agencies" means those Government Entity departments and agencies that rely upon the Government Entity for funding, or are appropriated funds by the Government Entity for the charges on the accounts issued to the employees of those departments and agencies. In order for Government Entity Agencies to participate in the Commercial Card Program, the Government Entity will furnish to U.S. Bank a Government Entity Agency Addendum listing those agencies allowed to participate. The Government Entity has the right to exclude any agencies from the Agreement by providing written notice to U.S. Bank at any time.

"Political Subdivisions" means any municipalities, counties, and institutions of higher education that do not rely upon the Government Entity for funding. Political Subdivisions may participate in this Agreement upon credit approval by U.S. Bank and upon the signing and submission of a properly completed Political Subdivision Addendum.

I. **CREDIT PROVISIONS**
   A. **Financial Information.** The establishment of a Commercial Card Program provides an extension of credit, and Government Entity shall provide sufficient information to enable U.S. Bank to perform periodic credit reviews.
      1. **Political Subdivisions.** Each Political Subdivision must individually credit qualify and submit a signed, properly completed Political Subdivision Addendum to U.S. Bank.
      2. **Financial Information for Government Entity and Political Subdivisions.** To become credit qualified, the Government Entity and each Political Subdivision will provide the last three (3) years of audited financial statements to U.S. Bank prior to the issuance of any cards and will provide annual financial statements on or before one hundred eighty (180) days after the end of the Government Entity or Political Subdivision's fiscal year. Political Subdivision should provide this first set of financial statements with their signed, completed Political Subdivision Addendum. U.S. Bank will review the financial statements and provide notice to each Political Subdivision of the approval or decline of their credit qualification. If satisfactory financial information can be found on the website of Government Entity or Political Subdivision, U.S. Bank will not require the Government Entity or such Political Subdivision to provide financial information that U.S. Bank can obtain on its own.
   B. **Aggregate Product Credit Limit and Account Credit Limits.** Subject to credit approval by U.S. Bank, an Account Credit Limit (an **"ACL"**) for each Account and an Aggregate Product Credit Limit (the **"PCL"**) for all Accounts shall be established by U.S. Bank pursuant to this Agreement.
      1. **Revising the PCL.** U.S. Bank, at its sole discretion, shall have the right to revise the PCL. U.S. Bank shall provide notice to Government Entity of any decrease in the PCL which results in a revised PCL that is lower than the aggregate current amount outstanding on all Accounts. Upon such event, Government Entity shall have ten (10) days to make a payment to U.S. Bank that is sufficient to reduce the aggregate current amount outstanding to an amount that is equal to or less than the revised PCL.
      2. **Revising ACLs.** U.S. Bank, at its sole discretion, shall have the right to revise any ACL.
         a. **Government Entity Accounts.** U.S. Bank shall provide notice to Government Entity of any decrease in an ACL which results in a revised ACL that is lower than the aggregate current amount outstanding on the Account. Upon such event, Government Entity shall have ten (10) days to make a payment to U.S. Bank on the Account that is sufficient to reduce the aggregate current amount outstanding for such Account to an amount that is equal to or less than the revised ACL.

b. **Cardholder Accounts.** U.S. Bank, at its sole discretion, shall have the right to revise any ACL and/or limit spending activity on any Cardholder Account. Based on the credit worthiness of Government Entity and/or its Cardholder, U.S. Bank, at its sole discretion, shall establish an ACL of no less than five hundred U.S. Dollars ($500.00).
c. **Fraudulent Activity.** U.S. Bank may temporarily revise any ACL and/or limit spending activity on any Account for which fraudulent activity is suspected.

C. **ATM Access / Cash Advances.** U.S. Bank provides access to Cash Advances through owned and participating bank Automated Teller Machines and Association member offices. If Government Entity elects to use Cash Advances, U.S. Bank will establish predetermined Cash Advance limits for Cardholders, either as a group or individually. U.S. Bank reserves the right to suspend or terminate Cash Advance access for Cardholders, either as a group or individually, in the event U.S. Bank determines that continued access presents a risk of loss or liability to U.S. Bank or Government Entity.

D. **Convenience Checks.** U.S. Bank can issue Convenience Checks to Cardholders designated by Government Entity. Replenishment of Convenience Checks will occur upon request by the Cardholder, subject to the Cardholder's Account status and cash availability. Convenience Check transactions are posted to the Cardholder Statement as a Cash Advance. U.S. Bank reserves the right to suspend or terminate Convenience Check access for Cardholders, either as a group or individually, in the event U.S. Bank determines that continued access presents a risk of loss or liability to U.S. Bank or Government Entity. There are a number of limitations associated with Convenience Checks:
   1. **Authorization.** There is no authorization process associated with the use of Convenience Checks. At the time of Purchase, U.S. Bank is unable to verify the authenticity of the signature on a Convenience Check, the identity of the person signing the Convenience Check, or restrict the use of Convenience Checks to specific Merchant types.
   2. **Disputes.** Use of Convenience Checks and disputes arising therefrom are not covered by Association regulations. Other than the fraudulent use of a Convenience Check by an individual other than the Cardholder, which is governed by the applicable law pertaining to negotiable instruments, there are no dispute rights once a Convenience Check is used to make a Purchase.
   3. **Returned Checks.** U.S. Bank reserves the right to return a Convenience Check unpaid to the payee if (i) the amount of the Convenience Check exceeds the Cardholder's Cash Advance limit or (ii) U.S. Bank determines that honoring the check presents a risk of loss or liability to U.S. Bank or Government Entity.
   4. **Limitation of Liability.** U.S. Bank is not liable for any damages resulting from U.S. Bank's refusal to honor a Convenience Check presented for payment.

II. **U.S. COMMERCIAL CARD PROGRAMS**

A. **Card Products.** U.S. Bank may provide the following Card Products to Government Entity and its Cardholders. Card Product availability and Card Products for which Government Entity has been approved are specified in the Participating Addendum.
   1. **U.S. Bank Corporate Card.** The U.S. Bank Corporate Card is a charge card designed for use by Cardholders to charge travel, entertainment and other goods and services that are related to the business activities of Government Entity. U.S. Bank also provides central travel accounts, which can be used for the same purpose, but without the issuance of a physical card.
   2. **U.S. Bank Managed Spend Card.** The U.S. Managed Spend Card is a specialized corporate liability card designed for use by Government Entities or Cardholders to charge business related goods and services. Government Entity may also elect to have Cards issued to family members relocating employees. Unless requested for a different duration, Managed Spend has a term of twelve (12) to thirty-six (36) months. U.S. Bank also provides Managed Spend Central Billing Accounts, which can also be used for business or relocation expenses. Based on the credit worthiness of the Government Entity and its Cardholder, U.S. Bank, at its sole discretion, shall establish a credit limit of no less than five hundred U.S. Dollars ($500.00).
   3. **U.S. Bank One Card.** The U.S. Bank One Card is a charge card designed for use by Cardholders that combines Corporate and Purchase Card capabilities on a single Account. The One Card can be utilized for

travel and entertainment related expenses as well as to charge goods and services related to the business activities of Government Entity.

4. **U.S. Bank Purchase Card.** The U.S. Bank Purchase Card is a charge card designed for use by Cardholders to charge goods and services related to the business activities of Government Entity. U.S. Bank also provides central purchase accounts, which can be used for the same purpose, but without the issuance of a physical card.

B. **Card and Account Issuance.** Government Entity shall designate to U.S. Bank Cardholders that are authorized to incur expenses on behalf of Government Entity during the term of this Agreement and who are to receive Cards and/or be issued Account numbers by submitting to U.S. Bank completed, duly authorized applications, in a format specified by U.S. Bank, such as through Access Online, including any applicable consents and/or authorizations from such Cardholders as may be required by the applicable local law, rule or regulation.
   1. **Credit Checks.** With respect to any such application, U.S. Bank reserves the right, at its sole cost and expense and to the extent permitted by applicable law, to conduct a credit check on any Cardholder who may have sole and/or shared liability for any Debt incurred under this Agreement.
   2. **Exclusion.** U.S. Bank shall have the right to reject any Cardholder application in which the Cardholder may have sole and/or shared liability for any Debt incurred under this Agreement.
   3. **Card Delivery.** Unless Government Entity notifies U.S. Bank to the contrary, U.S. Bank shall issue Cards and/or Accounts directly to Cardholders.
   4. **Creation of Cards by Government Entity.** Government Entity has the ability to create Cards on its own through the use of Access Online. Such Cards can be created with or without an individual's name embossed on the face of the Cards. Acceptance of Cards without a name embossed on the face of the Cards is at the discretion of Merchants.

C. **Billing and Payment.** U.S. Bank provides a variety of billing options. The availability of billing options may differ between Card Products. Billing option availability and the billing options for which Government Entity has been approved is specified herein in the Participating Addendum. Government Entity or Cardholder shall pay the amount due on the Statement by the Due Date.
   1. **Individual Bill.** Cardholders receive a Statement at the conclusion of each Billing Cycle and are responsible for ensuring the balance due is paid by the Due Date. Government Entity may elect to receive one or more Summary Statements or reports showing all Transactions billed to Cardholder Accounts.
   2. **Central Bill.** Each Transaction is either posted to a Cardholder Account and rolled up to a Central Account for billing or billed directly to a Central Account. Government Entity will receive one or more central account Statements at the conclusion of each Billing Cycle for all Cardholder and/or Central Account Transactions. With respect to Transactions posted to a Cardholder Account and rolled up to a Central Account, the Cardholder receives a memo Statement showing his/her respective Transactions but with no amount due. Government Entity receives a consolidated Statement, which includes the total amount due for all Cardholder Accounts and Central Accounts and is responsible for ensuring the balance due on the Statement is paid by the Due Date.
   3. **Billing Disputes.** Billing disputes must be communicated in writing to U.S. Bank at the address specified in Section V.L. herein or the address provided on the Statement. U.S. Bank must receive written communication of a dispute within sixty (60) days of the date on the Statement on which the disputed or allegedly incorrect Transaction first appeared. Association regulations govern the resolution of all billing disputes.
   4. **Merchant Category Disclaimer.** Upon request by Government Entity, U.S. Bank may either prevent or restrict usage of its Card Products to selected Merchants based on Merchant Category Code. To the extent this is requested, the following disclaimers apply:
      a. **Limitation of Liability.** U.S. Bank can only enforce Merchant Category Code restrictions to the extent it receives accurate Merchant Category Code data with the Transaction authorization request. U.S. Bank has no liability for Transactions declined or approved contrary to the intent of Government Entity.
      b. **Incorrect Merchant Category Codes.** To the extent Government Entity believes a Merchant has not been assigned an accurate Merchant Category Code, U.S. Bank will advise the Association of the inaccuracy. Whether or not the Merchant Category Code is changed is dependent upon applicable Association regulations.

5. **Trailing Transactions.** Upon cancellation of an Account, the Government Entity and/or Cardholder must cancel the billing of all reoccurring Transactions to the Account.

