CITY COUNCIL MONTHLY MEETING CALENDAR

July-15

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1 1st Wed Farmers Market	2 EDC Noon	3 CITY OFFICES CLOSED	4
Johnston Out						
5	6 Planning Comm 7pm	7 CCI 5:30pm	8 Municipal Court WC Mayors Farmers Market MPAC 5pm (TBA) Rural Fire 8pm	9 Metro Chehalem Ridge PAC 5pm	10 S&CC 1st Friday JWC Noon Oregon Mayors Bocce Cup WC Mayors-Cancelled	11 Relay for Life
Johnston Out						
12	13 CITY COUNCIL 7:00 PM - REGULAR MEETING COMMUNITY AUDITORIUM	14 Red Cross Blood Drive 1pm - 6pm - Comm Aud Library 6:30pm	15 P&R 7am CFC 5:15pm CAO 5pm CWAC 5:30pm Farmers Market	16 Reps McLain & Gallegos Town Hall - TBA Food Film 7:30pm	17	18 Cruis'nTheGrove
Johnston Out						
19 Concours	20 Chamber Luncheon FGS&CC Bd Mtg 6:30pm Planning Comm 7pm	21 Fernhill Wetlands 5:30pm	22 Municipal Court PSAC Farmers Market	23 WEA Breakfast Sustainability 6pm	24	25
	FG Adult Delegation Visit - Nyuzen, Japan (Truax, Kidd, Wenzl out)					
Johnston Out						
26 *Delegation Returns*	27 NO CITY COUNCIL MEETING SCHEDULED	28 HLB 7:15pm *Wenzl Returns*	29 Farmers Market MPAC 5pm	30 *Oregon Mayors Assoc Conference - Cottage Grove*	31	
Johnston Out						

August-15

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1 *OMA Conference*
2	3 Planning Comm 7pm	4 National Night Out CCI 5:30pm-Cancelled	5 Municipal Court Farmers Market 1st Wed MPAC 5pm (TBA) JT Council & Rural Fire Bd Mtg 8p	6 EDC Noon	7 S&CC 1st Friday	8
9	10 CITY COUNCIL 7:00 PM - REGULAR MEETING COMMUNITY AUDITORIUM	11 Red Cross Blood Drive 1pm - 6pm - Comm Aud Library 6:30pm	12 MPAC 5pm Farmers Market	13 PAC 5pm	14 WC Mayors	15 Uncorked
16	17 Chamber Luncheon - Offsite FGS&CC Bd Mtg 6:30pm Planning Comm 7pm	18 Fernhill Wetlands 5:30pm	19 Municipal Court P&R 7am CFC 5:15pm CAO 5pm CWAC 5:30pm Farmers Market	20 Food Film 7:30pm	21	22 Fernhill Wetlands Birds&Brew 8am
23	24 NO CITY COUNCIL MEETING SCHEDULED	25 HLB 7:15pm	26 PSAC MPAC 5pm Farmers Market	27 WEA Breakfast Sustainability 6pm	28	29
30	31					

September-15

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2 Farmers Market 1st Wed CCI Forum: Plastic Bag Ordinance MPAC 5pm (TBA) JT Council & Rural Fire Bd Mtg 8p	3	4 S&CC 1st Friday	5
6	7 Labor Day Holiday Offices Closed	8 Red Cross Blood Drive 1pm - 6pm - Comm Aud Library 6:30pm Planning Comm 7pm	MPAC 5pm Farmers Market	10 EDC Noon PAC 5pm	11	12
13	14 CITY COUNCIL 7:00 PM - REGULAR MEETING COMMUNITY AUDITORIUM	15 Fernhill Wetlands 5:30pm	16 Municipal Court P&R 7am CFC 5:15pm CAO 5pm CWAC 5:30pm Farmers Market	17 Food Film 7:30pm	18	19 Chalk Art Corn Roast
20	21 Chamber Luncheon FGS&CC Bd Mtg 6:30pm Planning Comm 7pm	22 HLB 7:15pm	23 PSAC MPAC 5pm Farmers Market	24 LOC Annual Conference, Bend Oregon WEA Breakfast Sustainability 6pm	25	26
27	28 CITY COUNCIL 7:00 PM - REGULAR MEETING COMMUNITY AUDITORIUM	29	30 Municipal Court			

Please review meeting agenda for meeting time in case of change(s).

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FOREST GROVE CITY COUNCIL
Monday, July 13, 2015
Meeting Agenda

5:30 PM – Work Session (Employee Handbook)
6:15 PM – Joint Work Session (Sustainability Commission)
7:00 PM – Regular Meeting

Community Auditorium
1915 Main Street
Forest Grove, OR 97116

Forest Grove City Council Meetings are televised live by Tualatin Valley Community Television (TVCTV) Government Access Programming, Ch 30. To obtain the programming schedule, please contact TVCTV at 503.629.8534 or visit http://www.tvctv.org/government-programming/government-meetings/forest-grove.

PETER B. TRUAX, MAYOR

Thomas L. Johnston, Council President
Richard G. Kidd III
Victoria J. Lowe
Ronald C. Thompson
Elena Uhing
Malynda H. Wenzl

All meetings of the City Council are open to the public and all persons are permitted to attend any meeting except as otherwise provided by ORS 192. The public may address the Council as follows:

➔ Public Hearings – Public hearings are held on each matter required by state law or City policy. Anyone wishing to testify should sign in for any Public Hearing prior to the meeting. The presiding officer will review the complete hearing instructions prior to testimony. The presiding officer will call the individual or group by the name given on the sign in form. When addressing the Council, please use the witness table (center front of the room). Each person should speak clearly into the microphone and must state his or her name and give an address for the record. All testimony is electronically recorded. In the interest of time, Public Hearing testimony is limited to three minutes unless the presiding officer grants an extension. Written or oral testimony is heard prior to any Council action.

➔ Citizen Communications – Anyone wishing to address the Council on an issue not on the agenda should sign in for Citizen Communications prior to the meeting. The presiding officer will call the individual or group by the name given on the sign in form. When addressing the Council, please use the witness table (center front of the room). Each person should speak clearly into the microphone and must state his or her name and give an address for the record. All testimony is electronically recorded. In the interest of time, Citizen Communications is limited to two minutes unless the presiding officer grants an extension.

The public may not address items on the agenda unless the item is a public hearing. Routinely, members of the public speak during Citizen Communications and Public Hearings. If you have questions about the agenda or have an issue that you would like to address to the Council, please contact the City Recorder at 503-992-3235.

City Council meetings are handicap accessible. Assistive Listening Devices (ALD) or qualified sign language interpreters are available for persons with impaired hearing or speech. For any special accommodations, please contact the City Recorder at 503-992-3235, at least 48 hours prior to the meeting.

Brenda Camilli, Human Resources Manager Paul Downey, Administrative Services Director	5:30		**WORK SESSION: EMPLOYEE HANDBOOK:** The City Council will convene in the Community Auditorium – Conference Room to conduct the above work session(s). The public is invited to attend and observe the work session(s); however, no public comment will be taken. The Council will take no formal action during the work session(s).
Jon Holan, Community Development Director Paul Downey, Administrative Services Director	6:15		**JOINT WORK SESSION WITH SUSTAINABILITY COMMISSION (Continuance from June 8, 2015):** The City Council will convene in the Community Auditorium to conduct the above work session(s). The public is invited to attend and observe the work session(s); however, no public comment will be taken. The Council will take no formal action during the work session(s).
	7:00	1.	**REGULAR MEETING**: Roll Call and Pledge of Allegiance
Paul Downey, Administrative Services Director Brenda Camilli, Human Resources Manager	7:05	1. A.	**EMPLOYEE RECOGNITION** • *Jacquie Haney, 14 Years of Service*
J. F. Schutz, Police Chief	7:10	1. B.	**POLICE AWARDS PRESENTATIONS:** • ***Lifesaving Award (4 officers)***
	7:20	2.	**CITIZEN COMMUNICATIONS**: Anyone wishing to speak to Council on an item not on the agenda may be heard at this time. *Please sign-in before the meeting on the Citizen Communications form posted in the foyer.* In the interest of time, please limit comments to two minutes. Thank you.
	7:25	3.	**CONSENT AGENDA: See Page 3**
		4.	**ADDITIONS/DELETIONS: Public Hearing on Times Litho Sale Agreement has been RESCHEDULED to August 10, 2015.**
	7:30	5.	**PRESENTATIONS:** **Washington County Museum, Mark Harmon, Executive Director**
Paul Downey, Administrative Services Director	7:40	6.	**FIRST READING OF ORDINANCE NO. 2015-07 AUTHORIZING CITY MANAGER TO ENDORSE MACC COMCAST FRANCHISE AGREEMENT**
Brenda Camilli, Human Resources Manager Paul Downey, Administrative Services Director	8:00	7.	**RESOLUTION NO. 2015-54 APPOINTING CITY MANAGER FOR THE CITY OF FOREST GROVE**
Brenda Camilli, Human Resources Manager Paul Downey, Administrative Services Director	8:05	8.	**RESOLUTION NO. 2015-55 ESTABLISHING EMPLOYMENT AGREEMENT AND AUTHORIZING MAYOR TO EXECUTE THE EMPLOYMENT AGREEMENT BETWEEN THE CITY OF FOREST GROVE AND CITY MANAGER**

Brenda Camilli, Human Resources Manager Paul Downey, Administrative Services Director	**8:10**	9. **RESOLUTION NO. 2015-56 ESTABLISHING COMPENSATION FOR THE CITY MANAGER FOR FISCAL YEAR 2015-16**
Paul Downey, Administrative Services Director	**8:15**	**CITY MANAGER'S REPORT:**
	8:20	**COUNCIL COMMUNICATIONS:**
	8:45	**ADJOURNMENT:**

3. CONSENT AGENDA: Items under the Consent Agenda are considered routine and will be adopted with a single motion, without separate discussion. Council members who wish to remove an item from the Consent Agenda may do so prior to the motion to approve the item(s). Any item(s) removed from the Consent Agenda will be discussed and acted upon following the approval of the Consent Agenda item(s).

A. Approve City Council Regular Meeting Minutes of June 22, 2015.
B. Endorse New Liquor License Application (Limited On-Premises Sales) for Buffet Dynasty, Inc., 2834 E. Pacific Avenue (Applicant: Ying Yun Wei).
C. Accept Public Arts Commission Meeting Minutes of May 14, 2015.
D. Accept Community Forestry Commission Meeting Minutes of April 15, 2015.
E. Community Development Department Monthly Building Activity Report for June 2015.

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forest grove

MEMORANDUM

TO:	**Mayor Peter Truax and City Councilors**
PROJECT TEAM:	**Brenda Camilli, Human Resources Manager**
DATE:	**July 13, 2015**
SUBJECT:	**Work Session on Revisions to Employee Handbook**

ISSUES:
The purpose of this work session is to discuss proposed employment policy modifications to update the City of Forest Grove's Employee Handbook.

BACKGROUND:
The existing Employee Handbook was adopted by Council Resolution on 1/23/2006 and subsequently revised via Council Resolution on 1/14/2008 and again on 4/26/2010. Due to changes in laws and organizational practices, the attached policies have once again been modified and are before you for review. In accordance with the City's collective bargaining agreements, the leadership of our four unions have been notified of the proposed changes and have been provided copies for review and comment. Proposed changes have also been reviewed by the department directors.