D. **Liability.** U.S. Bank provides a variety of liability options. The availability of liability options may differ between Card Products. Liability option availability and the liability option(s) for which Government Entity has been approved is/are specified in the Participating Addendum.
   1. **Corporate Liability.** Government Entity is solely liable to U.S. Bank for all billed Transactions.
   2. **Joint and Several Liability.** Government Entity and the Cardholder are jointly and severally liable to U.S. Bank for all billed Transactions.
   3. **Contingent Liability.** Cardholder is liable to U.S. Bank for all billed Transactions. Government Entity has contingent liability, which means Government Entity is liable for any billed Transactions that are legitimate business charges and have not been previously reimbursed by Government Entity to the Cardholder.
   4. **Liability Exceptions.** Government Entity may be liable for all billed Transactions, regardless of liability option specified in the Participating Addendum, in the following circumstances:
      a. **Failure to Notify; Liability Exceptions.** Government Entity shall immediately notify U.S. Bank of any of the following:
         (i) Termination of employment of any Cardholder;
         (ii) Any lost or stolen Card for which the Government Entity has liability;
         (iii) Any compromised Account for which the Government Entity has liability; or
         (iv) Any compromised information regarding Cards, Accounts or other sensitive data including, but not limited to, Account numbers, personal identification numbers, passwords, or Cardholder information.

      Government Entity shall provide sufficient information as may be requested by U.S. Bank for U.S. Bank to act on such notifications. Failure of Government Entity to provide notification may result in Government Entity's or Cardholder's liability to pay for all Transactions on such Cards and/or Accounts notwithstanding any liability option specified in the Participating Addendum. Liability is limited to period of time from when notification should have been received to when notification is actually received and only for those Transactions that U.S. Bank cannot either charge back to the Merchant or collect directly from the Cardholder. In any event, regardless of the liability option chosen, Cardholder's liability will not exceed fifty U.S. Dollars ($50.00).

E. **Delinquency.** If the amount shown on the Statement as the current amount due has not been paid to U.S. Bank by Government Entity and/or Cardholder by the Due Date, U.S. Bank shall have the following rights:
   1. **Suspension.** U.S. Bank shall have the right to suspend any Account that is delinquent for a period exceeding two (2) Billing Cycles.
   2. **Cancellation.** U.S. Bank shall have the right to cancel any Account that is delinquent for a period exceeding three (3) Billing Cycles.
   3. **Late Fees.** U.S. Bank shall have the right to bill Late Fees on all delinquent Accounts, as specified in the Participating Addendum.
   4. **Collection Fees.** U.S. Bank shall have the right to recover any reasonable legal fees and/or other expenses incurred in collecting any delinquent amount on a cancelled Account.

III. SECURITY AND CONFIDENTIALITY

A. **Security.** U.S. Bank and the Government Entity shall safeguard information regarding Cards, Account numbers, passwords, personal identification numbers, and other sensitive information provided by U.S. Bank in a manner that is no less stringent than those applicable to each Party's own proprietary information. Each Party will utilize each Party's respective industry standards to maintain an appropriate information security program to prevent the unauthorized disclosure, misuse, alteration, or destruction of Confidential Information.

B. **Confidentiality.** The Parties agree to the following provisions regarding the use and disclosure of Confidential Information:
   1. **Confidential Information.** For purposes of this Agreement, **"Confidential Information"** means information supplied by one Party (**"Disclosing Party"**) to the other Party (**"Recipient"**) that is expressly or implicitly protected from unrestricted use by persons not associated with Disclosing Party.
      a. **U.S. Bank Confidential Information.** U.S. Bank and Government Entity agree that the Commercial Card Program and/or Global Commercial Card Program is a unique service involving the exchange of

proprietary and/or Confidential Information between the Parties. Government Entity agrees that Commercial Card Program and/or Global Commercial Card Program reports, manuals, documentation, and related materials shall be circulated by it only to the extent necessary for Government Entity to manage the Commercial Card Program or Global Commercial Card Program and/or use such information in connection with Government Entity's business.

b. **Government Entity Confidential Information.** U.S. Bank and Government Entity agree that any non-public financial information of Government Entity and any non-public data regarding Government Entity Accounts, Transactions, charges, spending volume or repayment terms is Confidential Information of Government Entity and such information shall be circulated by U.S. Bank only to the extent necessary for U.S. Bank to offer the Commercial Card Program and/or Global Commercial Card Program.

2. **Restriction.** Government Entity and U.S. Bank agree to take all reasonable steps to safeguard the other Party's proprietary and Confidential Information and not to release such information to any person or Party not essential to participation in the Commercial Card Program and/or Global Commercial Card Program.
3. **Care.** The Recipient shall provide the same care to avoid an unauthorized disclosure, misuse, alteration or destruction of Confidential Information of the Disclosing Party as it provides to protect its own similar proprietary information, but in no event, less than a reasonable standard of care.
4. **Relief.** Because damages may be difficult to ascertain, the Parties agree that in the event of any violation of Section III.B., without limiting any other rights and remedies of each other, an injunction may be sought against the Party who has breached or threatened to breach the aforementioned Section.
5. **Exceptions.** With respect to Confidential Information, U.S. Bank and Government Entity agree that the other may use and disclose such information for the following purposes:
   a. **Normal Business Operations.** U.S. Bank and Government Entity may use and disclose such Confidential Information of the other as is required by normal business operations in connection with the Commercial Card Programs and as may be required by Association Operating Regulations.
   b. **Legal and Regulatory Requirements.** U.S. Bank and Government Entity may use and disclose Confidential Information of the other to legal authorities, agents, auditors or regulators of U.S. Bank and Government Entity, respectively, or as otherwise may be required by law, rule or regulation.
   c. **Summarized Data.** U.S. Bank and Government Entity may use and disclose Data to any third party to the extent that such Data is aggregated, summarized, or otherwise presented in a manner that does not directly or indirectly identify such Data as attributable to U.S. Bank, Government Entity, and/or Cardholders.
   d. **Archived Data.** U.S. Bank and Government Entity are entitled to retain Confidential Information of the other for archival purposes as required in accordance with applicable law, rule or regulations.
   e. **Third Parties.** Government Entity acknowledges that portions of its Account and Transaction data are captured by third parties, including, but not limited to the Associations, third-party service providers, Merchants, and Merchant processors, during the course of normal business operations and that the confidentiality provisions of this Agreement do not extend to such third parties.

IV. TERM AND TERMINATION

A. **Term.** This Agreement shall remain in effect for an initial "Base Period" of five (5) years beginning on the date indicated under the column labeled "Commencement Date" and shall continue thereafter until terminated by either party by giving (90) days prior written notice to the other Party. During the initial Base Period, however, as defined in the Participating Addendum, neither party may terminate this Agreement, in whole or in part, except by mutual consent or as otherwise provided under this Section.

B. **Termination for Cause by Either Party.** Either Party shall have the right to immediately terminate this Agreement with respect to any Card Product and/or Ancillary Service provided on the Participating Addendum, or immediately terminate this Agreement in its entirety, by providing written notice of such termination to the other Party, upon one or more of the following events:

1. Dissolution or liquidation of the other Party, or Parent thereof, if applicable;

2. Insolvency of, the filing of a bankruptcy or insolvency proceeding with respect to, or the appointment of a receiver or trustee for the benefit of creditors of, the other Party, or Parent thereof, if applicable or the other Party enters into any other similar proceeding or arrangement for the general benefit of its creditors;
3. Any failure to perform a material obligation of this Agreement;
4. If any material statement, representation or warranty of a Party, its affiliates or Parent at any time furnished to the other Party is untrue in any material respect when made;
5. A material breach of any other agreement entered into by the Parties.

C. **Termination for Cause by Government Entity.** Government Entity shall also have the right to terminate this Agreement with respect to any Card Product and/or Ancillary Service provided on the Participating Addendum, or terminate this Agreement in its entirety, by providing ten (10) days prior written notice of such termination to U.S. Bank upon one or more of the following events:
1. U.S. Bank's reduction of Government Entity's PCL and/or ACL, as defined in Section I. B., has materially and adversely affected Government Entity's utilization of any Card Product or the Commercial Card Program.
2. U.S. Bank's failure to reasonably perform in accordance with a material term of any written proposal and/or presentation provided to Government Entity by U.S. Bank in contemplation of this Agreement, provided that:
   a. Government Entity has worked with U.S. Bank to develop a sixty (60) day action plan to ensure U.S. Bank's performance materially complies with any aforementioned proposal and/or presentation; and
   b. U.S. Bank has failed to successfully complete all deliverables agreed to in the action plan.

D. **Termination for Cause by U.S. Bank.** U.S. Bank shall also have the right to terminate this Agreement with respect to any Card Product and/or Ancillary Service provided on the Participating Addendum, or terminate this Agreement in its entirety, by providing ten (10) days prior written notice of such termination to Government Entity upon one or more of the following events:
1. A material adverse change in the business prospects or financial condition of the Government Entity.
2. The overall relationship is unprofitable for U.S. Bank, provided that:
   a. U.S. Bank has worked with Government Entity to develop a sixty (60) day action plan to return the relationship to profitability; and
   b. Government Entity has failed to successfully complete all deliverables agreed to in the action plan.

E. **Effect of Termination.** Upon termination of this Agreement, all applicable Cards, Accounts, and/or related services shall be deemed canceled as referenced in such termination notification. Such cancellation shall be effective upon notification of termination to the other Party as referenced herein. Upon termination, Government Entity shall instruct all Cardholders to destroy their Cards and/or any records of Account numbers. U.S. Bank shall terminate all applicable services thereunder upon a stated termination date. Government Entity shall remain liable for all Debts arising from the use of a Card and/or Account prior to the termination date, in accordance with the liability options on the Participating Addendum.

F. **Surviving Rights.** Rights, obligations and/or liabilities that arise prior to the termination of this Agreement with respect to any Card Product and/or Ancillary Service provided on the Participating Addendum, or termination of this Agreement in its entirety, shall survive any such termination.

V. OTHER TERMS AND CONDITIONS

A. **Intellectual Property.** Government Entity and U.S. Bank each recognizes that it has no right, title or interest, proprietary or otherwise, in or to the name or any logo, or intellectual property owned or licensed by the other. Government Entity and U.S. Bank each agree that, without prior written consent of the other, it shall not use the name, any logo, or intellectual property owned or licensed by the other.

B. **No Third Party Beneficiaries or Claims.** Any Commercial Card Program and/or Global Commercial Card Program provided to Government Entity by U.S. Bank is for the sole and exclusive benefit of Government Entity and no other persons or organizations shall have any rights and/or remedies arising under or in connection with this Agreement.

C. **Limitation of Liability.** NEITHER GOVERNMENT ENTITY, U.S. BANK, NOR ANY PARTY'S AFFILIATES, REPRESENTATIVES AND ASSIGNS SHALL IN ANY EVENT BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, OR PUNITIVE DAMAGES OF ANY NATURE (INCLUDING LOST PROFITS) EVEN IF SUCH PARTY HAD BEEN NOTIFIED OF THEIR POSSIBLE EXISTENCE.

D. **Representations and Warranties.** Each Party represents and warrants with respect to such Party that:

1. This Agreement constitutes a valid, binding and enforceable agreement;
2. The execution of this Agreement and the performance of the obligations hereunder are within such Party's powers; have been authorized by all necessary action; do not require action by or approval of any governmental or regulatory body, agency or official; and do not constitute a breach of any material agreement of such Party;
3. The execution of this Agreement and the performance of the obligations hereunder shall not cause a material breach of any duty arising in law or equity; and
4. As of the date of this Agreement, such Party possesses the financial capacity to perform all of its obligations under this Agreement.

The Parties agree that the failure of any of the above representations and warranties to be true during the term of this Agreement shall constitute a material breach of this Agreement and the non-breaching Party shall have the right to terminate this Agreement in accordance with Section IV.B.3.

EXCEPT AS EXPRESSLY PROVIDED HEREIN, U.S. BANK MAKES NO WARRANTIES, EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND OF MERCHANTABILITY, EITHER TO GOVERNMENT ENTITY OR TO ANY OTHER PERSON OR THIRD PARTY, WITH RESPECT TO THE COMMERCIAL CARD PROGRAM OR THE GLOBAL COMMERCIAL CARD PROGRAM PROVIDED BY U.S. BANK OR ITS REPRESENTATIVES OR WITH RESPECT TO SOFTWARE SERVICES PROVIDED OR MADE AVAILABLE TO GOVERNMENT ENTITY OR ANY OTHER PERSON FOR ITS USE BY U.S. BANK IN CONNECTION WITH THIS AGREEMENT AND ANY SERVICE THEREUNDER.

E. **Modification or Amendment.** This Agreement shall not be modified or amended except by writing and signed by both Government Entity and U.S. Bank.

F. **Severability.** Should any provision of this Agreement be declared invalid for any reason, such declaration shall not affect the validity of any other provision of this Agreement, which shall remain in full force and effect as if this Agreement had been executed with the invalid provision(s) eliminated. The Parties shall use their commercially reasonable efforts to agree upon a valid substitute provision in accordance with the purpose of this Agreement and the intent of the Parties.

G. **Non-Waiver.** The failure of U.S. Bank or Government Entity to exercise any right, power or option arising under this Agreement, or to insist upon strict compliance with the terms of this Agreement shall not constitute a waiver of this Agreement with respect to any other or subsequent breach hereof, nor a waiver by either of U.S. Bank or Government Entity of its rights at any time thereafter to require exact and strict compliance with all the terms hereof.

H. **Binding Effect and Assignment.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

I. **Interpretation of this Agreement.** The Parties expressly agree that this Agreement shall not be construed more strongly against either Party regardless of which Party is more responsible for its preparation. This Agreement constitutes the entire agreement between the Parties concerning the matters addressed in this Agreement, and cancels and supersedes any prior agreements, undertakings, declarations or representations, written or verbal, in respect thereof. Unless the context otherwise requires, words importing the singular number shall include the plural and vice versa, words importing any gender include all genders and references to agreements and other contractual instruments shall be deemed to include all present or future amendments, supplements, restatements or replacements thereof or thereto. Headings are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

J. **Sole Provider.** The Parties acknowledge and agree that U.S. Bank shall be the sole provider to Government Entity of the Card Products and Ancillary Services set forth in the Participating Addendum.

K. **Commercial Card Program and Card Issuance.** U.S. Bank has approved Government Entity for the Commercial Card Program in the United States and shall provide the products and options indicated in the Participating Addendum. Government Entity shall designate to U.S. Bank proposed employees who are anticipated to incur expenses on behalf of Government Entity and who are to receive Accounts, with or without Cards, by submitting completed, duly authorized applications, in a format specified by U.S. Bank, and with any applicable consents or authorizations from such Cardholder applicant as may be required herein or in such applications. If an Account is used for Purchases or to obtain cash in a country other than the United States, the Statement shall reflect the conversion into U.S. Dollars of Transactions that occurred in a different currency and an

applicable exchange rate for any such conversion. Due to fluctuations in foreign exchange rates, a credit transaction may not be in the same amount as the original debit transaction.

L. **Notice and Communication.** Except with respect to notices relating to the status of individual Cards and/or Accounts, all notices, requests and other communications provided for hereunder must be directed to the other Party at the respective addresses set forth below, unless otherwise specified herein, and must be in writing, postage prepaid or hand delivered. Either Party may change its address by written notice to the other Party.

U.S. Bank	1.1.1 Government Entity
U.S. Bank National Association Corporate Payment Systems Mail Code EP-MN-L26C 200 South Sixth Street Minneapolis, MN 55402 U.S.A. Attn: CPS Contract Services	

M. **USA PATRIOT Act.** In order to comply with the requirements of the USA PATRIOT Act, U.S. Bank may require Government Entity and Cardholders to provide their legal entity name, street address, taxpayer identification number and other information that will allow U.S. Bank to identify each Government Entity and Cardholders prior to establishing an Account under or in connection with the Agreement. U.S. Bank reserves the right to require that Government Entity and Cardholders promptly provide to U.S. Bank sufficient identification documents upon request and in connection with USA PATRIOT Act compliance.

N. **Governing Law.** Except as provided to the contrary herein, the law of the state in which Government Entity resides and applicable federal laws and regulations of the United States shall apply to all Commercial Card Program services provided by U.S. Bank under this Agreement. Notwithstanding the foregoing, the laws of the State of Minnesota and applicable federal laws and regulations of the United States shall govern Software Services provided to Government Entity under this Agreement.

O. **Interchange Rate.** The Revenue Sharing Opportunity described in this Agreement is based on current interchange rates determined by the Association. These interchange rates are subject to change by authorities outside the control of U.S. Bank. In the event of a decrease or increase in the Association's published interchange rates by five percent (5%) or more, U.S. Bank will have the right to replace the current Revenue Sharing Opportunity with a new Revenue Sharing Opportunity proportionate to the change of the revised interchange rates.

P. **Other Agreements and Regulations.** In addition to this Agreement, the products and services provided to Government Entity are subject to the following additional agreements and/or regulations:

1. **Clearing House Operating Regulations.** Any applicable automated clearinghouse operating rules, including, without limitation, the National Automated Clearing House Association Operating Rules and Guidelines (collectively referred to as the "NACHA Rules");
2. **Association Operating Regulations.** Association operating rules and regulations, including, without limitation, Visa USA, Visa International, MasterCard USA, and MasterCard International; and
3. **Cardholder Agreement.** Each Cardholder may receive a Cardholder Agreement that governs the use of the Account. Activation of the Card or Account by the Cardholder and/or use of the Card or Account by the Cardholder constitutes concurrence with the terms and conditions of the Cardholder Agreement.

Q. **Disputes.** All disputes regarding Charges or billings for the U.S. Bank Commercial Card Program shall be communicated in writing through Access Online or by mail within sixty (60) days of statement date to U.S. Bank at the address set forth below:

U.S. Bank
P.O. Box 6344
Fargo, ND 58125-6344 U.S.A.

R. **Customer Service.** Government Entity and Cardholders may call the following telephone numbers to report termination of employment of any Cardholder, lost or stolen Cards or compromised Accounts, or to ask questions about Commercial Card Program Services or U.S. Bank Accounts.

800-344-5696 (Program Services)	24 hours per day / 7 days per week
877-887-9260 (Cardholders, Software Customer Service)	24 hours per day / 7 days per week
877-452-8083(Program Administrator, Software Customer Service)	6:30 a.m.-8:00 p.m., CST Monday-Friday

VI. DEFINITIONS

A. Definitions. All capitalized terms used in this Agreement are defined herein and shall have the following meaning:

1. "Account" means any account established by U.S. Bank pursuant to this Agreement in the name of Government Entity, Government Entity Agencies or Political Subdivisions and/or Cardholders, to which Debt is charged, regardless of whether or not a Card is issued in conjunction with such account.
2. "Affiliate" means a Person that directly or indirectly controls, is controlled by, or is under common control with, the Person specified.
3. "Ancillary Services" means any additional services offered in conjunction with an Account, including but not limited to Cash Advances, Convenience Checks and U.S. Bank Expense Management.
4. "Association" means, collectively, the Persons who govern commercial card issuance, including, without limitation, Visa USA, Inc., Visa International Service Association, Inc., MasterCard USA, and MasterCard International.
5. "Billing Cycle" means the period of time from which a Statement is generated until the next Statement is generated.
6. "Card" means, in connection with an Account, any commercial charge card issued by U.S. Bank pursuant to this Agreement in the name of Government Entity and/or Cardholders.
7. "Cardholder" means an individual employee of Government Entity, named as the holder of the Account or using the Account in the name of Government Entity, regardless of whether a physical card is issued in conjunction with the Account.
8. "Cardholder Agreement" means the U.S. Bank Cardholder agreement in standard form between U.S. Bank and the Cardholder.
9. "Card Products" means the standard U.S. Bank commercial card product offerings, including but not limited to the Purchase Card, Corporate Card, Managed Spend Card, Executive Card, One Card, Global Card.
10. "Cash Advance" means an advance of cash in the form of cash or check that, if permitted according to the terms of this Agreement, is charged to an Account.
11. "Cash Advance Fee" means the fee charged by U.S. Bank for a Cash Advance according to the terms of the Participating Addendum.
12. "Central Billing Account" means any Account used for consolidating Transactions from one or more other Accounts for centralized corporate billing purposes. Central Billing Account includes, but is not limited to "Central Billing Accounts", "Central Travel Accounts" (CTA) and "Central Travel System Accounts" (CTS).
13. "Charge" means any transaction posted to an Account that has a debit value, including without limitation, Purchases, Cash Advances, and Fees.
14. "Charge-off" means any amount due and owing that remains unpaid for one hundred fifty (150) days after the date that it was first billed.
15. "Commercial Card Program" means the Card Products and Ancillary Services offered by U.S. Bank or a Participating Bank.
16. "Control" or "Controlled" means, with respect to a Person, the possession, directly or indirectly, of the power to direct or cause the direction of management or policies (whether through ownership of securities or partnership, membership or other ownership interests, by contract or otherwise) of such Person.
17. "Convenience Checks" means the drafts drawn against an Account by the Cardholder for Purchases.
18. "Data" means the information regarding or in connection with Accounts and/or Transactions associated with the Commercial Card Program and/or any such information provided by a Lead and/or Participating Bank associated with the Global Commercial Card Program.