Included in this packet is the current policy with language deletions struck out and additions underlined. Also attached is a summary of revisions by Section for a quick overview.

STAFF RECOMMENDATION:
Once the Council has reviewed and commented on the proposed policy revision and any further revisions made, the Employee Handbook will be brought to the Council at a future meeting to be adopted by resolution; and finally disseminated to all City staff.

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2015 Employee Handbook Revisions Summary
6.29.15 DRAFT

Legislative or Regulatory Changes:

5.9 – Employee Health and Safety
- Revised City's smoking/tobacco policy in accordance with City ordinance adopted by the City Council;
- Revised terminology regarding hazardous chemical information in accordance with OSHA's regulatory changes;
- (see also Updates and Clarification section below for additional revisions)

8.2 – Health Insurance
- Added provision for health insurance benefit eligibility for non-regular employees who average 30 or more hours of work per week as mandated by the Affordable Care Act.

9.4 – Leaves of Absence Policy
- Added Veterans Day Leave as type of leave of absence in list (see Section 9.14) (Source: SB 1; ORS 408.495)

9.7 – Family and Medical Leave
- Added Bereavement Leave under OFLA (source: HB 2950)
  - Defines leave and eligible family members
  - Outlines benefit and how coordinates with other City policies
- Revised Military Caregiver leave in accordance with amendments to FMLA
  - Added veterans to list of covered individuals and provided definition
  - Clarified definition of "serious illness"
- Revised Qualifying Exigency leave in accordance with amendments to FMLA
  - Clarifying that the law covers family members of employees in the National Guard, Reserves and the Regular Armed Forces, but only those deployed to foreign country
  - Allow for exigency leave for a service member's spouse, parent, or child to care for the service member's parent

9.14 – Veterans Day Leave
- Added Veterans Day Leave in accordance with regulations (Source: SB 1; ORS 408.495)
  - Allows Veterans as defined by ORS 408.225 to request Veterans Day off
  - Outlines benefit details

Other Revisions: **(Note: if change reflected only grammatical or incidental changes that are not substantive to meaning of policy, they are not noted in this document (e.g. insertion of missing word or clarifying addition such as in Section 5.4).**

2.2 – Employment Relationship
- Added Human Resources Manager to list of at-will positions.

2.4 – Organization Hours (Overtime)
- Clarifies policy on non-exempt employees' off-duty use of electronic devices for work-related reasons.

3.1 – Recruitment and Selection
- Revised to reflect current pre-employment screening practices in light of best practices.

4.3 – Pay Administration
- Added language referencing partial day absences for exempt employees.

5.2 – Ethics
- Added ethics language reflecting Oregon statute.

5.3 – Communications and Software Systems
- Section renamed: Electronic Communications and entirely rewritten to reflect technological and communication devices/mediums changes.

5.5 – Harassment
- Clarifications only.

5.6 – Substance Abuse
- Revised to reflect current pre-employment screening practices in light of best practices.
- Added drugs and/or metabolites to list of substances employees must report to supervisor if called to work in an emergency so supervisor can determine suitability for work.

5.7 – Vehicle Usage and Safety
- Clarifications only.

5.9 – Employee Health and Safety
- Clarifications of Safety Committee's responsibilities and employee safety training.

6.2 – Corrective Action
- Expanded examples of behaviors that could be cause for corrective action.
- Clarified when an employee can request to have prior disciplinary action removed from personnel file.

7.1 – Separation from Employment
- Updated organization property to be returned upon separation from employment.

8.3 – Life Insurance
- Changed standard life insurance coverage maximum from $75,000 to $140,000 in accordance with City's collective bargaining agreements for life insurance coverage requirements.

8.4 – Long Term Disability
- Clarification

8.5 – Section 125 Plan
- Changes the City "provides" to "may provide" Section 125 plans to allow flexibility if necessary due to federal ACA mandates related to the proposed Cadillac Plan excise tax.

8.6 – Retirement Plan
- Revised section to include defined contribution plan and part-time employees' eligibility to participate.

8.7 – Health Reimbursement Arrangement (VEBA)
- Updated language to reflect current situation.

9.1 – Vacation Leave
- Clarified when vacation leave is available for use.
- Decreased the minimum vacation leave employees can use from one hour to quarter hour increments.
- Modified policy allowing employees to use vacation leave during the two weeks immediately preceding their retirement date to prohibiting use of vacation leave to extend length of employment.
- Added requirement for exempt employees to use accrued vacation leave for partial day absences in certain circumstances.

9.2 – Sick Leave
- Clarified when sick leave is available for use.
- Decreased the minimum sick leave employees can use from one hour to quarter hour increments.
- Added language clarifying the time period employees may receive donated leave.
- Added requirement for exempt employees to use accrued sick leave for partial day absences in certain circumstances.

9.3 – Paid Holidays
- Clarification
- Added language that holiday leave may be used in quarter hour increments.

9.5 – Bereavement Leave
- Define "in-laws"
- Add reference to OFLA's new bereavement leave law (see Section 9.7)

9.6 – Civic Duty Leave
- Added clarification that an employee must return to complete his/her shift if released early from jury/witness duty.

10.1 – Deferred Compensation
- Added post-tax (Roth) deferred compensation option.

10.2 – Wellness
- Added Water Aerobics Classes to staff's wellness benefit at Aquatic Center

10.4 – Education and Training
- Added reimbursable dollar amount for college courses and parameters for eligibility

10.6 – Voluntary Supplemental Benefits
- Housekeeping/updates

Acknowledgement Form
- Added acknowledgement of DMV monitoring for employees driving on City business

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CITY OF FOREST GROVE

EMPLOYEE HANDBOOK

Original Issue January 23, 2006
Revised April 26, 2010
Revised …….

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City of Forest Grove
Employee Handbook
Table of Contents

NOTE: This page will be revised with a message from our new city manager and inserted prior to the adoption of this document.

Welcome to the City of Forest Grove!

It is a pleasure to welcome you to the City of Forest Grove. We are glad you have joined us. We take pride in selecting people, such as you, to join our organization. We feel that you will be a great complement to our team.

We hope that you will enjoy a productive and pleasant association with us. To ensure that we do our part, we have created a work environment, compensation and benefits program, and an interactive culture that we believe fosters positive work relationships. We expect that you will do your part by contributing your best efforts.

We believe that you can contribute significantly to our success and want you to share in the growth of our future, but we feel you can only do that if you understand our organization and your role. This Handbook has been prepared as a guide to give you a better understanding of the organization's policies, procedures, and practices that guide your employment. The policies in this document are intended to guide and aid the City in achieving its goals through efficient utilization of staff. The Human Resources Manager is responsible for ensuring fairness and equality in the interpretation and application of these policies. The City Council formally issues the policies as specified in the City Charter. We ask that you familiarize yourself with its contents, keeping it handy as a periodic reference source. You can always find the most recent revision of this Handbook on the ~~City's network at~~ ~~N:\~~Citywide drive in the HR Info folder.

We encourage you to ask questions if there are policies and procedures you don't understand. We welcome your ideas and suggestions for ways to improve our operation and/or services.

Again, welcome to our team. Please accept our wishes for success in your new position. We truly value both you and the contribution you make through your employment with us. We sincerely hope you will enjoy your employment with the City.

Sincerely,

~~Michael Sykes~~ Jesse VanderZanden
City Manager

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CHAPTER 1

INTRODUCTION

1.2 Organizational Philosophy Statement

The essence of our organization is a sincere commitment to public service. We provide quality public service based on high ethical and professional standards. Courtesy, honesty, equity, and patience are characteristics that we strive for in our relations with the public. We also strive for open and honest communications with people in our community. Our business is public service and we're proud of it.

Mission Statement
To provide responsible leadership in governing the City and to effectively manage resources while responding to essential community needs.

Responsive and Responsible
As an organization, we are both responsive and responsible to the public we serve. We strive to provide leadership that is innovative and able to anticipate, accept and adjust to change in a positive manner. Requests for our services get a prompt and courteous response. We welcome public suggestions about improving our services. We realize that we are an integral part of a unique community.

We are responsible in that our professional knowledge and ethics guide us, offering our best advice to City policy makers. We value and participate in the establishment of community goals. We recognize that community goal setting is a process requiring public involvement. Once community goals are established, our primary purpose is to effectively and efficiently work toward carrying out the adopted City policies and programs.

We accept our stewardship role and recognize accountability for our actions.

Respect for the Individual
The individuals within our organization are our most valuable resource.

We recognize our obligation to provide the best possible working environment. Toward that end, we shall assist individuals in their professional development and encourage and support them in their quest for self-improvement. We encourage physical and mental well being of the individual. We are committed to offering support to our employees in return for their demonstrated commitment to the City of Forest Grove.

By treating each other with mutual respect and encouragement, by recognizing individual performance, and by keeping a sense of humor, we create a supporting environment that will enhance our service to the public.

Commitment to Teamwork
We work as a team as the City's greatest and trusted resource and asset. Our teamwork emphasizes:

Communication – We value communication both within our organization and with the public we serve. Open, candid communication increases understanding and builds trust. Friendly, service oriented employees are vital to our success.

Fiscally Responsible Management – We act as stewards of the resources that we are entrusted to manage.

Cooperation – We help each other. We demonstrate respect for co-workers by showing regard for their time, responsibilities, efforts, and feelings.

Collaboration – We value the contribution of everyone involved in a project. Active participation of all team members' skills, diverse backgrounds, and aspirations leads to better results.

Principle-Based Leadership – We provide direction and purpose in the achievement of the community's mission.

Recognition – We believe in celebrating our achievements and those of others that support the goals of the community.

We are partners with the citizens and elected officials in the process of maintaining and improving the quality of life in Forest Grove. We fulfill our portion of that partnership by providing high quality services through high quality individuals.

1.3 Equal Employment Opportunity

The City is an equal opportunity employer and, as such does not discriminate against qualified employees or applicants on the basis of race, color, religion, sex, pregnancy, national origin, ancestry, citizenship, age, marital status, physical disability, mental disability, veteran's status, medical condition, sexual orientation, genetics or membership in any other protected class. Equal employment opportunity will be extended to all persons in all aspects of the employer-employee relationship, including recruitment, hiring, training, promotion, transfer, discipline, layoff, recall, termination or any other term or condition of employment. Except to the extent that may be provided for differently by a collective bargaining agreement, employment opportunities are based solely on the abilities and capabilities of the individual to perform the essential functions of each job assignment. All employment requirements mandated by State and Federal regulations will be observed.

In keeping with our philosophy and Federal and State law, our advertising and recruiting material will contain the following statement to encourage qualified applicants to apply: "Equal Opportunity Employer". Our policy, as an equal opportunity employer, is to employ persons legally entitled to work in the United States without regard to citizenship, ethnic background, or place of national origin. However, our policy, in conformity with the Immigration Reform and Control Act of 1986 (IRCA), is to hire only those who are eligible to work in the United States. Verification documentation is required of all new hires.

Employment decisions shall be consistent with the principles of EEO. Selection decisions will rely on valid qualifications. Other personnel actions or programs such as, but not limited to, compensation, benefits, transfers, layoffs, returns from layoff, City sponsored training, education, tuition assistance, social, and recreational programs will be administered in a nondiscriminatory manner.

The passage and implementation of the Oregon Equality Act in 2008 applies to all organizations regardless of size and prohibits discrimination on the basis of sexual orientation including gender identity. No individual will be discriminated against based upon the individual's publicly and exclusively asserted gender identity, or any declaration of intention to change the individual's perceived gender.

Reporting Policy Violations
Any employee or prospective employee who believes they (or a co-worker) have been denied equal employment opportunity, may have been the subject of unlawful discrimination; or may have witnessed some violation of this policy should promptly report the facts to the immediate supervisor.

An employee who is not comfortable discussing the matter with the immediate supervisor may utilize other management representatives in the reporting structure or report it directly to the Human Resources Manager. Human Resources will ensure that claims are investigated promptly and that appropriate corrective action is taken, including notification to the City Manager.

Any supervisor or other employee, who after appropriate investigation, is found to have engaged in unlawful discrimination, will be subject to appropriate sanctions, which may, depending upon the circumstances, include termination.

Employees who report possible incidents of unlawful discrimination or Equal Employment Opportunity violations will be treated courteously and all such reports will be swiftly and thoroughly investigated in as confidential a manner as is possible under the circumstances. No employee will be discriminated or retaliated against in any way for bringing a question or complaint to the City's attention.

The City believes that fair treatment and respect are proper concerns of business and we encourage each employee to sincerely support this policy.

1.4 Americans with Disabilities Act

The Americans with Disabilities Act (ADA) and the Americans with Disabilities Amendments Act (ADAAA) are comprehensive federal civil rights laws that specifically protect individuals with physical and mental disabilities.

Individuals are protected if any of the following conditions exist:

- They currently have a physical or mental condition that substantially limits their ability to normally conduct a major life function (e.g., walking, seeing, hearing, breathing, etc.);
- They have a history of such impairment; and/or,
- They are perceived to have such impairment.

These laws prohibit discrimination on the basis of an individual's relationship (parent, sibling, child, spouse/significant other, etc.) to someone with a disability.

The City offers equal employment opportunities for qualified individuals who may have a physical or mental disability, but are still able to perform the essential functions of the job. Essential functions are defined as the fundamental non-marginal duties of the position being held or sought by a disabled individual. A job function is essential if the position exists for the performance of the function, there are only a limited number of employees available to perform it, or the function is so highly specialized that an expert must be specially hired to perform it.

Reasonable accommodation is available to employees and applicants, as long as the accommodation doesn't cause undue hardship on the organization. Individuals protected by these laws should discuss their need for possible accommodation with their supervisor, manager, or the Human Resources Manager.

1.5 Form of Government

City Manager
The City of Forest Grove operates under the Council-Manager form of government as created by the City Charter. The Council adopts policy and the Manager is charged with implementing it. The Manager functions similar to a CEO in carrying out the adopted policy set by the Council.

The City Manager is responsible for personnel administration and may delegate any of these powers and duties to another City employee. For purposes of daily administration, the City Manager delegates responsibility in the following manner:

Human Resources Manager**:**
- Recruitment process
- New employee orientation
- Benefits plan administration
- Retirement plan administration
- Classification and compensation
- Labor and employee relations
- Review and auditing of personnel actions
- Personnel records administration
- Affirmative action

Department Directors**:**
- Selection and appointment
- Performance management
- Creation of a positive environment
- Retention
- Corrective (disciplinary) action
- Personnel budgeting through the budget process

The City Manager reserves the right to modify the delegation of authority when operational requirements necessitate.

City Council

The City Council is responsible to the citizens of Forest Grove to establish and direct the policies governing the administration and management of the City. The City Charter states, "Except as this charter provides otherwise, all powers of the City are vested in the Council." The Council consists of the Mayor and six Councilors each elected to four-year terms.

The Mayor is a voting member of the Council. The Mayor represents the City at ceremonial functions, presides over Council meetings, consults with the City Manager on Council Agendas, appoints and consults with City boards and commissions as approved by the Council, and routinely discusses questions and concerns with the City Manager.

The City Council establishes the personnel policies that are contained in this Handbook, with consultation from the City Manager.

CHAPTER 2

PROGRAM ADMINISTRATION

2.1 About this Handbook

This Employee Handbook is a compilation of the personnel policies adopted by the Council under the City Charter, and replaces all personnel policies issued prior to its adoption by the Council. It is intended to help you understand the employment provisions and expectations of the City. This Handbook applies to all employees working for the City, regardless of representation or affiliation. If you are a member of a labor union, please refer to your current labor agreement for additional information regarding the terms and conditions of your employment.

There are several things about this Handbook that are important to keep in mind. It contains only general information and guidelines. It is not intended to be comprehensive or to address all the possible applications or exceptions to the policies and procedures described herein. The policies outlined in this Handbook are based on the belief that common sense, good judgment, and consideration of the rights of others are paramount to our ability to serve the citizens and each other. We have tried to anticipate many of your questions, but in no way do we believe that this document will provide every answer. For that reason, if you have any questions concerning eligibility for a particular benefit, or the applicability of a policy or practice to you, you should address your specific question to your supervisor or the Human Resources Manager.

We recognize that employees differ in their skills, goals, perceptions and values and that conditions may arise because of that diversity which may not be sufficiently addressed within this Handbook or which may result in conflict. When that occurs, the City will endeavor to make decisions that are fair and equitable, while at all times ensuring the best interests of the City are served.

Please note that the policies, procedures, and regulations in this manual are not intended to contradict any provision of a current labor agreement, nor will any section of this manual supersede any provisions of such agreement.

The procedures, practices, policies and benefits described herein may be modified or discontinued from time to time. We recognize our responsibility to keep employees informed of changes that may affect them and as changes are made to the Handbook, we will endeavor to see that you are promptly informed. You may always review the current Handbook ~~on the City's network at N:\~~ on the Citywide drive in the HR Info folder.

Some subjects described in this Handbook such as the benefit and retirement plan information are covered in detail in official policy documents. You should refer to these documents for specific information since this Handbook only briefly summarizes those benefits. Please note that the terms of the written insurance policies are controlling.

You are encouraged to offer suggestions for improvements to these policies, employment practices or working conditions. Please read through the Handbook carefully and share it with your family members so that they will also understand your new work environment. Should you have additional questions, or need further detail, please talk with your supervisor or the Human Resources Manager.

2.2 Employment Relationship

Employment At Will Positions
Appointments into the positions of Department Director (Police, Fire, Library, Public Works, Administrative Services, Parks & Recreation/Aquatics, Community Development, Light & Power, and any future Departments created by the City), Human Resources Manager, City Manager, Municipal Court Judge, and any temporary, intermittent, and initial probationary appointments to any position will be considered "at will". At will employees may be terminated at any time, with or without cause and without right of appeal. Employment for at will employees is for no definite period of time and may, regardless of the time and manner of payment of wages and salary, be terminated at will.

At will employees, as defined in this policy, whose position is eliminated are deemed terminated.

All Other Employees
All other employees of the City who are not represented by a labor organization are subject to the City Appeals & Dispute Resolution procedure and covered by the terms contained in Chapter 6 of this Handbook after successful completion of the Initial Probation; see Chapter 3, Types of Appointments.

No one in the organization has the authority to enter into any agreement contrary to this and it cannot be altered except by union contract or in writing and signed by the City Manager and you. The City of Forest Grove is also not bound by any oral promises.

The City recognizes that all employees have the right to form, join, and participate in the activities of labor organizations of their choosing for the purpose of representation on matters within the scope of collective bargaining for the State of Oregon.

2.3 Confidentiality

City employees have access to highly confidential and proprietary information, including such information about our business plans and citizens. Our citizens trust the City with confidential information. The unauthorized disclosure of such information would have a material adverse impact on the integrity of the City and would have an adverse impact on our relationships with our customers. No employee should disclose any information pertaining to the organization or customers without prior explicit approval of their manager/supervisor.

No City records and information including without limitation, documents, files, records, computer files or similar materials, except in the ordinary course of performing duties on behalf of the City, may be removed from our premises without permission from the City Manager. Additionally, the content of the organization records or information otherwise obtained in regard to business may not be disclosed to anyone, except where required for a business purpose or legal public records request. For additional assistance concerning public records request, please contact the City Recorder. Employees are subject to appropriate corrective action, up to and including termination for revealing information of a confidential nature.

The City recognizes our employees' rights to privacy. In achieving this goal, the organization adopts these basic principles:

1. The collection of employee information will be limited to information the organization needs for business and legal purposes.
2. The confidentiality of all personal information in our records will be protected, except where required by law.
3. Internal access to employee records will be limited to those employees having an authorized, business related need-to-know. Access may be given to third parties, including government agencies, as a result of a court order or subpoena.
4. The organization will refuse to release personal information to outside sources without the employee's written approval, unless legally required to do so. Verifications of employment dates, position, salary, and title may be provided without prior approval of the employee.
5. Employees are permitted to see the personal information maintained in their personnel file, and may correct inaccurate factual information or submit written comments in disagreement with any material.
6. All employees involved in record keeping will be required to follow these policies and practices. Violations of this policy will result in corrective action up to and including termination.

2.4 Organization Hours

The City's general office hours vary by Department; please refer to your Departmental rules for specific information.

Specific workday and workweek schedules for each employee will be determined from time to time by your supervisor based on the operational needs of the City. The City will attempt to notify you of any changes in workdays or workweek schedules two weeks in advance of the effective date of change. Management reserves the right to modify schedules consistent with the needs of the City.

The normal workday is eight hours. The total hours in a normal workweek is forty (40), Sunday through Saturday. If you are a nonexempt employee, you should not begin work before your normal starting time nor continue working beyond the normal quitting time without advance approval from your supervisor. Working through a lunch period is also not permitted unless approval from your supervisor is obtained prior to the scheduled lunch break.

If you are represented by a collective bargaining agreement, please refer to the specific language contained in it.

<u>Overtime</u>
You may be required to work overtime. Overtime hours will be paid to non-represented, non-exempt employees at one and one-half times the basic straight time hourly rate for all hours worked in excess of forty (40) in a regular workweek, or as otherwise required by State and/or Federal laws. Paid leave will be considered in computing the forty hours after which overtime is

paid, excluding sick leave. Your department supervisor must approve any overtime work hours prior to their being worked. Supervisors/managers are to ensure that no unauthorized overtime hours are worked. Working unauthorized hours in excess of forty (40) in the workweek may be grounds for corrective action.

Time spent checking and/or responding to work-related email, texts, and/or voicemail on electronic communication devices (including, but not limited to desktop and laptop computers, mobile electronic devices, cellular phones, smart phones, tablets, etc.) by employees who are not exempt from the provisions of the Fair Labor Standards Act (FLSA) (see Section 3.4), during off- duty time is not permitted and will be considered unauthorized work subject to disciplinary action. Any exceptions to this policy must be approved by the employee's supervisor in writing.

Meal and Rest Periods

Meal and rest periods will be provided for you according to Federal and State law. Supervisors will review these and set scheduled times. Nonexempt employees are not permitted to work through a meal period unless approval from a supervisor is obtained prior to the scheduled meal break.

All nonexempt employees are entitled to a half-hour unpaid lunch break each day and a 15 minute paid rest period for each four hours worked. Employees are required to notify their supervisor in the event that they are unable to take their required 15 minute paid rest period.