19. "Debt" means all amounts charged to an Account including without limitation all amounts related to Charges that are owed to U.S. Bank by Government Entity, Government Entity Agencies and Political Subdivisions, and/or Cardholders.
20. "Due Date" means, with respect to a Statement, the date, as measured by the number of days after the Statement Date, for which the payment of Debt that is listed on the Statement is due.
21. "Fees" means all fees that are posted to an Account and due and payable to U.S. Bank by Government Entity, Government Entity Agencies and Political Subdivisions, and/or its Cardholders that are associated with any Commercial Card Program and/or Global Commercial Card Program, including but not limited to Cash Advance, Foreign Transaction and Late Fees.
22. "Foreign Transaction Fee" means the fee U.S. Bank charges on the amount of any Debt or other Transaction posted to an Account that is not in the same currency in which the Account is billed and which must be converted to the currency used for billing purposes.
23. "Fraudulent Charges" mean those Charges which are not initiated, authorized or otherwise requested by Government Entity and/or a Cardholder by any means (electronic, telephonic or written) and do not directly or indirectly benefit Government Entity and/or a Cardholder.
24. "Intellectual Property" or "Intellectual Property Rights" means any patent rights, copyrights, trade secrets, trade names, service marks, moral rights, know-how and any other similar rights or intangible assets recognized under any laws or international conventions, and in any country or jurisdiction in the world, as intellectual creations to which rights of ownership accrue, and all registrations, applications, disclosures, renewals, extensions, continuations or reissues of the foregoing now or hereafter in force.
25. "Late Fee" means the fees associated with any Debt that remains unpaid to U.S. Bank by Government Entity and/or Cardholders after the Due Date on the Statement.
26. "MasterCard" means MasterCard® USA, Inc., MasterCard International, and any other MasterCard entity identified in the Participating Addendum.
27. "Merchant" means any entity that has entered into an agreement that governs the acceptance of Cards.
28. "Merchant Category Code" means the code established by the Associations that identifies and classifies goods or services offered by a Merchant. Each Merchant designates its Merchant Category Code to the applicable Association.
29. "Parent" means any Person that Controls a Party.
30. "Party" means any one of U.S. Bank or Government Entity, and "Parties" means U.S. Bank and Government Entity.
31. "Past Due Balance" means, with respect to a Statement, the total amount of any Debt which remains unpaid to U.S. Bank by Government Entity and/or Cardholder after the Due Date specified on such Statement.
32. "Person" means any corporation, company, limited liability company, general partnership, limited partnership, limited liability partnership, unincorporated association, trust, joint venture, estate or other judicial entity or any governmental body.
33. "Political Subdivision Addendum" means the Commercial Card Program Political Subdivision Addendum used by Political Subdivisions to join Government Entity's Commercial Card Program.
34. "Program Administrator" means the employee designated by Government Entity to serve as the primary point of contact between Government Entity and U.S. Bank and shall be trained and have thorough knowledge of Commercial Card Programs offered by U.S. Bank to Government Entity.
35. "Purchase" means a purchase of goods and/or services that is charged to an Account.
36. "Statement" means, with respect to one or more accounts, a periodic billing Statement from U.S. Bank listing all Transactions posted to such Accounts.
37. "Summary Statement" means, with respect to one or more accounts, a billing Statement that provides only an aggregate amount of all Transactions posted to such Accounts.
38. "Transaction" means any activity posted to an Account, both debit and credits, including but not limited to Purchases, Cash Advances, Fees and payments.
39. "U.S. Bank Expense Management" means the automated expense management and reporting solution offered by U.S. Bank.
40. "Visa" means Visa® USA, Inc., Visa International Service Association, Inc. and any other Visa entity

U.S. BANK FLEET CARD PROGRAM AGREEMENT

This Fleet Card Agreement (the "Fleet Card Agreement") governs the U.S. Bank Fleet Program provided by the WSCA-NASPO Cooperative Purchasing Program Commercial Card Solutions Contract #00612, Category 2 (the "Fleet Card Contract") and is an attachment to the Participating Addendum entered into by and between U.S. Bank National Association ("U.S. Bank") and the Government Entity which is a signatory to that Participating Addendum ("Government Entity").

1. **EFFECTIVE DATE.** The date of execution of the Fleet Card Contract by the latter of the State of Washington and U.S. Bank shall be the "Effective Date" of the Fleet Card Program.

2. **PARTICIPATION.** Certain entities designated by Government Entity may participate in the Fleet Card Program.
   A. **"Government Entity Agencies"** means those Government Entity departments and agencies that rely upon the Government Entity for funding, or are appropriated funds by the Government Entity for the charges on the accounts issued to the employees of those departments and agencies. In order for Government Entity Agencies to participate in the Fleet Card Program, the Government Entity will furnish to U.S. Bank a Government Entity Agency Addendum listing those agencies allowed to participate. The Government Entity has the right to exclude any agencies from the Fleet Card Agreement by providing written notice to U.S. Bank at any time.
   B. **"Political Subdivisions"** means any municipalities, counties, and institutions of higher education that do not rely upon the Government Entity for funding. Political Subdivisions may participate in this Fleet Card Program upon credit approval by U.S. Bank and upon the signing and submission of a properly completed Political Subdivision Addendum.

3. **SCOPE OF FLEET CARD PROGRAM.** U.S. Bank issues charge cards and has established a transaction processing, reporting and payment system for purchases of motor fuels and other products and services by fleet vehicle operations. Government Entity shall be responsible for selecting a personal identification number ("PIN"), a driver identification number ("Driver ID"), and/or a vehicle identification number ("Vehicle ID") pursuant to the Fleet Card Program. Unless U.S. Bank notifies Government Entity to the contrary, or a Fleet Card has been terminated as provided herein, all Fleet Cards will expire upon the expiration or termination of this Fleet Card Agreement.

4. **SOLE PROVIDER OF FLEET CARD SERVICES.** The Parties acknowledge and agree that U.S. Bank shall be the sole provider to Government Entity of Fleet Cards and services pertaining to the Fleet Card Program.

5. **LIABILITY.**
   A. Except as expressly provided to the contrary herein, Government Entity shall be liable for all purchases, fees, Finance Charges and other charges incurred or arising by virtue of the use of a Fleet Card.
   B. Government Entity shall immediately, upon receipt of such information, notify U.S. Bank by telephone at 1-800-987-6591 as to any lost or stolen Fleet Card, PINS, Driver IDs, or Vehicle IDs. Government Entity shall also immediately notify U.S. Bank by telephone at 1-800-987-6591to cancel a PINs, Driver Ids, or Vehicle IDs. After notification has been made to U.S. Bank to cancel such Fleet Card(s), use of such Fleet Card(s) is expressly prohibited. Government Entity is liable for the unauthorized use of the Fleet Card until U.S. Bank receives notification of the lost or stolen Fleet Card or to cancel the PIN, Driver ID, or Vehicle ID. Government Entity shall not be liable for any purchase, fees, finance charges or other charge incurred or arising by virtue of the use of a Fleet Card following receipt by U.S. Bank of notice of such loss, theft or request to cancel a PIN, Vehicle ID, or Driver ID. Government Entity agrees to assist U.S. Bank in determining the facts, circumstances and other pertinent information related to any loss, theft or possible unauthorized use of the Fleet Card and to comply with such procedures as may be required by U.S. Bank in connection with U.S. Bank's investigation. U.S. Bank is not responsible for controlling the use of a Fleet Card, other than as specifically provided herein.

6. **PRICING.** Government Entity shall pay to U.S. Bank the fees as set forth on Addendum A, attached hereto and made a part hereof. U.S. Bank reserves the right to renegotiate pricing in subsequent years of the Fleet Card Agreement if Government Entity's estimated billing volume is substantially inaccurate.

7. **FINANCE CHARGES.** A Finance Charge can be avoided if U.S. Bank receives payment of Government Entity's "New Balance" within twenty five (25) days of the statement closing date (the "Statement Date"). If Government Entity's New Balance is not paid in full, a Finance Charge will be computed using the average daily balance ("ADB"). To arrive at the ADB, U.S. Bank will take the beginning balance on Government Entity's account each day, add debits and any new purchases (except in the states of IL, ME, MA, MN, MS, MT, and NM) from the date of posting (if the New Balance is not received), then subtract any payments or credits, returned check fees, and unpaid Finance Charges. The result will be the "Daily Balance." U.S. Bank will then add all the Daily Balances for the billing cycle and divide by the total number of days in the billing cycle. The result will be the ADB. The Finance Charge will be determined by multiplying the ADB by a Periodic (monthly) Rate for Government Entity's state of mailing address as shown in Section 20, Notices, below.

State of Mailing Address	ADB	Periodic (monthly) Rate	Annual Percentage Rate
OR	All	1.80%	21.6%

8. **DELINQUENCY.** The Fleet Card account will become delinquent unless U.S. Bank receives the amount shown on the Statement as Total Payment Due, less any disputed amounts, before the next billing date (approximately twenty five (25) days). Any unpaid portion of the Total Payment Due will be shown on subsequent Statements as the "Past Due Amount." The Fleet Card account will be suspended if any part of the Past Due Amount is unpaid for three (3) billing dates. In the event of Government Entity's delinquency, U.S. Bank may elect to terminate this Fleet Card Agreement immediately upon notice to Government Entity. Court costs plus reasonable attorney fees (as allowed by law) may be added to any delinquent balance referred to an attorney for collection.

9. **BILLING PROCEDURE.** U.S. Bank will send to Government Entity a monthly billing statement (the "Statement"), which will itemize all charges for the billing period. The amount shown on the Statement as "Total Payment Due" shall be due and payable in U.S. Dollars upon Government Entity's receipt of the Statement.

10. **DISPUTED BILLINGS.** Disputes regarding charges or billings hereunder shall be communicated by phone to U.S. Bank 1-800-987-6591. Written notice is not required but may be submitted to U.S. Bank by email to fueldisputes@usbank.com. Whether by phone or in writing communications should include Government Entity's and, if applicable, the Participant's name(s) and account number, the dollar amount of any dispute or suspected error and a description of the dispute or error. Any communication regarding a dispute or suspected error must be received by U.S. Bank within sixty (60) days after the date on the billing statement on which the disputed or incorrect charge first appeared. Disputed billings are categorized as, but not necessarily limited to, failure to receive goods or services charged, fraud, forgery, altered charges and charges incurred by telephone order where the authenticity of the charge is in question.

11. **TERM, TERMINATION AND SUSPENSION.**
    A. This Fleet Card Agreement shall remain in full force and effect for an initial term of five (5) years from the Effective Date of this Fleet Card Agreement, and shall continue thereafter until terminated by either Government Entity or U.S. Bank upon ninety (90) days prior written notice to the other Party. The effective date of termination shall be stated in such written notice of termination. All Fleet Cards and related accounts shall be deemed canceled effective upon termination of this Fleet Card Agreement.

B. Notwithstanding the foregoing, either Party shall have the right to terminate this Fleet Card Agreement immediately, by written notice of such termination to the other Party, upon any one (1) or more of the following events:

(i) Dissolution or liquidation of the other Party;
(ii) Insolvency of the other Party or the filing of a bankruptcy or insolvency proceeding, the appointment of a receiver or trustee for benefit of creditors or the other Party enters into an arrangement with its creditors;
(iii) Any material and adverse change in the financial condition of the other Party;
(iv) Any failure to perform a material obligation of this Fleet Card Agreement.

C. Upon termination of this Fleet Card Agreement for any reason, Government Entity shall destroy all Fleet Cards. Government Entity shall remain liable for all purchases, fees, Finance Charges and other charges incurred or arising by virtue of the use of a Fleet Card prior to the termination date.

D. U.S. Bank shall have the right to suspend any and all services and obligations under this Fleet Card Agreement to Government Entity in the event that: (i) Government Entity has breached any term of this Fleet Card Agreement; (ii) the amount due from Government Entity, as the result of purchases, fees, Finance Charges and other such charges, in the aggregate, exceeds the credit limit established pursuant to Section 16; or (iii) payment is not received by U.S. Bank within ninety (90) days after any Statement Date.

E. Rights, obligations or liability, which arise prior to the suspension or termination of this Fleet Card Agreement, shall survive the suspension or termination of this Fleet Card Agreement.

12. **CONFIDENTIALITY.**

A. U.S. Bank considers the Fleet Card Program to be a unique service involving proprietary information of U.S. Bank. Government Entity agrees that Fleet Card Program reports, manuals, documentation and related materials (whether or not in writing) will be circulated only to persons, and only to the extent necessary, in order that Government Entity may participate in the Fleet Card Program. Government Entity and Participants agree to take all reasonable steps to safeguard such proprietary information and not to release such information to any person or party not essential to participation in the Fleet Card Program as herein described.