Social and Recreational Activities

Participation in all off-duty social or recreational activities such as City or Departmental picnics and Holiday parties is entirely voluntary. Participation or nonparticipation will not have any effect on your wages, hours, working conditions, or present/future employment opportunities.

Work from Home

Employees are only permitted to work from home in two situations:

1) Long term/recurring schedule: Employees may work from home on a recurring schedule if approved for a telecommuting arrangement. The agreement must be in writing and approved by the City Manager prior to the employee commencing work at home.

2) Short term/non-recurring: Employees may work on short term, non-recurring projects with prior permission from their Department Director.

Before granting permission for short-term work at home arrangements, supervisors should know the specific work to be performed and the projected amount of time expected. If the work at home will cause a non-exempt employee to work enough hours per day or week to become eligible for overtime under federal and state law then the supervisor should consult the overtime policy before granting permission. Department Directors should also consult with the Human Resources Manager regarding other issues related with work at home arrangements prior to the employee commencing work at home.

Under no circumstances are employees permitted to work at home without prior permission. Any attempt to do so, with or without reporting such time, may result in corrective action.

Emergency Closing

The City will make every effort to maintain normal Departmental work hours even during inclement weather. City employees, particularly those with emergency responsibilities, are expected to make every effort to come to work to serve the public.

The City reserves the right to determine whether or not an event qualifies as "inclement weather".

Department Directors are responsible for determining which positions are considered "emergency" and "non-emergency" during inclement weather events.

The City Manager is responsible for determining when to close specific City operations, or to allow employees to leave work early, due to inclement weather or in the event of a natural disaster.

The City Manager will communicate operational closures for non-emergency staff through the following methods:

-Telephone Contact with the Department Directors
-Voicemail message on the City's Main Line (503) 992-3200 by 0700 AM the morning of the closure and/or the City's website: www.forestgrove-or.gov
-Public announcements through local media releases.

It is the responsibility of the Department Directors to notify all personnel under their supervision. Department Directors may reassign employees when hazardous environmental conditions that interfere with normal operations exist. If such a decision is made, the Department Director shall provide notice to the City Manager.

Employees who are working and, subsequently, Departmental operations are suspended will normally receive their regular pay for the remainder of their scheduled shift, subject to approval by the City Manager. Employees who are on an approved leave of absence (e.g., vacation, personal holiday, compensatory time, sick leave, unpaid leave of absence) will not be eligible to receive regular pay for any hours that are deemed paid to employees who are at work when operations are suspended.

In the event of inclement weather without City closure, the following rules apply:

- Reporting to Work: Employees are encouraged to use their best judgment in determining environmental conditions related to their commute. Non-emergency personnel who decide that road conditions are a threat should contact their supervisor and notify them that they will be absent. In this event, the employee may charge time not worked to vacation leave, compensatory time off, or saved personal holiday.

- Early Departure and Late Arrival: After receiving approval from a supervisor, an employee may charge any time not worked to vacation leave, compensatory time off, or saved personal holiday, at the employee's discretion.

- Unpaid leave is only available upon exhaustion of the above accrued leave balances (vacation, compensatory time off, or saved personal holiday). Sick leave may not be used for this purpose.

- Persons with Disabilities: Employees who are disabled pursuant to the Americans with Disabilities Act may require reasonable accommodations in order to help such employees get to work during periods of inclement weather or in the event of a natural disaster. Employees who feel they need this type of assistance should contact Human Resources to identify an appropriate manner in which the City can help the employee get to work.

2.5 Employee-Incurred Expenses and Reimbursement

The City will pay all actual and reasonable business-related expenses you incur in the performance of your job responsibilities. All such expenses incurred must be pre-approved by your Department Director before payment will be made.

Expense reports are to be submitted and supported by evidence of proof of purchase, e.g., receipts. Expense reports are due to the Department of Administrative Services within five days following end of month.

Mileage Reimbursement

Please refer to Vehicle Usage and Safety, Chapter 5.

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CHAPTER 3

RECRUITMENT & SELECTION

3.1 Recruitment and Selection

It is the goal of the City to fill employment vacancies with the most qualified applicants, whether recruiting internally or externally. Job applicants will be considered on an equal basis for all positions without regard to race, color, religion, sex, pregnancy, national origin, ancestry, citizenship, age, marital status, physical disability, mental disability, veteran's status, medical condition, sexual orientation, genetics, or membership in any other protected class.

The City's policy is to always try to select the most qualified person for each available job, giving preference, whenever possible, to existing employees over outside applicants. External recruiting may be initiated concurrently with the internal posting process, but no hiring commitment for a regular position can be made until the position has been internally posted for a minimum of five working days.

Former employees and relatives of current employees will be considered for employment in the same manner as any other applicant. The City retains the right to refuse to place one spouse or immediate family member under the direct supervision of the other spouse or family member, where such placement creates an adverse effect on supervision, safety, security or morale.

The Human Resources Manager is responsible for the oversight and implementation of City recruitment and selection process. They will determine when a recruitment will be opened for application, and in conjunction with the hiring Department, whether the recruitment will be limited to internal candidates or open to the public. If a recall list exists for a classification, it will be exhausted in compliance with any collective bargaining provisions.

All Regular vacancies will be posted for a minimum of five (5) working days during which time applications will be accepted. The Human Resources Manager will develop a recruitment plan and ensure that a fair, valid, and competitive method of selection is utilized and documented. Recruitment efforts will incorporate the City's commitment to diversity, competitiveness, and organizational excellence. Recruitment practices will include a process whereby all applicants are aware of the requirements of the position and applicable deadlines. The Human Resources Manager will determine the application requirements. All application materials will become property of the City. Where recruitment is limited to internal candidates only, Temporary and/or Intermittent employees are eligible to apply, depending upon the nature of the applicant pool.

The Human Resources Manager will be responsible for overseeing each phase of the selection process. The Human Resources Manager may establish a hiring list of qualified applicants that may be used to fill other anticipated vacancies. The Human Resources Manager will determine the duration of the hiring list, but in no case will a list be utilized beyond a one-year date from the date it was created. The Human Resources Manager may discontinue the use of an established list at any time; however all applicants on the list will be notified if the list is discontinued prior to the original expiration date established.

Application, testing, and background documents will be deemed confidential and will not be open to inspection by the applicant, other applicants, or the public except as otherwise required by law or legal process.

All job offers in the City are contingent upon ~~successful completion of a pre-employment drug screen pursuant to Chapter 5~~ a review of the applicant's driving record pursuant to Chapter 5, a criminal background check, and any other specific requirements of the position, which may include a pre-employment drug screen, physical and/or psychological evaluation, background investigation, and/or credit history check for certain positions.

Department~~s~~ Directors may hire temporary and/or intermittent employees for positions which are seasonal, project oriented, designed to cover work for an absent employee, manage a temporary shift in workload, or for other business reasons. Temporary and/or intermittent employees will typically be utilized only when the need for the position is originally estimated to be twelve months or less, unless otherwise approved by the City Manager. Temporary and/or intermittent positions originally designated to exceed twelve months or which are extended beyond twelve months require the approval of the City Manager. Department Directors should seek consultation with Human Resources and the Administrative Services Director prior to recruiting for temporary and/or intermittent positions.

3.2 Orientation and Introduction

In order to ensure a positive integration into the City's operations and get new employees started on a productive and satisfying employment relationship, all new employees will be scheduled for a thorough orientation, administered by the Human Resources Manager. This orientation will normally be conducted during the first week of work. You will receive detailed information about general policies, procedures and benefits and basic information on pay and leave policies. Orientation sessions are documented using the New Employee Orientation checklist, which is signed by both you and the staff member conducting the orientation, and it is retained in your employee personnel file as a permanent record.

Department Directors are responsible to ensure that new employees are oriented to any specific Department, position, and work environment requirements and expectations.

As a new employee, you are hired on an initial probationary period of one year, see Chapter 3. The initial probationary period is an extension of the employee selection process. During this period, you are considered to be in training and under observation and evaluation by your supervisor. Evaluation of your adjustment to work tasks, conduct, and other work rules, attendance and job responsibilities will be conducted during the initial probationary period. This period gives you an opportunity to demonstrate satisfactory performance for the position, and also provides an opportunity to see if your abilities and the requirements of the position match. It is also a chance to see if the City will meet your expectations as an employer.

Your performance will be evaluated at six months and at the end of your initial probationary period, and a decision about your employment status will be made. If you successfully complete the initial probationary period, you will be moved to regular status. If expectations are not met or skills are not satisfactory, it is unlikely that employment will be continued.

3.3 Types of Appointments

Appointment Type:

- Volunteer: An appointment, as defined in ORS 657.015, to which the appointee volunteers or donates services without receiving or expecting remuneration. Volunteer appointments are not eligible for benefits unless specifically authorized in a written agreement by the City Manager. Terms and conditions of volunteer appointments are contained within the City's Volunteer Handbook and any specific rules promulgated by the Department for which the Volunteer appointment is made. Please refer to the Volunteer Handbook for additional information.

- Temporary: An appointment which has a duration of less than one year and less than 2080 hours. This type of appointment is considered "at will" and not eligible for benefits unless specifically authorized in a written agreement by the City Manager.

- Intermittent: An appointment that does not require a regularly scheduled workweek and is less than one-thousand forty (1040) hours in a year. This type of appointment is considered "at will" and is not eligible for benefits unless specifically authorized in a written agreement by the City Manager.

- Initial Probation: All new employees, excluding "at will", shall serve an initial probationary period of twelve (12) months. Employment during the initial probation period is considered "at will". Represented employees should refer to your collective bargaining agreement. Please refer to Chapter 8 for benefit information.

- Regular: Appointment commencing after successful completion of the Initial Probation. Employees will automatically achieve regular status at the end of their initial or transitional probationary period unless the Human Resources Manager receives written notification from the Department Director prior to the conclusion of the probationary period that the probationary period will be extended, or in the case of an initial probationary period, that the employee has not been successful in completing the probationary period. Please refer to Chapter 8 for benefit information.

- Transitional Probation: Employees who have completed their Initial Probationary Appointment and are subsequently promoted or who request a lateral transfer or reassignment will serve an additional transitional probationary period of twelve (12) months.

  Employees who are not successful in completing their transitional probationary appointment may, at the City's discretion, be transferred or reassigned to another vacant position. The Human Resources Manager will be responsible for determining if the employee is qualified for the transfer or reassignment. The employee will serve an additional transitional probationary period of six (6) months following transfer or reassignment.

When an employee's position has been re-designated to a higher level position, and the employee is assigned to the position without a competitive recruitment process, the employee will not be required to serve a transitional probationary period.

Employees who are promoted or who request and are granted a transfer or reassignment while serving their initial probationary period will have the remainder of their initial probationary period run concurrently with the new transitional probationary period.

Initial probationary periods may be extended up to six (6) months at the discretion of the Department Director.

3.4 FLSA Classification

<u>FLSA (Fair Labor Standards Act) Status</u>
Employees are further classified according to Federal and State wage and hour laws into two additional categories of exempt and non-exempt as defined below. The Human Resources Manager will make appropriate designation regarding the status of each City position or when a position changes substantially. If you are uncertain as to your status, please contact the Human Resources Manager.

- <u>Exempt</u>: An employee who is exempt from the overtime pay requirements under federal and state laws. Exempt employees include managers, executives, supervisors, and professional staff and others who are paid a salary and whose duties and responsibilities allow them to be exempt under federal and state law.

- <u>Non-Exempt</u>: An employee who is paid an hourly wage, assigned a regular work shift of not more than forty (40) hours per week, and whose job calls for overtime payment as appropriate under state and federal regulations.

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CHAPTER 4

CLASSIFICATION & COMPENSATION

4.1 Position Designation

Position Designation

Every position in the City will be allocated to a Council approved classification and salary range. Each position designation will be accompanied by a position description containing the specific duties and responsibilities assigned to the position designation. Position descriptions will include the title, a narrative on the duties, the level and scope of responsibility, the minimum qualifications, and the knowledge, skills, and abilities required in order to successfully carry out the responsibilities. Position descriptions are intended to be explanatory and not restrictive. Department Directors are responsible for the content of the descriptions and retain the ability to modify specific and/or daily tasks as required including the assignment of higher level duties for limited periods of time.

Except under exceptional circumstances as determined by the City Manager, no new Regular position will be filled until a position designation has been determined by the Human Resources Manager. In the event that a position designation results in the need for a new City salary range, the Council must approve of the new range prior to position establishment in the budget. The Human Resources Manager will ensure that all employees are notified of their position designation and will maintain the official City record of all active position descriptions.

Department Directors are responsible for ensuring that the number of current employees does not exceed the number of budgeted positions.

Position Re-designation

Employees who believe that their duties and responsibilities have changed significantly since their position was designated may request a review of their position designation by making a written request to their Department Director. Once received from the Department Director, the Human Resources Manager will conduct an analysis of the duties and responsibilities of the position and determine the appropriate designation.

When an incumbent's position has been re-designated to a classification that is lower in salary, the employee will have the option of taking a voluntary reassignment. If the incumbent does not elect to take a voluntary reassignment and no other position is available for which they are qualified and is within their salary range, they may:

1. Request a voluntary transfer into another vacant position for which they are qualified.
2. Accept termination.
3. If part of a bargaining unit, they may exercise any specific rights under the current collective bargaining agreement.

When an incumbent's position has been re-designated to a classification with a higher salary, the Department Director will have the option of promoting the incumbent or conducting a recruitment process. Promotion of the incumbent will be dependent upon the Human Resources Manager's determination that the incumbent meets the requirements as defined in the new or revised position description. For incumbents to be promoted without a recruitment process, the Department Director must demonstrate that the duties and responsibilities of the position evolved over a significant period of time, typically greater than 18 months. The Human Resources Manager will determine if the change in position designation is due to a gradual increase in duties and responsibilities over a significant period of time. If the Department Director conducts a recruitment for the re-designated position and the incumbent is not selected, and there are no other positions available for which the employee is qualified that are within the same salary range, the incumbent may:

1. Request a voluntary transfer into another vacant position for which they are qualified.
2. Accept termination.
3. If part of a bargaining unit, they may exercise any specific rights under the current collective bargaining agreement

When a re-designation of a position is the result of a City wide classification study, the incumbent of the position may retain the position and any applicable compensation policies as described in this Handbook.

4.2 Classification and Compensation Plan

The City Manager is responsible for the creation and maintenance of a classification plan. The classification plan will consist of a comprehensive listing and definition of all Council adopted classifications and salary ranges in City service. The purpose of the classification plan will be to:

- Establish qualification standards for employment eligibility,
- Assess parity in compensation for similar positions,
- Develop standards of work performance,
- Establish job families and career tracks,
- Provide a framework for analysis of organizational relationships or position designations (see Position Designations),
- Assist in the budget development process,
- Provide flexibility in the assignment of personnel.

The Human Resources Manager will administer a review of all City classifications and assigned compensation levels on a regular schedule. The Human Resources Manager will submit their findings to the City Manager for review. The City Manager will provide a report to the City Council for review and adoption. Compensation levels are typically reviewed every three years, concurrent with contract negotiations.

The City Council has adopted the following compensation philosophy:

- Compensation and benefit levels will be evaluated against current labor market comparables for each employee group (bargaining unit, management, non-represented, etc.). It is the Council's policy to maintain City compensation within plus-or-minus five (5) percentage points of the labor market median. Compensation and benefit levels will be based on all relevant information including, but not limited to, internal equity, salaries paid by other employers for comparable work, fringe benefit packages, the City's financial condition, and unusual problems of recruitment and/or turnover.

It is the Human Resource Manager's responsibility to determine the relevant labor market comparables when conducting a review of compensation. The Human Resources Manager will analyze classifications in terms of duties and responsibilities, knowledge, skills, and abilities, minimum qualifications, changes in labor market forces and competition, and other relevant factors.

The City Council has ultimate authority to approve and/or revise the proposed salary and compensation adjustments as submitted by the City Manager. Compensation levels will be viewed as total compensation, including an analysis of salary, fringe benefit levels, cost of living changes, and other relevant factors.

In exceptional circumstances, the City Manager may initiate a review of compensation earlier than the three-year schedule in order to meet immediate organizational needs such as a rapid change in competition, labor market forces, or other factors. In this event, the City Manager will report findings to the City Council for review and adoption.

4.3 Pay Administration

The City values employees and is committed to compensating employees for their efforts and results. It is our intent to provide a competitive compensation package that will attract, retain and motivate employees. It is also our intent that policies and pay practices be administered consistently throughout the City.

Your pay as a new employee is established based on the pay level of current employees in the same or similar positions, and your previous experience and skills. The City Council adopts the salary schedule from which all City employees are compensated, see Classification and Compensation Plan.

You will be eligible for future pay increases based on your performance, contributions and success. This policy is to be interpreted in accordance with applicable federal and state laws and regulations.

<u>Cost of Living Adjustments (COLA's)</u>
If the City Council approves an annual cost-of-living adjustment, you will receive it as a modification to your base salary.

<u>Merit Salary Increases</u>
It is the City's policy to reward you with increases in pay for your dedication in your work, extra effort, and contributory performance. Management does not award increases on an automatic basis or at any preset interval. Your supervisor will determine if an increase is warranted at the time of your performance review. Step increases will be awarded based on satisfactory performance as documented in your performance appraisal. Exceptional performance may be

rewarded with accelerated advancement through the steps. Prior written approval from the City Manager is required for accelerated advancement.

Paydays
You will be paid at least monthly, according to the City's payroll cycle. If the payday falls on either a Saturday or Sunday, paychecks will be distributed on the Friday prior to the payday. If a City holiday falls on a designated payday, you will receive your check on the last workday prior to the holiday.

Payroll Deductions
Certain mandatory and elective deductions are made from employee pay, and are noted on the paycheck stub. Only those deductions mandated by law or those you have authorized in writing are made, provided such deductions are not otherwise prohibited by state regulations.

Delivery of Paychecks
Your paycheck will be delivered to you each payday or directly deposited to your account as authorized. No paychecks will be delivered to any person other than you except upon your written request to do so.

Method of Payment
A statement of earnings and deductions showing gross earnings, deductions and the net salary amount will accompany each paycheck or notice of direct deposit. Employees are normally paid by check, but you may request payment by direct deposit to a checking or savings account at a financial institution, provided your financial institution has that capability.

Employee Withholding Allowance Certificates Form W-4
You are required under Federal law to furnish the organization with an Employee Withholding Exemption Certificate (W-4) at the date of hire. You must file a new W-4 form at any time the number of entitled exemptions decreases to less than the number being claimed. New W-4 forms may be filed when the number of entitled exemptions increases if desired, but it is not required. You may increase withholding by claiming fewer exemptions than entitled or by requesting additional withholding to be made if you find that insufficient tax has been withheld to meet your year-end tax liability.

Time Records for Nonexempt Employees
The timesheet is a record of time worked and must be filled out. It provides a permanent record of the time spent on the job, indicating the exact time worked. Each nonexempt employee will be issued a timesheet at the start of the pay period. Nonexempt employee pay is calculated from this record.

You should review your timesheet at the end of each week for completeness and accuracy. Supervisors will review timesheets each pay period and authorize them by signature. Timesheets must be completed in ink. If an error is to be corrected or time clarified, the timesheet should be taken to your supervisor who will take the appropriate action. All corrections must be made, reviewed, and initialed by the supervisor. Timesheets should be reviewed, signed, and turned in at the end of the pay period. Your signature on the timesheet each pay period verifies that the times and dates are true and accurate to the best of your knowledge. You should never allow someone else to make entries on your timesheet. Willfully falsifying a time card will be grounds for corrective action, up to and including termination.

Time Records for Exempt Employees

Employees classified as exempt report only absences from work on their timesheets. No deduction of pay will be made for hours worked less than your regular daily work schedule, typically eight (8) hours per day. Exempt employees may be required to use paid accrued leave (sick leave, vacation, leave, personal holiday or administrative leave) to cover full or partial day absences in accordance with City policy. While exempt employees are not paid by the hour, it is generally expected that the duties of their position will require a minimum of forty (40) hours per week to achieve optimal performance. By signing the timesheet, you are certifying, by default, that you have worked an average of forty (40) hours in each week in the pay period.

Improper Deductions from Pay for Exempt Employees

The City will reimburse any exempt employee whose pay is reduced in violation of this policy. If you feel your pay has been improperly reduced, please notify the Human Resources Manager.

Final Paycheck

While we request that you give us at least ten days advance notice prior to departure when resigning from the organization, if you provide us with at least 48 hours notice (excluding holidays and weekends) you will receive your final paycheck on the last day worked. If less notice is given, the final paycheck will be provided within five business days or on our next regularly scheduled payday, whichever occurs first. Final paychecks will include all wages earned through the last workday plus payment for any accrued and vested benefits that are due and payable at separation.

4.4 Salary Administration

The Human Resources Manager will provide consistency and guidance in the management of salary administration. This includes the approval of beginning salaries, performance based salary adjustments, increases at time of promotion and the provision of pay options in the event of a transfer, demotion, reassignment or leave of absence.

All salaries will be set within the Council adopted salary range and in compliance with applicable federal, state, and local laws. Payment of salaries for employees covered under the overtime provisions of the Fair Labor Standards Act or state law will be for hours worked except where these policies permit otherwise. Hours worked include holidays and any paid leave time, excluding sick leave.

Salaries for New Employees

Employees will normally be hired or reinstated at the beginning of the salary range. When the City Manager deems it is appropriate, they will have the authority to approve a higher starting salary. In any event, a beginning salary may not exceed the salary range approved by the Council for that position.

Salaries for Promotional Appointments

Employees will normally be promoted to a salary rate at least one step higher than his or her base pay in the lower classification, unless such an increase puts him or her beyond the top of the higher range. A one step increase is defined as the percentage difference between the final two steps of the lower range. If the employee's base pay in the lower range plus one step increase is lower than the first step in the higher range, the employee will be paid at the first step rate. If the employee's base pay in the lower range plus one step increase is higher than the top step in the higher range, the employee will be paid at the top step rate. If the employee's base pay in the lower range plus one step increase falls within the higher range, the employee will be paid at the step rate which represents at least a one step increase, but less than a two step increase in base pay.

When the City Manager deems it is appropriate, they will have the authority to approve a higher promotional starting salary.

The employee's anniversary date for wage increases will be the date of appointment to the promotional classification.