B. U.S. Bank agrees that it will maintain all data relative to Government Entity's account(s) under the Fleet Card Program as confidential information and will exercise the same standard of care and security to protect such information as U.S. Bank uses to protect its own confidential information. U.S. Bank agrees to use such data exclusively for the providing of services to Government Entity and Participants hereunder and not to release such information to any other party; provided, however, that U.S. Bank may collect, maintain and, at its option, disseminate information and data concerning charge activity which does not contain any direct or indirect identification of Government Entity or Participants.

13. **INDEMNIFICATION.**

A. Except to the extent that any injury is due to Government Entity's or a Participant's negligent acts or omissions, U.S. Bank shall indemnify and hold Government Entity and Participants harmless against all losses, damages, costs, expenses and liability which may result in any way from any negligent or wrongful act or omission of U.S. Bank, its agents, employees and subcontractors. U.S. Bank shall indemnify and hold Government Entity and Participants harmless against demands, claims, suits, or proceedings alleging infringement of any patent of the United States, or any trademark, service mark, copyright or other proprietary right arising out of or incident to this Fleet Card Agreement.

B. BANK SHALL IN NO EVENT BE LIABLE TO GOVERNMENT ENTITY FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, OR PUNITIVE DAMAGES OF ANY NATURE.

14. WARRANTIES.

A. The Parties agree that the failure of any of the below representations and warranties to be true during the term of this Fleet Card Agreement shall constitute a material breach of this Fleet Card Agreement and the non-breaching Party will have the right, upon notice to the other Party, to immediately terminate this Fleet Card Agreement and all amounts outstanding hereunder shall be immediately due and payable.

B. Government Entity warrants that:

(i) The financial information and all other information provided to U.S. Bank by Government Entity or its officers, employees, agents, successors and assigns is true, complete and accurate;

(ii) This Fleet Card Agreement constitutes a valid, binding and enforceable agreement of Government Entity;

(iii) The transaction contemplated by this Fleet Card Agreement is within the scope of the normal course of business and does not require further authorization for Government Entity to be duly bound by this Agreement;

(iv) The execution of this Fleet Card Agreement and the performance of its obligations under this Fleet Card Agreement are within Government Entity's powers; have been authorized by all necessary action; and do not constitute a breach of any agreement of Government Entity with any party;

(v) Government Entity has and continues to comply with all applicable state and federal statutes, ordinances, rules, regulations and requirements of governmental authorities as they relate to the use of the Fleet Card and/or participation in the Fleet Card Program;

(vi) The execution of this Fleet Card Agreement and the performance of its obligations under this Fleet Card Agreement will not cause a breach by it of any duty arising in law or equity; and

(vii) Government Entity possesses the financial capacity to perform all of its obligations under this Fleet Card Agreement.

C. U.S. Bank warrants that:

(i) This Fleet Card Agreement constitutes a valid, binding and enforceable agreement of U.S. Bank;

(ii) The execution of this Fleet Card Agreement and the performance of its obligations under this Fleet Card Agreement are within U.S. Bank's powers; have been authorized by all necessary action; do not require action by or approval of any governmental or regulatory body, agency or official; and do not constitute a breach of any agreement of U.S. Bank with any party;

(iii) U.S. Bank has and continues to comply with all applicable state and federal statutes, ordinances, rules, regulations and requirements of governmental authorities as they relate to the Fleet Card Program;

(iv) The execution of this Fleet Card Agreement and the performance of U.S. Bank's obligations under this Fleet Card Agreement will not cause a breach by it of any duty arising in law or equity; and

(v) U.S. Bank possesses the financial capacity to perform all of its obligations under this Fleet Card Agreement.

15. FINANCIAL INFORMATION. Since this Fleet Card Agreement is for an extension of credit with a financial institution and not a vendor services agreement, Government Entity shall provide information as requested by U.S. Bank to perform periodic credit reviews. Unless such information is publicly available or available through U.S.Bancorp (the parent company of U.S. Bank) or any of its subsidiaries, Government Entity shall provide audited financial statements, prepared by Government Entity's independent certified public accountant, as soon as available and in any event not later than one hundred twenty (120) days after the end of each fiscal year of company. In the event U.S. Bank requires additional information to conduct its review of company, Government Entity agrees to provide to U.S. Bank such other information regarding the business, operations, affairs, and financial condition of Government Entity as U.S. Bank may reasonably request. Such information may include, but is not limited to, quarterly financial statements, organizational charts, executive biographies and other formal documentation.

16. **AGGREGATE PRODUCT CREDIT LIMIT AND ACCOUNT CREDIT LIMITS.** Subject to credit approval by U.S. Bank, an account credit limit (an "ACL") for each Account and an aggregate product credit limit (the "PCL") for all Accounts shall be established by U.S. Bank pursuant to this Fleet Card Agreement.
    A. **Revising the PCL.** U.S .Bank, at its sole discretion, shall have the right to revise the PCL. U.S. Bank shall provide notice to Government Entity of any decrease in the PCL which results in a revised PCL that is lower than the aggregate current amount outstanding on all Accounts. Upon such notice, Government Entity shall have ten (10) days to make a payment to U.S. Bank that is sufficient to reduce the aggregate current amount outstanding to an amount that is equal to or less than the revised PCL.
    B. **Revising ACLs.** U.S. Bank, at its sole discretion, shall have the right to revise any ACL.

        (i) Government Entity Accounts. U.S. Bank shall provide notice to Government Entity of any decrease in an ACL which results in a revised ACL that is lower than the aggregate current amount outstanding on the Account. Upon such event, Government Entity shall have ten (10) days to make a payment to U.S. Bank on the Account that is sufficient to reduce the aggregate current amount outstanding for such Account to an amount that is equal to or less than the revised ACL.
        (ii) Fraudulent Activity. U.S. Bank may revise any ACL and/or limit spending activity on any Account for which fraudulent activity is suspected.

17. **REGISTERED MARKS AND TRADEMARKS.** Government Entity and U.S. Bank each recognize that they have no right, title or interest, proprietary or otherwise, in or to the name or any logo, copyright, service mark or trademark owned or licensed by the other Party. Government Entity and U.S. Bank each agree that, without prior written consent of the other Party, they will not use the name or any name, logo, copyright, service mark or trademark owned or licensed by the other Party.

18. **SURVIVABILITY OF PAYMENT OBLIGATIONS, RIGHTS AND REMEDIES.** The obligation of Government Entity to make payments as herein set forth shall continue until fully performed. Any rights and remedies Government Entity or U.S. Bank may have with respect to each other arising out of either Party's performance of services or obligations hereunder shall survive the expiration or termination of this Fleet Card Agreement.

19. **GOVERNING LAW.** The validity, interpretation and performance of this Fleet Card Agreement will be controlled by and construed under the laws of the State of where Government Entity is located (without giving effect to the conflict of law principles thereof) and applicable federal laws.

20. **NOTICES.** Except with respect to notices relating to the status of individual Fleet Cards which may be established in writing between U.S. Bank and Government Entity or a Participant, all notices, requests and other communication provided for hereunder must be directed to the other Party at the respective addresses indicated below and, unless otherwise specified herein, must be in writing, postage prepaid or hand delivered or delivered by telecopy. Either Party may, by written notice to the other, change its address indicated below.

U.S. Bank:	Government Entity:
U.S. Bank National Association	_____
Mail Code EP-MN-A17S	_____
901 Marquette Avenue	_____
Minneapolis, MN 55402	_____
Attn: CPS Contract Services	Attn: _____

21. **EMPLOYMENT OF AGENTS.** U.S. Bank may, in its sole discretion, employ agents to perform part or all of its obligations under this Fleet Card Agreement at any time without the consent of Government Entity; provided, however, that such action shall not affect its obligations to Government Entity hereunder.

22. **MISCELLANEOUS.**

A. Complete Agreement; Amendments. This Fleet Card Agreement constitutes the complete understanding between the Parties with respect to the subject matter hereof and all prior oral or written communications and agreements with respect thereto are superseded. No failure on the part of either Party to exercise, and no delay in exercising any right under this Fleet Card Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right under this Fleet Card Agreement preclude any other or further exercise thereof or the exercise of any other right.

B. Successors and Assigns. This Fleet Card Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns; provided, however, that this Fleet Card Agreement may not be assigned by Government Entity without the prior written approval of U.S. Bank or its designate, which shall not unreasonably be withheld or delayed.

C. Severability. Should any provision of this Fleet Card Agreement be declared invalid for any reason, such decision shall not affect the validity of any other provisions, which other provisions shall remain in force and effect as if this Fleet Card Agreement had been executed with the invalid provision(s) eliminated. The Parties shall use their best efforts to agree upon a valid substitute provision in accordance with the purpose of this Fleet Card Agreement and the intent of the Parties.

D. USA PATRIOT Act. In order to comply with the requirements of the USA PATRIOT Act, U.S. Bank requires Government Entity to provide its legal entity name, street address, taxpayer identification number and other information that will allow U.S. Bank to Government Entity prior to establishing an account for such entity. U.S. Bank reserves the right to require that Government Entity promptly provide to U.S. Bank sufficient identification documents upon request in connection with USA PATRIOT Act compliance.

E. Headings. The headings of the sections of this Fleet Card Agreement are intended for the convenience of the Parties only and shall in no way be held to explain, modify, amplify or aid in the interpretation of the provisions hereof.

F. Set Up Fees. For Government Entities with two hundred (200) or more Fleet Cards and a monthly billing volume of at least seventeen thousand U.S. Dollars ($17,000.00), U.S. Bank will not assess a fee to Government Entity for account set-up, Fleet Card issuance, transactions or standard monthly or annual billings. For Government Entities with less than two hundred (200) Fleet Cards and monthly billings of less than seventeen thousand U.S. Dollars ($17,000.00), U.S. Bank will assess a fee to Government Entity for account set-up, Fleet Card issuance, transactions or standard monthly or annual billings as provided below. Government Entity may be automatically assessed all applicable fees provided in Addendum A without prior notice.For additional reporting and Government Entities with less than two hundred (200) Fleet Cards and less than seventeen thousand U.S. Dollars ($17,000.00) in monthly billings, the fees are as follows.

Set Up Fees

Account Set Up (one time fee)---------- $0.00

Fleet Card Fees

Number of Cards (monthly):

7 – 25---------- $0.00

26 – 100---------- $0.00

101 – 200---------- $0.00

Additional Reporting Fees

Invoice (Includes: statement, payments and adjustments and taxes) ----------$0.00

Invoice Report----------$0.00

Driver Report ----------$0.00

Vehicle Report----------$0.00

Exception Report ----------$0.00

Service Station Activity Report----------$0.00

Product Purchase Summary ----------$0.00

Expense Summary By Business Unit----------$0.00

U.S. BANK PRODUCT DESCRIPTIONS

1. **U.S. Bank Purchase Card.** The U.S. Bank Purchase Card is a charge card designed for use by Cardholders to charge goods and services related to the business activities of Customer. U.S. Bank also provides central purchase accounts, which can be used for the same purpose, but without the issuance of a physical card.
2. **U.S. Bank One Card.** The U.S. Bank One Card is a charge card designed for use by Cardholders that combines Corporate and Purchase Card capabilities on a single Account. The One Card can be utilized for travel and entertainment related expenses as well as to charge goods and services related to the business activities of Customer.
3. **U.S. Bank Fleet Card.** The U.S. Bank Fleet Card on the Voyager Network is a Corporate Liability charge card designed for purchases of motor fuels and other products and services by fleet vehicle operations using a transaction processing, reporting and payment system established by U.S. Bank.
4. **U.S. Bank Managed Spend Card.** The U.S. Managed Spend Card is a specialized corporate liability card with declining balance functionality designed for use by Customers or Cardholders to charge business related goods and services. Customer may also elect to have Cards issued to family members relocating employees. Unless requested for a different duration, Managed Spend has a term of twelve (12) to thirty-six (36) months. U.S. Bank also provides Managed Spend Central Billing Accounts, which can also be used for business or relocation expenses. Based on the credit worthiness of Customer and/or its Cardholder, U.S. Bank, at its sole discretion, shall establish a credit limit of no less than five hundred U.S. Dollars ($500.00).
5. **U.S. Bank Emergency Response Card.** The U.S. Bank Emergency Response Card is a corporate liability charge card designed for use by Cardholders under unusual or special circumstances such as disaster relief/recovery efforts. Customer provides the Emergency Response Card to Cardholders to charge goods and services against a Corporate billed account.
6. **U.S. Bank Corporate Card.** The U.S. Bank Corporate Card is a charge card designed for use by Cardholders to charge travel, entertainment and other goods and services that are related to the business activities of Customer. U.S. Bank also provides central travel accounts, which can be used for the same purpose, but without the issuance of a physical card.