Overtime & Compensatory Time

Overtime for FLSA non-exempt, non-represented employees will be paid for time worked in excess of forty (40) hours in the employee's designated workweek. Time worked will include any paid leave taken during the week in which the overtime is being calculated, excluding sick leave. Only those employees who are not exempt under the provisions of the Fair Labor Standards Act or state law, unless otherwise designated by the City, will be eligible to receive overtime pay and/or compensatory time. Overtime will be paid at the rate of one and one-half times the employee's regular rate of pay. Time worked as overtime will not be considered when determining eligibility for benefits, retirement, or completion of either an initial or promotional probationary period.

Non-represented employees who are eligible for overtime pay may, with the mutual consent of their supervisor, accrue compensatory time in lieu of overtime. Compensatory time will be earned at one and one-half times the number of hours worked and may be accrued up to a maximum of eighty (80) hours. Compensatory time off will be considered the same as time worked when determining eligibility for benefits, retirement, or completion of either an initial or promotional probationary period.

Temporary and intermittent employees are eligible for overtime under the same conditions as regular employees, however; they may not earn compensatory time.

Annual Salary Adjustments and Special Increases

All salary adjustments will be based on performance as documented in an employee's performance appraisal. Annual salary adjustments will occur every twelve months on the employee's anniversary date from appointment into the position. When an employee has performed at or above the satisfactory level, as determined by their supervisor, the employee may be granted a one step salary increase. Salary increases will be commensurate with performance ratings; however, in no case may an increase cause the employee's salary to exceed the top of the salary range established by Council.

When exceptional performance is documented in an employee's performance appraisal, a supervisor may recommend an acceleration of advancement through the salary range, normally a two-step increase. Department Directors must submit a written recommendation for approval to the City Manager prior to initiating the increase.

Employees who experience any leave of absence without pay, excluding military service or Family Medical Leave, which exceeds thirty (30) calendar days, will have their annual salary adjustment prorated to reflect the actual number of months in paid status during the evaluation cycle.

The City Manager will have the authority to approve individual salary increases outside of the annual adjustment should special circumstances warrant such action.

Represented employees will receive annual salary adjustments in conformance with their collective bargaining agreement.

Higher Classification Work

When an employee is assigned in writing to assume the majority of the duties (greater than 50%) of a position in a higher pay range for a period of more than 8 continuous hours, they will be awarded higher classification pay. The premium will normally be five (5) percent over their base rate of pay for all hours worked at the higher level position. This premium does not apply in situations where an employee is performing higher level duties for the purposes of training.

When the Human Resources Manager deems it is appropriate, they will have the authority to approve a higher premium.

CHAPTER 5

STANDARDS OF CONDUCT

5.1 Work Rules

The City believes that policies and procedures are essential for the orderly operation of our business and for the protection and fair treatment of all employees. As a result, we have clearly identified performance expectations so that everyone can act in accordance with our workplace standards. Courtesy and common sense should always prevail. The following work rules are not all-inclusive, but serve as guidelines to demonstrate work behaviors considered important to the City.

1. You are expected to be at work on time, stay until your workday ends, and to do the work assigned or requested of you. If you are unable to be at work on time, you are expected to contact your immediate supervisor promptly. Please refer to Departmental attendance guidelines for additional information.
2. You are expected to regard your workplace with respect and attention. City of Forest Grove records, equipment, and property are to be treated carefully and appropriately. You are responsible for those items in your custody and will be held accountable for their maintenance, appropriate use and/or accuracy.
3. You are expected to act in accordance with all appropriate codes, laws, regulations, and policies, regardless of whether they are set by the City or outside regulatory bodies.
4. You are expected to conduct yourself in a professional manner, exhibiting a high regard for our customers, vendors, business associates, and co-workers. No breach of professional behavior (abusive language, harassment, personal business during work time, etc.) will be condoned. This also applies to alcohol consumption when representing the City in a business or social capacity.
5. You are expected to maintain the confidentiality of organization information or customer information in your possession (i.e., personnel information, etc.).
6. Clothing you wear to work should be neat in appearance and be consistent with a professional atmosphere, keeping in mind the impression made on the public, visitors, and other employees and the need to promote organization and employee safety. Good individual judgment is the best guideline, but the City retains the right to decide what dress is appropriate. Please speak with your supervisor for Department specific dress standards.
7. Public relations is an integral part of each employee's job. Employees represent the City to those with whom they come in contact or by whom they are observed. All employees should remain cognizant of this responsibility in carrying out their duties in a professional and efficient manner.

The information regarding appropriate behavior may help in providing guidance for employee actions. You are urged to use reasonable judgment at all times and to seek supervisory advice in any doubtful or unclear situation. By everyone doing their best to meet both the spirit and intent of these guidelines, employee disciplinary issues should be minimal. As a matter of policy, the City seeks to resolve conduct and performance problems in the most informal and positive manner possible. However, when someone does not conduct themselves with the intent of the work rules, action will be taken to correct the situation promptly and completely. Violations of workplace rules will result in corrective action, up to and including termination.

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The City also believes that employees should be given an opportunity to be heard in matters involving discipline and we have adopted formal procedures. Please refer to chapter 6 of this manual. Employees who are covered under collective bargaining provisions are encouraged to refer to the specific language contained in their agreement.

Department Directors are responsible for the establishment of rules and procedures, which regulate the specific work activities, and conduct of employees in their department. Department work rules may be more restrictive than City rules due to their specific operational requirements.

5.2 Ethics

At the City of Forest Grove, we believe in treating employees with respect and adhering to ethical and fair practices. We expect employees to avoid situations that might cause their personal interests to conflict with the interests of our organization or to compromise its reputation or integrity. Employees may not use their position as a public employee to gain a financial benefit, nor avoid a financial cost to themselves, their families, or their personal businesses if the opportunity is available only because of the position held by the employee. Employees who conduct themselves inappropriately or who create a detrimental impact on the City may be subject to corrective action up to and including termination.

Employees are responsible for carrying out their duties in a manner that contributes to a positive and productive work environment and further achieves the City's goals and objectives. Employee behavior should reflect favorably on the City and serve the public interest as opposed to individual interest.

Supervisors, managers, and Department Directors will have the added responsibility of providing leadership that makes such performance and conduct possible and holds employees accountable for their actions.

Conflict of Interest
Employees may not solicit, obtain, accept, or retain any personal benefit from any supplier, vendor, customer/client, or any individual or organization doing or seeking business with the City. This means you may not maintain an outside business or financial interest, or engage in any outside business or financial activity which conflicts with the interests of the City, or which interferes with your ability to fully perform your job responsibilities. For example, if your job responsibilities include purchasing, or someone is in a position to influence such purchases, the individuals should have no proprietary or financial interest in any business that furnishes products, materials, or service to the organization or in any related transaction. Nor may they benefit directly or indirectly from a third party who furnishes products, materials, or services to the organization.

Misrepresentation
As an employee, you should consider how you represent the City in your transactions and interactions. You should be careful not to misrepresent the City policies, practices, procedures, or misrepresent your status and authority to enter into agreements. You should also avoid using

the City's name, likeness, facilities, assets, or other resources or using the authority of your position with the City for personal gain or private interests.

Gifts/ Gratuities
No employee may receive, give, pay, promise, or offer to our suppliers or agents anything of value, whether cash or any other property, for the purpose of securing or appearing to secure preferential treatment. This also includes any form of gratuity to or from employees of our suppliers or agents or members of their families.

In the event that you are offered a gift, gratuity, recognition item, or other item of personal benefit, you must notify your Department Director. If such offer does not violate the spirit of this policy, the ~~City~~ employee may accept it on behalf of the City as long as the item may be used for the public good. In no event will the City accept any item whose value is determined to be in excess of fifty dollars ($50.00).

Travel Awards
Travel awards including frequent flier miles, compensation for being displaced and related items accrued or earned by officials and employees on official City business are considered to be part of the salary and benefits to which such officials and employees are entitled as compensation. Officials and employees shall make decisions regarding travel arrangements and expenses in the best interest of the City rather than to maximize accrual of this benefit. Abuse of this benefit, including but not limited to influencing travel arrangements so as to maximize accrual of awards to the detriment of the City or public is prohibited and is cause for discipline. Employees shall be responsible for ensuring that this compensation is reported as income for tax purposes to the extent required by law.

Examples of travel awards are coupons, discounts, credit card rebates, frequent flyer miles, and tickets and vouchers for being bumped from an airline flight. Employees should be aware of provisions of the Oregon public employee ethics statutes (ORS 244.040). This statute prohibits a public employee from using or attempting to use his/her official position to receive a financial gain or avoid a financial detriment that would not be available but for the person's employment by a public agency.

Outside Employment
While employed with the City, you may not engage in outside employment that conflicts with the nature of the City's business, conducts business with the City, or otherwise interferes with your ability to perform according to established standards of performance and work rules. Also, you may not conduct business connected to outside employment during hours you are scheduled to work for the City.

Off-Duty Conduct
As a general rule, the City regards the off-duty activities of employees to be their own personal matter. However, there are certain types of off-duty activities that are of concern because of the potential negative impact on the City's reputation within the community we serve. For that reason, employees who either engage in or are associated with illegal or otherwise harmful conduct, the nature of which adversely affects the City or their own ability or credibility to carry

out their employment responsibilities, may be subject to corrective action up to and including termination.

Solicitation and Bulletin Boards

In order to ensure that employees are not disturbed, interrupted or disrupted while at work, the City has established the following no solicitation policy:

- Individuals who are not employed at the City may not solicit our employees or distribute literature on City property at any time.
- If you wish to solicit or distribute literature to other employees by or on behalf of any individual, organization, club or society, you may do so only during times when you are on a break or lunch period. You may solicit or distribute literature only to those employees who are also on their break or lunch period. The distribution of literature in work areas is prohibited at all times, but you may place it in established break areas or lunchrooms.
- Certain types of material such as obscene, profane or inflammatory items and political advertisements or solicitations are strictly prohibited.
- You may not solicit, expect or accept contributions from vendors, clients or anyone doing business with the City.
- You may not sell merchandise or collect funds of any kind without prior approval from your Department Director.

The City bulletin boards keep you up to date and are used to post notices and information required by law. If you are covered by a collective bargaining agreement, there may also be union bulletin boards in your Department. Please refer to your collective bargaining agreement for additional details. City bulletin boards are to be used only for posting or distributing notices or announcements of a business nature that are equally applicable and of interest to employees or are directly concerned with City business.

Political Activities

City employees are entitled to exercise their rights to hold membership in or support a political party, to participate in political campaigns, to vote, and to privately express their opinions on political subjects or candidates. Any political activity is prohibited during the workday, this includes soliciting money, influence, service, or other things of value or otherwise aid or promote any of the following during working hours:

- Political committees; or
- Nomination or election of any person to public office; or
- Passage or defeat of any ballot measure.

Additionally, The City Council has determined that having an employee serving on or campaigning for the Council would unnecessarily create the appearance of conflict of interest, would create management difficulties in supervision, discipline and maintenance of confidentiality, and would cause governmental inefficiencies resulting from the above. Therefore, employees are not permitted to be a candidate for, or serve on, the City Council.

5.3 Communications and Software Systems

~~The City provides electronic communication systems to maintain efficient communications with internal and external customers. You are encouraged to learn more about these tools and how to use them. This policy provides directions for you regarding access and disclosure of information when using these communication systems. All employees and others outside the City who may use the systems are expected to be aware of and support this policy.~~

~~These systems include computers, software, electronic mail (e-mail), copiers, fax machines, telephones, smartphones, voice mail, radios, communication tools, and other various on-line services and databases. All of these systems are operated and managed based upon this policy.~~

~~These systems and any other informational, storage, or retrieval services that the City provide are organization tools and are to be used for business purposes only, unless specified within this policy.~~

~~The use of these systems is not private or confidential under any circumstances. The City, within the bounds of current and future laws, reserves, and intends to exercise, the right to review, audit, intercept, access and search these business systems at will, monitor data and messages within them at any time for any reason, and disclose selected contents without notice or other restriction. Messages sent though the system remain the property of the City.~~

~~As an employee, you must not permit any proprietary or confidential information of the City to enter the public domain through electronic transmissions. Examples of the City's proprietary and confidential information are provided in the Confidentiality Policy, Chapter 2.~~

~~Any messages or communication used through this system are subject to our harassment, equal employment opportunity, workplace violence and non-solicitation policies. You are expected to carefully compose and review the wording, tone and content of your communications prior to transmission. Material that is fraudulent, harassing, embarrassing, sexually explicit, profane, obscene, intimidating, defamatory, or otherwise unlawful or inappropriate may not be sent by e-mail or other form of electronic communication or displayed on or stored in City computers or other portable devices. If you encounter or receive this kind of material, you should immediately report it to your supervisor.~~

~~You should check with your supervisor if you have any questions about the proper use of communication or software systems. All system users who discover violations of this policy are expected to notify their supervisor or manager immediately. Improper use or violations of this policy can result in corrective action up to and including termination.~~

~~All electronic media is subject to the public records law and retention schedule of the State of Oregon as adopted by the City of Forest Grove. If you have any questions, please contact the City Recorder.~~

~~Employee network accounts and associated passwords may not be shared with any other person. Employees are responsible for protecting the confidentiality of network resources and preventing disclosure of their account information.~~

~~Electronic Mail System (E-mail)~~
~~You are reminded to be courteous to other users of the system and always conduct yourself in a professional manner. E-mail messages are sometimes misdirected or forwarded and may be viewed by persons other than the intended recipient. You should write e-mail communications with no less care, judgment and responsibility that you would use for letters or internal memoranda written on organization letterhead.~~

~~E-mail communications must not be used improperly. Examples of improper use include but are not limited to:~~

- ~~a) personal gain, personal business, or political ventures;~~
- ~~b) soliciting junk mail, subscribing to newsgroups, or other email subscriptions unrelated to City business;~~
- ~~c) the sending of offensive messages; and~~
- ~~d) personal use except in compliance with this Policy.~~

~~"Offensive" for the purposes of this Policy is broadly defined as containing information or images that would be considered inappropriate in the City workplace or that would contribute to creating a hostile work environment. Examples include, but are not limited to, content which could make others feel uncomfortable because of their treatment of topics involving gender, race, disabilities, or sexual matters.~~

~~You should know that even when a message is erased through e-mail, it is still possible to retrieve and read that message. Even though the City reserves the right to retrieve and read any email messages, those messages are to be treated as confidential by other employees and accessed only by the intended recipient. We expect that employees will respect other's privacy and unless authorized to do so, will not retrieve or read electronic messages not intended for them. The use of passwords for security does not guarantee confidentiality. All passwords must be disclosed to your Department Director upon request.~~

~~E-mail is now a popular way to spread viruses. If you receive an e-mail and do not know who it is from, do not open it. Inform the Network Supervisor who will advise you of your next steps.~~

~~As stated previously, the use of electronic mail through the City network is primarily for business purposes. Incidental personal use of the electronic mail system is permitted. However, the personal use of e-mail should not interfere with City operations, nor should it cause any harm or embarrassment to the City. Any personal use of e-mail is expected to be on the employee-user's own time, not to interfere with the person's job responsibilities, and be compliant with all~~

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~~City policies, including harassment, EEO, and ethics. The City reserves the right to prohibit personal use if, in the City's sole judgment, prior employee conduct or usage warrants. Please refer to "Personal Use of City Communication Systems" later in this chapter.~~

~~The communication system's ability to send a message to a select group, or to "All Staff", should only be conducted on a limited basis. All broadcast e-mail messages should identify the source by department and name. Responses to broadcast messages should be directed to the source. When determining whether a message should be broadcast on a department-wide or City-wide basis, make sure that you know your audience. Avoid broadcasting messages to people with whom you do not ordinarily have direct contact. Each department is responsible for broadcast e-mails sent by employees of the department. Procedures regarding the approval of such e-mail will be left to the individual departments.~~

~~City Personal Computers~~
~~In an effort to protect the integrity of our systems, all software used on City computers must be registered with the Director of Administrative Services. Only authorized IT employees may install software or hardware or make modifications to any city personal computers and/or networks. A complete virus check of all such software must be made immediately before it is installed on any City computer. A virus check must be made of any disk originating or used on any computer outside the City, prior to use on City computers. Copying or transfer of City owned software might be done only with the written authorization of the Director of Administrative Services.~~

~~Use of Internet and Commercial Online Systems~~
~~Access to the Internet is provided as a tool in the conduct of City business. Many resources are available through Internet connections to assist employees in performing their work in a more efficient and effective manner. Typical usage includes using a browser tool to conduct research or to find information and the communication or exchange of information with others for business purposes. Employees are encouraged to explore and use these resources when conducting City business.~~

~~Management approval is required before you can post any information on commercial on-line systems, the Internet or other social networking services. Approved material that is posted should obtain all proper copyright and trademark notices.~~

~~Telephone Usage (including fax machine)~~
~~The City recognizes that employees must occasionally make and receive personal telephone calls. Such calls must be held to a minimum, and should impact your work as little as possible. Unauthorized use of the telephone, including charging long distance calls to the organization, will result in corrective action, up to and including termination. Receiving personal fax documents is prohibited.~~

~~Voicemail System~~
~~The voicemail system is the property of the City and has been provided for use in conducting City business. All communications and information transmitted by, received from, or stored in this system are City records and property of the City of Forest Grove. You have no right of~~

~~personal privacy in any matter stored in, created, received, or sent over the voice mail system. The City in its discretion as owner of the voicemail system, reserves and may exercise the right to monitor, access, retrieve, and delete any matter stored in, created, received or sent over the system, for any reason and without the permission of the employee. You are not authorized to retrieve or listen to any voicemail messages that are not sent to your personal attention. Any exception to this policy must receive prior approval from the Director of Administrative Services.~~

~~Personal Use of City Communication Systems~~

~~The City does not prohibit personal use of the communication system (*i.e.,* sending e-mail over the Internet, accessing sites on the Internet, typing a letter, or making a local telephone call) provided that the use is infrequent and brief. The City recognizes that employees occasionally have a need to talk to family members, schedule service technicians, confer with children's schools, and take care of a variety of other matters during "regular" working hours. In today's electronic environment, use of electronic communication systems for these purposes may be more efficient. The City believes that personal use for these purposes during regular working hours is less disruptive than requiring employees to take formal breaks or leave work, provided that the use is brief, infrequent, and in compliance with the following guidelines and understandings:~~

1. ~~There is no right of privacy for any electronic record or communication, whether personal or not.~~
2. ~~The use of the City phone system for personal long-distance communication is prohibited, unless placed by using a personal calling card or by calling collect. The calls must be infrequent and brief.~~
3. ~~Personal communications to group "Bulletin Boards", "Chat Rooms", "Social Networks" (Examples include MySpace, Face book, Twitter, etc.) or other subscription emails is prohibited.~~
4. ~~Employees shall not use any components for illegal activities, engaging in profit making ventures, or personal business. An example of "personal business" for purposes of this Policy is on-line stock trading or subscribing to a financial newsletter for delivery via City e-mail.~~
5. ~~Employees shall not access sites containing pornographic or offensive materials.~~
6. ~~Downloading software or any information, which requires storage on City equipment, not related to your assigned job responsibilities, is prohibited.~~
7. ~~Unauthorized access to protected resources is prohibited.~~
8. ~~Employees shall not download music, videos or any other copyrighted material for personal use including streaming media. Downloads of such material for official City use is allowed only if the appropriate permissions, licenses or other authorizations are obtained and an authorized supervisor approves the downloading. Employees who use the system to violate copyright laws shall be personally liable for any fines, penalties or other costs.~~
9. ~~Any personal use must comply with all City policies.~~

~~Limited personal use of City communication systems is not anticipated to increase any hardware or software costs to the City and should not result in any charges or costs to the City provided this Policy is followed. However, if personal use by an employee results in an additional fee or~~

~~charge to the City, the employee shall reimburse the City for this additional cost. Printing a personal e-mail message or letter on a City printer are examples of actions which result in an additional cost.~~

~~Employees are encouraged to limit personal use of the communication systems and apply good judgment and common sense. Employees are specifically warned that, in addition to any potential violation of this Policy, routine use of City communication systems in order to avoid a financial detriment (including purchase of a computer or subscription to an Internet access provider) may be considered an ethics violation and subject an individual to penalties provided under State law, and/or corrective action up to and including termination. The City reserves the right to prohibit personal use if, in the City's sole judgment, prior employee conduct or usage warrants.~~

5.3 Electronic Communications

The enhancement of external and internal communication through the use of electronic communication equipment is a goal of the City of Forest Grove. Electronic communication devices and systems include, but are not limited to: cell phones, desk phones, voice mail, smartphones, desktop and laptop computers, computer software, email systems, texting devices and the Internet. This policy outlines the City's expectations for employees regarding access, use and disclosure of information when using these communication systems.

All electronic communication devices purchased by the City of Forest Grove are considered property of the City, and employees shall have no expectation of privacy in connection with the transmission, receipt or storage of information on these devices. The City, within the bounds of current and future laws, reserves the right to review, audit, intercept, access and search these business systems at will, monitor data and messages within them at any time for any business-related reasons, and disclose selected contents without notice or other restriction. Personally owned electronic communication devices used by employees for City business may be subject to public records search in accordance with applicable laws and/or court orders. Additionally, all electronic communication devices used for City business are governed by the standards and practices set by the Oregon Government Ethics Commission.

This Electronic Communication Policy applies to all City of Forest Grove employees and their use of personally owned and/or City-provided electronic communication devices, computers, software and network systems during work hours. Inappropriate use of such equipment, including use that violates any code, law, regulation or policy set by the City of Forest Grove or outside regulatory bodies, or failure to comply with any part of this policy, may result in disciplinary action up to and including termination of employment.

Telephones, Smartphones and Voice Mail

The ability to make and receive telephone calls is an essential element of the services the City of Forest Grove provides to the public. The City's telephones, voice mail systems, and all other electronic communication devices are intended for official business only, but may be used incidentally for personal reasons in accordance with this policy. All calls on City-owned phones, including any personal calls allowed by City policy, and voicemail are subject to being monitored, accessed, retrieved or deleted without permission of the employee. This tracking may include the phone numbers of incoming and outgoing calls and text messages, as well as their duration.

The City of Forest Grove may provide cellular phones and/or smartphones to employees to facilitate City work. Smartphones include devices with traditional telephone functionality and additional features typically found on a desktop, laptop and/or tablet computer. These devices should not be used for an employee's personal convenience. All personal calls and/or texts should be brief and infrequent, and personal cell phones calls conducted away from work areas.