APPLICABLE CARD FEES AND REBATE INFORMATION

	Fees Applicable to Purchase, Corporate and One Card	Charge
1.	Annual Card Fee	$0.00
2.	Non-Sufficient Funds Fee, all Products, per occurrence	$15.00
3.	Logo Embossing Fee; a two-week delay may occur with Card issuance and implementation	$0.00
4.	Delinquency Fee, Purchasing or One Cards and Enhancements • Not Paid by Due Date on entire past due amount • Not Paid by each subsequent Billing Cycle on the entire past due amount • Minimum Late Fee	 1.0% 2.5% $2.00
5.	Delinquency Fee, Corporate • Not Paid by Due Date on entire past due amount • Not Paid by each subsequent Billing Cycle on the entire past due amount • Minimum Late Fee	 0.0% 2.5% $2.00
6.	Travel Accident Insurance Fee. Common Carrier Travel Accident Insurance for Corporate and/or One Cards is provided at no charge with a benefit amount of two hundred fifty thousand U.S. Dollars ($250,000.00). Entity and/or Participant must notify U.S. Bank of the use of Central Billing Accounts for booking of travel to ensure appropriate insurance coverage is in place.	$0.00
7.	Foreign Transaction Fee, all Products. Fee applies to transactions taking place outside the United States not in U.S. Dollars. U.S. Bank reserves the right to raise fee with sixty (60) days prior written notice to Entity.	2.5%

	Fees Applicable to Fleet Card The following fees will only be assessed for those customers with few than 200 Fleet Cards and monthly billings of less than $17,000.000. The following fees are subject to change without prior notice.	Charge
1.	Account Set Up – one-time fee	$0.00
2.	Fleet Card Fees – monthly fee dependent on number of cards • 7-25 cards • 26-100 cars • 101-200 cards	 $0.00 $0.00 $0.00
3.	Invoice, including statement, payments, adjustments and taxes	$0.00
4.	Driver Report	$0.00
5.	Exception Report	$0.00
6.	Service Station Activity Report	$0.00
7.	Product Purchase Summary	$0.00
8.	FleetCommander Online web access by user	$0.00
9.	Card delivery charge when overnight delivery service used	$20.00
10.	Expense Summary by Business Unit	$0.00
11.	Logo Embossing Fee; a two-week delay may occur with Card issuance and implementation.	$0.00
12.	Foreign Currency Fee. a foreign currency conversion fee ("Foreign Currency Conversion Fee") for transactions made outside the United States; the Statement will reflect the conversion into U.S. Dollars on transactions that occurred in a different currency and an applicable exchange rate for such conversions.	2.0%
13.	Finance Charges. Assessed on balances not paid by due date on statement at a periodic rate in accord with Entity's state rate as set forth herein and based on the Average Daily Balance ("ADB"). To calculate, U.S. Bank will take the beginning balance on Entity's account each day, add debits and any new purchases (except in the states of IL, ME, MA, MN, MS, MT, and NM) from the date of posting (if the New Balance is not received), then subtract any payments or credits, returned check fees, and unpaid Finance Charges. The result will be the "Daily Balance." U.S. Bank will then add all the Daily Balances for the billing cycle and divide by the total number of days in the billing cycle. The result will be the "Average Daily Balance."	Periodic Rate APR

WSCA-NASPO Contract 00612 - Commercial Card Solutions - Participating Addendum - State of Oregon
Appendix 5 – Applicable Card Fees and Rebate Information

Incentive Share	Rebates Applicable to Corporate Liability Purchase, Corporate, and One Cards (Individual liability Corporate Cards are not included in Incentive Share Components 1, 2, and 3)	Rebate BPS	Paid
1	Each Participating Entity will receive a basis point (percentage) of their quarterly sales volume. The Formula to determine quarterly volume incentive share: *Quarterly volume sales per entity - qualifying large ticket volume X basis points (percentage) = Participating Entity Quarterly Volume Incentive*	130	Quarterly
2	A Prompt Payment Incentive will be offered to each Entity. The Prompt Payment Incentive calculation is designed to provide an incentive to each Entity, when Client Held Days is less than forty-five (45) days. Client held days cannot be less than zero (0) The Prompt Payment Incentive is based solely on the Client Held Days Payment Performance for each Entity for each Agreement Quarter (3 calendar months). The Formula to determine Prompt Payment Incentive: *(45 - Client Held Days) / 45 x 0.0045 x Quarterly Sales Volume*		Quarterly
3	Large Ticket Incentive-Entity will receive an incentive for qualifying large ticket transactions. Qualifying large ticket transactions will be subject to the same speed of pay incentive. Contractor will provide a quarterly report identifying all qualifying large ticket transactions to each Entity. The formula for calculating Large Ticket Incentive is: *Qualifying Quarterly Large Ticket volume sales per Entity x basis points (percentage) = Entity Large Ticket Volume Incentive.*	75	Quarterly
4	Annual Sales Volume Incentive- Each participating state will receive an additional WSCA-NASPO Annual Sales Volume Incentive based on a tier established from all WSCA-NASPO participating states annual volume and applied to each state's annual sales volume. The formula for calculating WSCA-NASPO Annual Sales Volume Incentive is: *Participating state annual sales volume (all products) X applicable basis points (percentage) corresponding to the Tier established for the Annual Overall WSCA-NASPO Sales Volume (all product) = WSCA/NASPO Participating State Annual Sales Volume Incentive.* $600,000,000 - $2,000,000,000 $2,000,000,001 - $3,000,000,000 $3,000,000,001 - $4,000,000,000 $4,000,000,001 - $5,000,000,000 ***Note: Notwithstanding the foregoing, if a political subdivision in a non-participating state is allowed to join the contract, the Annual Aggregate State rebate component will be negotiated between the Bank, WSCA/NASPO and that political subdivision so long as the net bps available for this component are not diminished.***	 45 45 45 45	Annually

MINIMUM REQUIREMENTS
If Any Entity does not earn at least $75.00 in Incentive Share for Category 1 Incentive Share Components 1 through 3 and Category 2 Incentive Share Components 1 through 2 will forfeit Incentive share for the preceding quarter.

Any Incentive Share payment made pursuant to the Contract will be net of accumulated Charge-offs resulting from participation in Contractor programs regardless of whether the underlying Contract between the parties is valid or has been terminated.

In the event that the Card Program or the Contract is terminated prior to the completion of the Base Period or prior to the completion of any Agreement Quarter after the completion of the Base Period by Entity without cause, or by Contractor with cause, and/or the sole provider provision of this Contract is violated, in addition to any other remedies available to Contractor, this Incentive Share opportunity shall immediately terminate and no Incentive Share shall be paid to Entity.

Any Charge-offs in excess of the net Incentive Share from one (1) Agreement Quarter will be subtracted from one (1) or more of the following Agreement Quarters. Upon termination of the Contract, if the net Incentive Share is a negative dollar amount due to Charge-offs, Contractor may request, and Entity agrees to reimburse, Contractor up to the dollar amount previously paid by Contractor to Entity within thirty (30) days of the termination of the Contract.

WSCA-NASPO Contract 00612 - Commercial Card Solutions - Participating Addendum - State of Oregon
Appendix 5 – Applicable Card Fees and Rebate Information

Incentive Share	Rebates Applicable to Fleet Card	Rebate BPS	Paid
1	Participating Entity Volume-Entity will receive a basis point (percentage) of their quarterly sales volume. The Formula to determine quarterly volume incentive share: *Quarterly volume sales per entity - qualifying large ticket volume X basis points (percentage) = Entity Quarterly Volume Incentive*	130	Quarterly
2	Participating Entity Prompt payment-A prompt payment incentive will be offered and is designed to provide an incentive to each entity when Client Held Days is less than 45 days. Client held days cannot be less than zero (0) The Prompt Payment Incentive is based solely on the Client Held Days Payment Performance for each Entity for each Agreement Quarter (3 calendar months).The Formula to determine Prompt Payment Incentive: (45 - Client Held Days) / 45 x 0.0015 x Quarterly Sales Volume		Quarterly
3	All WSCA-NASPO States Annual Volume Incentive(per State) $50,000,000 - $100,000,000 $100,000,001 - $300,000,000 $300,000,001 - $500,000,000 $500,000,001 - $1,000,000,000 ***Note: Notwithstanding the foregoing, if a political subdivision in a non-participating state is allowed to join the contract, the Annual Aggregate State rebate component will be negotiated between the Bank, WSCA/NASPO and that political subdivision so long as the net bps available for this component are not diminished.***	40 41 43 45	Quarterly

MINIMUM REQUIREMENTS
Any Entity does not earn at least $75.00 in Incentive Share for Category 1 Incentive Share Components 1 through 3 and Category 2 Incentive Share Components 1 through 2 will forfeit Incentive share for the preceding quarter.

Any Incentive Share payment made pursuant to the Contract will be net of accumulated Charge-offs resulting from participation in Contractor programs regardless of whether the underlying Contract between the parties is valid or has been terminated.

In the event that the Card Program or the Contract is terminated prior to the completion of the Base Period or prior to the completion of any Agreement Quarter after the completion of the Base Period by Entity without cause, or by Contractor with cause, and/or the sole provider provision of this Contract is violated, in addition to any other remedies available to Contractor, this Incentive Share opportunity shall immediately terminate and no Incentive Share shall be paid to Entity.

Any Charge-offs in excess of the net Incentive Share from one (1) Agreement Quarter will be subtracted from one (1) or more of the following Agreement Quarters. Upon termination of the Contract, if the net Incentive Share is a negative dollar amount due to Charge-offs, Contractor may request, and Entity agrees to reimburse, Contractor up to the dollar amount previously paid by Contractor to Entity within thirty (30) days of the termination of the Contract.

STANDARD CONTRACT DEFINITIONS

Acceptance	A written notice from a purchasing entity to contractor advising Contractor that the Product has passed its Acceptance Testing. Acceptance of a product for which acceptance testing is not required shall occur following the completion of delivery, installation, if required, and a reasonable time for inspection of the product, unless the Purchasing Entity provides a written notice of rejection to contractor.
Acceptance Testing	The process for ascertaining that the materials, supplies, services, and/or equipment meets the standards set forth in the Solicitation, prior to Acceptance by the Purchaser.
Account	A government purchasing account number assigned to an Agency.
Account Coordinator	Person assigned by Contractor to provide day-to-day assistance with regard to program card maintenance.
Accounting Code Segment	Segments of the accounting code structure as defined in length, name by the program administrator.
Accounting Code Structure	The unique accounting framework that describes each client's business. Program administrators determine the number of segments in their accounting code structure, the length of each segment within that structure, and the name for each segment. Program administrators can create and name more than one accounting code structure if their businesses have more than one type of internal accounting structures.
Accounting Code Valid Values	A list of all possible values for an associated accounting code segment. The client uploads these lists to the online system to ensure that cardholders select only valid values when reallocating transactions.
Agency	Includes State of Washington institutions, the offices of the elective state officers, the Supreme Court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state. In addition, colleges, community colleges, and universities who choose to participate in State Contract(s) are included. "Agency" does not include the legislature or other participating state.
Agreement Quarter	A three (3) month period beginning with the first such period following the Effective Date of the Card Program.
Agreement Year	A twelve (12) month period beginning with the first such period following the Effective Date of the Card Program.
Agency Program Administrator	Indicates the person acting as the main point of contact throughout an entity and to the issuer. Typically the first-line connection with cardholders. Performs program functions such as: setting up new cardholder accounts, closing accounts, account maintenance, promoting program, development of program controls, policy, and compliance.
All or Nothing	The result of a competitive Solicitation that requires that a Contract be executed with a single Proposer for delivery of goods and services. In the event that suppliers are unable to deliver the entirety of the goods and services required, no Contract is executed. No partial fulfillment opportunities are available as a result of the Solicitation. A method of award resulting from a competitive Solicitation by which the DES will award the resulting Contract to a single Proposer. Also, a designation the Proposer may use in its Proposal or Response to indicate its offer is contingent upon full award and it will not accept a partial award.
Approving Official	An individual that is designated by the entity and the Entity Program Coordinator to, in a timely manner, monitor, review and approve the purchases of assigned cardholders. This position is normally held by a budget manager for which the funds are to be expended by the assigned cardholders.
Amendment	A change to a legal document. For the purposes of a Solicitation document, an amendment shall be a unilateral change issued by the DES, at its sole discretion.

Authorized Representative	An individual designated by the Proposer or Contractor to act on its behalf and with the authority to legally bind the Proposer or Contractor concerning the terms and conditions set forth in Solicitation, Proposal and Contract documents.
Authorized User	Customer identified person(s) allowed to access online system.
Billing Cycle	Time period from one invoice cutoff date to the next cutoff date.
Business Days	A day, not Saturday or Sunday, on which commercial banks generally are open for business.
Calendar Days	Consecutive days of the year including weekends and holidays, each of which commence at 12:00:01 a.m. and end at Midnight, Pacific Time. When "days" are not specified, Calendar Days shall prevail.
Cardholder	An individual that is designated by an Agency Program Administrator and Approving Official to be a card recipient and make official government purchases.
Central Travel Account (CTS)	"Ghost" (no plastic) card intended as a method of payment for travel expenses. This product may be used to make travel arrangements and is Corporate Liability.
Charge-Off	Any amount due and owing to US Bank or its affiliates by Customer that remains unpaid for one hundred fifty (150) after the date that it was first billed.
Client Held Days	The sum of the daily balances for the quarter divided by the total Net Charge Volume for the quarter less fifteen (15) days and cannot be less than zero (0) days.
Client Held Days Payment Performance	The average speed of repayment of charges made for each quarter.
Contract	An agreement, or mutual assent, between two or more competent parties with the elements of the agreement being offer, acceptance, and consideration.
Contract Administrator	The person designated to manage the resultant Contract for the DES. The primary contact for the DES with Purchasers and Contractor on a specific Contract.
Contractor	A person or entity delivering Products or performing services under the terms and conditions set forth in this Master Agreement.
Corporate Liability	The Corporation (state agency, political subdivision, school district, etc.) is responsible for payment of all purchasing card transactions.
Customer	The recipient of a good, service, product, or idea, obtained from a seller, vendor, or supplier.
Declining Balance Card	Card product with an established limit that reduces as transactions occur. This type of product is always corporate liability.
Department Cards	Corporate liability cards issued to a department, division, or specific group of authorized users.
Embedded Software	Computer software, written to control machines or devices that are not typically thought of as computers. It is typically specialized for the particular hardware that it runs on and has time and memory constraints. This term is sometimes used interchangeably with firmware, although firmware can also be applied to ROM-based code on a computer, on top of which the OS runs, whereas embedded software is typically the only software on the device in question.
Emergency Card	Corporate liability cards issued to a department or entity for purchases in the event of natural disaster.
Entity	State Agency, Political Subdivision, Institutions of Higher Education, School District, Non-Profit Organization.

Evaluation Team	Persons designated from each state, as those responsible to represent their state in review, evaluation, and scoring the RFP.
Fraudulent Charges	Those charges which are not initiated, authorized, or otherwise requested by Entity, its Affiliates, and/or a Cardholder by any means (electronic, telephonic, or written) and do not directly or indirectly benefit Entity, its Affiliates, and/or a Cardholder.
Hierarchy	Any system of persons or things ranked one above another
Incentive Share	Incentive Share or Revenue Share. Actual monies paid to each State and/or State Entity based on volume and speed of pay.
Individual Liability	The cardholder is responsible to pay for all transactions on a card assigned to them.
Infringement Indemnity	Indemnification of the Entity by the Contractor against any claim or suit with respect to such Entity's use of any Software.
Intellectual Property	Any and all patents, copyrights, service marks, trademarks, trade secrets, trade names, patentable inventions, or other similar proprietary rights, in tangible or intangible form, and all rights, title, and interest therein.
Interchange	The value paid by the merchant to the card issuing bank on each credit card transaction. Interchange rates are established by the network brand being utilized and are subject to change. Rates can vary based on the size of the transaction, the type of transaction, the additional data provided with the transaction, the industry group the merchant is registered in (e.g. travel and entertainment versus retail) and other factors.
Interface	A common boundary or interconnection between systems
Large Ticket Transaction	Transaction which qualifies for an incentive interchange rate that is lower than the standard interchange provided on a card transaction. Transaction size to qualify will vary over time with interchange rate changes set by card networks. Large ticket interchange rates may require the merchant to provide additional enhanced data to qualify for the lower rate, however exceptions to this requirement can occur.
Lead State	The State conducting the cooperative solicitation and centrally administering any resulting Master Agreement with the permission of the Signatory States.
Level 2 Data	Data elements that a merchant is required to provide in order to qualify for a reduced interchange rate on a transaction. Level 2 data elements for purchase cards typically include the sales tax in addition to standard elements required for any transaction such as the billing amount, card account, etc. For fleet transactions, level 2 data typically will include the fuel type and quantity purchased.
Level 3 Data	Data elements that a merchant is required to provide in order to qualify for a reduced interchange rate on a transaction. Level 3 data elements for purchase cards typically will include the line item details – i.e. item description, unit cost, quantity, line item total. Level 3 data may be required to be provided in order to qualify for other interchange rates such as Large Ticket Interchange.
Managed Spend Card	See definition for Declining Balance Card.
Master Agreement	The underlying agreement executed by and between the Lead State, as WSCA-NASPO contract administrator, acting on behalf of WSCA-NASPO, and the Contractor, as nor or hereafter amended.
Master Contracts and Consulting	The DES within the Washington Department of Enterprise Services, Services Division authorized under Chapter 43.19 RCW to develop and administer contracts for goods and services on behalf of state agencies, colleges and universities, non-profit organizations and local governments.
Merchant Category Code (MCC)	MCC represents a code scheme that defines a merchant industry type based on the Standard Industrial Category (SIC) code. The MCC/SIC code is included in the authorized transmission. If the Cardholder is not authorized for a particular MCC/SIC code the transaction will decline.

One Card	Either plastic or "ghost" (no plastic) card intended as a method of payment for any expense as determined by the agency. This product may be used to make travel arrangements, or any goods and services allowed by the agency. Always Corporate Liability.
Participating Addendum	A written statement of agreement signed by the Contractor and a Participating State that clarifies the operation of this Master Agreement for the Participating State (e.g, ordering procedures specific to a Participating State) and may add other state-specific language or other requirements. A Participating Addendum evidences the Participant's willingness to purchase and the Contractor's willingness to provide Services under the terms and conditions of this Contract with any and all exceptions noted and agreed upon.
Participating Entity	A state, or other legal entity, properly authorized by a state to enter into the Master Agreement or Participating Addendum or who is authorized to order under the Master Agreement or Participating Addendum.
PCI DSS	Payment Card Industry Data Security Standard establishes security guidelines for credit card providers for handling credit card numbers. To be PCI compliant, a merchant must encrypt card numbers before transmission over any network and must store them in a protected environment.
Procurement Coordinator	The individual authorized by the DES who is responsible for conducting a specific Solicitation.
Product	Materials, supplies, services, and/or equipment provided under the terms and conditions of this Contract.
Proprietary Fueling Location	Fuel merchant within a proprietary closed loop network of providers that requires the prompting of an authorization id and odometer reading at the point of sale. The fleet card provider has a merchant agreement requiring the merchant to capture this information.
Proprietary Maintenance Location	Merchant offering maintenance services within a proprietary closed loop network of providers that requires prompting of an authorization id and odometer reading at the point of sale. The fleet card provider has a merchant agreement requiring the merchant to capture this information.
Proposal	A sealed written offer to perform a Contract to supply materials, supplies, services, and/or equipment in reply to a Request For Proposal (ENTERPRISE SERVICES).
Proposer	Any person or company submitting an offer for goods or services.
Purchaser	The authorized user of the Contract, as identified in the Solicitation, who may or actually does make purchases of material, supplies, services, and/or equipment under the resulting Contract.
Purchasing Card	Either a plastic or "ghost" (no plastic) card intended as a method of payment for goods and services either at the point of sale or to pay an invoice for goods or services.
Quarterly Sales Volume	All Charges set forth on the Billing Statements furnished for all Accounts, less Fees, Cash Advances, Fraudulent Charges, Charge-backs, and amounts Charged-off by Contractor with respect to such accounts as uncollectible for each quarter (3 calendar months).
Quarterly Large Ticket Volume	Those Charges for each Agreement Quarter which the Association governing Customer's Card Program has determined qualify for large ticket interchange rates and which are processed by such Association using large ticket interchange rates, less credits, for each Agreement Year. All other Charges and all amounts related to Fees, Cash Advances, Convenience Checks, Fraudulent Charges, chargebacks and Charge-offs are excluded from Large Ticket Volume.
Relationship Manager	Person assigned by Contractor to provide day-to-day assistance with regard to program card maintenance.
Request For Proposal	The form utilized to solicit Proposals in the formal, sealed Proposal procedure and any amendments thereto issued in writing by the DES. The specifications and qualification requirements are written in an outcome based form allowing for consideration of a broad range of different solutions to meet the procurement need.

Responsible	The ability, capacity, and skill to perform the Contract or provide the service required , including, but not limited to the character, integrity, reputation, judgment, experience, and efficiency of the Proposer; Further considerations may include, but are not limited to whether the Proposer can perform the contract within the time specified, the quality of performance of previous contracts or services, the previous and existing compliance by the Proposer with laws relating to the contract or services and such other information as may be secured having a bearing on the decision to award the contract:
Responsive	A Proposal that meets all material terms of the Solicitation document.
Response	A Proposer's offer for goods and services.
Solicitation	The process of notifying prospective Proposers that the DES desires to receive competitive Proposals for furnishing specified materials, supplies, services, and/or equipment. Also includes reference to the actual documents used for that process, including: the Request For Proposals (RFP) or Request For Proposals (ENTERPRISE SERVICES), along with all attachments and exhibits thereto.
Standards of Performance	Performance measurements that Contractors are expected to achieve, and the knowledge and skills they need to perform effectively.
State	The State of Washington acting by and through the DES.
State Contract	The written document memorializing the agreement between the successful Proposer and the DES for materials, supplies, services, and/or equipment and/or administered by the Master Contracts and Consulting on behalf of the State of Washington. "State Contract" does not include the following: • Colleges and universities that choose to purchase under RCW 28B.10.029 • Purchases made in accordance with state purchasing policy under Washington Purchasing Manual Part 6.11 Best Buy Program; • Purchases made pursuant to authority granted or delegated underRCW43.19.190(2)or(3) • Purchases authorized as an emergency purchase under RCW 43.19.200(2);or • Purchases made pursuant to other statutes granting the Agency authority to independently conduct purchases of materials, supplies, services, or equipment. • Purchases made by participating states under their own contracts.
Subcontractor	A person or business that is, or will be, providing or performing an essential aspect of the Contract under the direction and responsibility of the Contractor and with the agreement of the DES.
Transaction	Any activity that results in a debit or credit to an account.
Travel Card	Card intended as a method of payment for travel expenses. This product may be used to make travel arrangements, or by the cardholder at the point of sale. May be either Corporate Liability or Individual Liability.
Valid Values	Built-in codes, numeric or alpha numeric, that requires certain format or fields of information; such as object, sub-object. The reason for using specific values for these fields is to standardize data entry, to ensure data consistency and prevent errors.
Vendor	A provider of materials, supplies, services, and/or equipment.
Washington's Electronic Business Solution (WEBS)	The Vendor registration and Proposer notification system maintained by the Washington State Department of Enterprise Services located at: WWW.GA.WA.GOV/WEBS.
Washington State Purchasing Cooperative (WSPC)	Qualified political subdivisions, school districts, non-profit organizations eligible in the State of Washington to use any State of Washington Contract.
WSCA-NASPO	A cooperative group contracting consortium for state procurement officials, representing departments, institutions, agencies, and political subdivisions (i.e., colleges, school districts, counties, cities, etc.) for all states and the District of Columbia. WSCA-NASPO is a cooperative purchasing arm of the National Association of State Procurement Officials (NASPO)

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2014-_____

AUTHORIZING THE CITY MANAGER TO ENTER INTO POLITICAL SUBDIVISION ADDENDUM WITH U.S. BANK (COMMERCIAL CARD SOLUTIONS CONTRACT)

WHEREAS, it is necessary for the City to participate in a commercial card program;

WHEREAS, it has been determined procurement through the Oregon Cooperative Procurement Program (ORCPP) was in the best interests of the City eliminating the expense of the bidding, evaluation, and negotiating process;

WHEREAS, the U.S. Bank Commercial Card Solutions Contract is one of the participating programs available through Western States Contracting Alliance (WSCA-NASPO);

WHEREAS, the City of Keizer will receive rebate benefits under this program;

WHEREAS, the City Council has considered this matter and wishes to move forward with such agreement;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that the City Manager is authorized to enter into the Political Subdivision Addendum with U.S. Bank attached as Exhibit "A" and by this reference incorporated herein.

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

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

PASSED this _____ day of _____, 2014.

SIGNED this _____ day of _____, 2014.

_____
Mayor

_____
City Recorder

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

POLITICAL SUBDIVISION ADDENDUM

This purchase is placed against the Western States Contracting Alliance, Contract # 00612, Category 1 or Category 2. The terms and conditions of the WSCA-NASPO Contract(s) and the associated Participating Addendum entered into by the state of Oregon, Price Agreement No. 4706, apply to this purchase and supersede all conflicting terms and conditions, express or implied.

This Political Subdivision Addendum constitutes an addendum to the Participating Addendum dated 03/14/2014 entered into by U.S. Bank National Association (**"U.S. Bank"**) and the government entity of the State of Oregon (**"State"**) which constitutes an addendum to the WSCA-NASPO Contract dated January 1, 2014 between U.S. Bank and the State of Washington. This Political Subdivision Addendum is entered into by U.S. Bank and the Political Subdivision identified herein and shall become effective upon signing by the latter of the parties (**"Effective Date"**) and supersedes any previous and like addenda with Political Subdivision.

RECITALS

A. The State has entered into the Participating Addendum for the purpose of making available a Purchase Card, One Card, Fleet Card or Corporate Card Program as described in the Participating Addendum for use by the State, its Agencies and Political Subdivisions;

B. The State is willing to permit Political Subdivision to participate in the Card Program provided that Political Subdivision assumes all responsibility and liability for Political Subdivision's performance of the terms and conditions of the Participating Addendum as if Political Subdivision was the entity signing the Participating Addendum. The State shall not bear liability or responsibility for Political Subdivision under the Participating Addendum or this Political Subdivision Addendum; and

C. Political Subdivision has received a copy of the Participating Addendum from the State, and after a thorough review of the Participating Addendum, desires to participate as a Political Subdivision under the Participating Addendum. Political Subdivision assumes all responsibility and liability for Political Subdivision's performance of the terms and conditions of this Political Subdivision Addendum, as well as the Participating Addendum, as if Political Subdivision was the entity signing the Participating Addendum, but Political Subdivision shall not be liable for the acts and omissions of the State under the Participating Addendum or this Political Subdivision Addendum.

AGREEMENT

Now therefore, in consideration of the foregoing Recitals, the mutual premises and covenants set forth in the Participating Addendum which are incorporated herein by reference, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, all parties agree as follows:

1. Definitions. Capitalized terms used in this Political Subdivision Addendum and not otherwise defined in this Political Subdivision Addendum are used with the same respective meanings attributed thereto in the Participating Addendum.

2. Political Subdivision Responsibility. Political Subdivision agrees to accept and perform all duties, responsibilities and obligations required of State as set forth in the Participating Addendum. Cards shall be issued to designated employees of Political Subdivision upon execution of this Political Subdivision Addendum by Political Subdivision and U.S. Bank.

3. Financial Information. In order to determine credit qualifications for Political Subdivision, Political Subdivision shall provide U.S. Bank with the last three (3) years of audited financial statements with this signed Political Subdivision Addendum. Political Subdivision shall provide to U.S. Bank annual financial statements thereafter. U.S. Bank will review the financial statements and notify Political Subdivision of the approval or decline of its credit qualification. If such financial statements can be independently obtained by U.S. Bank, Political Subdivision will not be required to provide such financial statements.

4. Payment. Political Subdivision shall make payment to U.S. Bank for all Debt incurred by Political Subdivision, its Cardholders and Accountholders as provided in the Participating Addendum. "Debt" means all amounts charged to a card and/or account including without limitation all amounts related to purchases, fees and other Charges that are owed to U.S. Bank by Political Subdivision, its Cardholders and Accountholders.

5. Authority. The representations, warranties and recitals of Political Subdivision set forth in this Political Subdivision Addendum and the Participating Addendum constitute valid, binding and enforceable agreements of Political Subdivision. All extensions of credit made to Political Subdivision pursuant to this Political Subdivision Addendum and the Participating Addendum will be valid and enforceable obligations of Political Subdivision and Political Subdivision shall pay to U.S. Bank all Debts incurred by Political Subdivision in accordance with the terms of the Participating Addendum and this Political Subdivision Addendum. The execution of this Political Subdivision Addendum and the performance of the obligations hereunder and under the Participating Addendum are within the power of Political Subdivision, have been authorized by all necessary action and do not constitute a breach of any contract to which Political Subdivision is a party or is bound.

6. Purpose of Card Use. Political Subdivision declares that cards shall be used for official Political Subdivision purchases only, and shall not be used for individual consumer purchases or to incur consumer debt. Political Subdivision warrants that it possesses the financial capacity to perform all of its obligations under the Participating Addendum and this Political Subdivision Addendum.

7. Governing Law. Except as provided to the contrary herein, the law of State and applicable federal laws and regulations shall apply to all services provided by U.S. Bank under this Political Subdivision Addendum.

8. Card Products and Card Product Enhancements: U.S. Bank may provide the following Card Products to Political Subdivision and its Cardholders. Political Subdivision shall mark here the products requested.

   A. ☐ Purchase Card with Corporate Liability *(Travel Accident Insurance not included with this product)*
      - ☐ Central Billing Accounts [Central Travel Account/Event Planner/Central Relocation)
      - ☐ Managed Spend (Declining Balance functionality)
      - ☐ Emergency Response Cards

   B. ☒ One Card with Corporate Liability *(Travel Accident Insurance included with this product)*
      - ☒ Central Billing Accounts (Central Travel Account/Event Planner/Central Relocation)
      - ☒ Managed Spend (Declining Balance functionality)
      - ☒ Emergency Response Cards

   C. ☐ Fleet Card with Corporate Liability

   D. ☐ Corporate Card *(Travel Accident Insurance included)*
      - ☐ Contingent Liability
      - ☐ Joint and Several Liability

9. The notice address for Political Subdivision is:

City of Keizer, Oregon
PO Box 21000
Keizer, OR 97307-1000

Attn: Tim Wood

10. Authorization. Political Subdivision certifies to U.S. Bank that the person executing this Political Subdivision Addendum is authorized by Political Subdivision in accord with its organization rules and applicable law to bind Political Subdivision to the Terms and Conditions of this Political Subdivision Addendum, including the authority to incur Debt in the name of Political Subdivision.

11. Execution. By signing below, the individual(s) signing this Political Subdivision Addendum acts in his or her capacity as an authorized signing officer of Political Subdivision and not in his or her personal capacity, and certifies and warrants that (1) all action required by Political Subdivision's organizational documents to authorize the signer(s) to act on behalf of Political Subdivision in all actions taken under this Political Subdivision Addendum, including but not limited to, the authority to incur Debt on behalf of Political Subdivision has been taken, (2) each signer is empowered in the name of and on behalf of Political Subdivision to enter into all transactions contemplated in this Political Subdivision Addendum and (3) the signatures appearing on all supporting documents of authority, if any, are authentic.

12. Reliance. Political Subdivision has read, understands and agrees to all terms and conditions in this Political Subdivision Addendum, and U.S. Bank is entitled to act in reliance upon the authorizations and certifications set forth herein.

IN WITNESS WHEREOF, the parties have, by their authorized representatives, executed this Political Subdivision Addendum.

Dated this _____ day of _____, 20___	Dated this _____ day of _____, 20___
By Political Subdivision:	**By U.S. Bank:**
City of Keizer, Oregon (Name)	U.S. Bank National Association
_____ (Signature of Authorized Signer)	_____ (Signature of Authorized Signer)
Chris Eppley (Printed Name of Authorized Signer)	Kelly M. Caspers (Printed Name of Authorized Signer)
_____ (Printed Title of Authorized Signer)	Vice President (Printed Title of Authorized Signer)

Approved as to form:

_____
(Signature of Attorney for Political Subdivision)

E. Shannon Johnson
(Printed Name of Attorney)