(a) ***Use of City-provided Desk Phones, Cellular Phones and Smartphones***

The City does not prohibit personal use of the City phone system provided that the use is infrequent and brief. The City recognizes that employees occasionally have a need to talk to family members, schedule service technicians, confer with children's schools, and take care of a variety of other matters during "regular" working hours.

Personal long distance calls may only be made on City phones using a pre-paid calling card. No personal call resulting in a charge to the City may be made on City-owned phones, even if the employee reimburses the City for the cost.

(b) ***Use of Personal Cellular Phones and Smartphones***

If approved by the employee's department director, personal electronic communication devices may remain on during work hours in vibrate or silent mode only unless employee has received authorization from their supervisor to have their phone on ring mode. However, based on individual work environment circumstances, department directors may prohibit employees from carrying personal electronic communication devices in the workplace.

(c) ***Schedules/Appointment Calendars kept on Cellular Phones and Smartphones***

The City recognizes the benefit of keeping a comprehensive schedule on an electronic communication device that may include both work and personal appointments. However, employees who choose to combine work and personal calendars on a work-related electronic device acknowledge that these devices may be subject to record searches in accordance with applicable laws.

(d) ***Personal Features on Cellular Phones and Smartphones***

The City also recognizes that employees may desire personal features such as web browsing, texting capabilities or access to social media sites on personal and/or City-owned devices during work hours. This type of access should be brief and infrequent, and must follow the "**Use of City Network: Computers/Internet/Email**" section that follows. Additionally, all devices that contain sensitive City data, or have applications that can access sensitive City data, should be kept locked when not in use. These devices must be equipped with a password or authentication system to unlock the device, and if possible, the data should also be password-protected in case the device is lost or stolen.

(e) ***Loss, Theft or Damage to Cellular Phones***

If a City-owned smartphone is lost, stolen or broken, the department director will determine whether this occurred as a result of employee negligence when deciding if the City will replace the device. If a personally owned smartphone or cellular phone is lost, stolen or broken, the City will not replace the device, nor assist with replacement costs.

Use of City Network: Computers/Internet/Email

The City of Forest Grove's computer system is provided to assist employees in the performance of their job duties and is for authorized users only. The City has the ability to capture and store all data and email sent, received, placed or accessed on its computer network and related systems. Any message or communication sent through our systems is subject to the City's harassment, equal employment opportunity, workplace violence and non-solicitation policies. You are expected to carefully compose and review the wording, tone and content of your communications prior to transmission. Material that is fraudulent, harassing, embarrassing, sexually explicit, profane, obscene, intimidating, defamatory, or otherwise unlawful or inappropriate may not be sent by email or other form of electronic communication or displayed on or stored in City computers or other portable devices. If you encounter or receive this kind of material, you should immediately report it to your supervisor.

Use of the network without authority, or in excess of an employee's authority, is subject to monitoring by an authorized person or persons, including law enforcement. The City may take action related to inappropriate use of its network, without prior notice, if an employee is determined to have generated, sent or received such material.

Employees who access networks and computer systems administered by other agencies to perform their work are expected to comply with all usage policies of both the City of Forest Grove and of the agency administering the network or computer systems.

Personal Use of City Network: Computers/Internet/Email

The City does not prohibit personal use of the communication system (i.e., sending email over the Internet, accessing sites on the Internet, or typing a letter) provided that the use is infrequent and brief. The City recognizes that employees occasionally have a need to schedule service technicians, confer with children's schools, and take care of a variety of other matters during "regular" working hours. In today's electronic environment, use of electronic communication systems for these purposes may be more efficient. The City believes that personal use for these purposes during regular working hours is less disruptive than requiring employees to take formal breaks or leave work, provided that the use is brief, infrequent, and in compliance with the following guidelines and understandings.

Personal use of the City's computer system may not interfere with the employee's work, another employee's work, or have an undue impact on the network. Employees should have no expectation of privacy in connection with the transmission, receipt or storage of information, even if the computer is for approved personal use. Employees may not store personal files, folders, pictures, music or videos on the City's network systems and the City reserves the right to remove any personal items from the City's network systems without notice to the employee.

Employees are not prohibited from storing personal files or pictures on City-owned devices or desktop/laptop hard drives, but are discouraged from doing so for several reasons, including 1) all data on City-owned devices and networks is the property of the City and is discoverable under public records law; 2) any personal items stored on the employee's hard drive or City-owned device that are not in accordance with City policies contained in this handbook may subject the employee to corrective action; and 3) the City will not be responsible for recovering non-work related items that are lost.

The City's computers, email system and Internet connections may *NOT be* used to:

- Send email anonymously or without authorization.
- Send offensive messages ("Offensive" for the purposes of this Policy is broadly defined as containing information or images that would be considered inappropriate in the City workplace or that would contribute to creating a hostile work environment. Examples include, but are not limited to, content which could make others feel uncomfortable because of their treatment of topics involving gender, race, disabilities, or sexual matters.)
- Increase personal gain, do personal business, or support political ventures;
- Support charitable, religious or political activities or causes (other than City-approved activities).
- Play games, stream music or stream personal videos.
- Download or install new programs; this requires departmental and IT approval.

City equipment may not be used at any time to access inappropriate sites or to transmit or receive inappropriate information. Pornography, gambling and hate group sites are examples of inappropriate sites. Accessing these sites is a misuse of City property unless required by job responsibilities and explicitly authorized by supervisor (e.g. police detectives).

Use of Non-City (Personal) Computers/Tablets that are not covered by the City's stipend

Personal computer/tablet use in the workplace is permitted only:

- During an employee's lunch period.
- During an employee's break period.
- If authorized by the employee's supervisor for performing City work during work hours under the following conditions:
    1. The City will not compensate employee for lost, stolen or damaged device;
    2. The employee will not receive a stipend or other compensation for the device;
    3. IT staff will not support or troubleshoot problems with the device; and

4. The employee understands that if their personal device is used for work-related purposes, it may be subject to public records disclosure laws.

City-owned, Stipend and Personal Cell Phone Use
In the Workplace

Type of Activity	**City-owned Cell Phone**	**Personal Cell Phone (Covered by City Stipend)**	**Personal Cell Phone (Not covered by City Stipend) (Applies during work hours, which excludes break and lunch periods)**
On during work hours?	Yes.	Yes.	Yes – in silent or vibrate mode unless otherwise authorized.
Personal calls?	Yes – away from work area so as not to disrupt others; and brief and infrequent at all times.	Yes – away from work area so as not to disrupt others; and brief and infrequent during work hours.	Yes – away from work area so as not to disrupt others and brief and infrequent.
Personal Web searches?	Yes – brief and infrequent at all times.	Yes – brief and infrequent during work hours.	Yes – brief and infrequent.
Social media?	Yes – work related.	Yes – work related during work hours; otherwise brief and infrequent.	Yes – brief and infrequent.
Texting?	Yes – work related.	Yes – Work related or brief and infrequent during work hours if personal.	Yes – brief and infrequent.
Work calendar/email sync?	Yes.	Yes.	With department director approval.
Install applications?	Yes – work related.	Yes – all.	Not Applicable.

NOTE: Based on individual work environments, supervisors shall have the ability to prohibit use of cellular phones for personal reasons during work time; and, if allowed, to determine if usage of such devices for personal reasons meets the "brief and infrequent" requirement. Employee's productivity, efficiency and disruption to the work environment or other staff will be some factors supervisors will consider in making these determinations.

City-owned Desktop, Laptop and Tablet Computers

Personal Web searches?	Yes – brief and infrequent for information like maps, weather or phone numbers.
Install applications?	No – please contact IT for application installations.
File sharing?	No, unless approved by IT.
Streaming music and videos?	No, unless approved by IT.
Social Media?	Yes – Work-related and personal use on lunch or break time
Games?	No.
New programs/executable?	No. IT must install all new programs.

Approval is not required to download work-related documents in formats such as PDF or Word.

Information Sharing

Employees are not allowed to use code (e.g. "hack into"), access unauthorized files, or retrieve any stored information unless given clearance in advance by an authorized supervisor. City property or information that is confidential and/or proprietary cannot be shared with individuals outside the City without prior clearance from a department director. Any employee who leaves employment with the City is prohibited from taking or copying any City property or information unless specifically authorized in writing by their department director.

Information Technology Access Policy

Information technology includes but is not limited to: all individual computers, computing and electronic communication devices and services, telecommunication devices, email, networks, telephones (including cellular), voice mail, fax transmissions, video, multimedia, applications and instructional materials.

Access rights to information/data stored on City-owned equipment will be granted on an as-needed basis. Only those rights needed to accomplish tasks related to an employee's job function will be granted. Authorized users of the City's computer network include City employees and other individuals who are contracted to help support the City systems. Any other use is strictly prohibited.

Data of a confidential nature must be protected and must not be disclosed without authorization. Unauthorized access, manipulation, disclosure, or secondary release of such data/information constitutes a security breach. Failure on the part of an employee to take reasonable care to prevent such access may be grounds for disciplinary action up to and including termination of employment.

City of Forest Grove Information Technology (IT) staff is granted access to information technology resources to facilitate their job activities. However, IT staff agrees to abide by all relevant City of Forest Grove policies and procedures, as well as all current federal, state and local laws. These include but are not limited to: personnel policies and procedures related to harassment, plagiarism, commercial use, security, unethical conduct; and laws prohibiting theft, copyright and licensing infringement, unlawful intrusions and data privacy laws.

Information Technology staff is responsible for reviewing, understanding and complying with all policies, procedures and laws related to access, acceptable use and security of the City of Forest Grove information technology resources.

The City of Forest Grove recognizes the importance of preserving the privacy of users and data stored in information technology systems. Staff and third-party contractors must honor this principle by neither seeking to obtain unauthorized access to information technology systems, nor permitting or assisting others in doing the same. Furthermore, staff and third-party contractors must not make or attempt to make any deliberate, unauthorized changes to data on an information technology system. Staff must not intercept or attempt to intercept or access data communications not intended for that staff member, for example, by "promiscuous" network monitoring, running network sniffers, tapping phone or network lines, or any other means of intercepting data communications.

Even though the City reserves the right to retrieve and read any email messages, those messages are to be treated as confidential by other employees and accessed only by the intended recipient. We expect that employees will respect others' privacy and unless authorized to do so, will not retrieve or read electronic messages not intended for them. The use of passwords for security does not guarantee confidentiality. All passwords must be disclosed to your Department Director upon request.

There may be occasions when a user's data will need to be accessed without the user's permission. When these occasions arise the IT staff member must obtain written permission from the department director or city manager prior to accessing the data. Staff must not conceal their identity when using information technology systems, except when anonymous access is explicitly authorized. Staff is also prohibited from masquerading as or impersonating others, or otherwise using a false identity, unless expressly given permission from a supervisor for the purpose of performing official job duties, such as police department detectives.

Without specific authorization, staff may not remove or modify any City of Forest Grove owned or administered equipment or programs from information technology systems (e.g. City's network, servers, storage, cloud programs, etc.).

Off-site Information Technology Equipment and Data Use Policy

Information technology equipment and data includes but is not limited to: all individual computers, computing and telecommunication devices, telephones, City records and instructional materials.

Employees are required to obtain permission from their supervisor prior to taking computer equipment off-site. Department directors are responsible for knowing who within their respective departments has possession of any information technology equipment that is taken off-site.

If the equipment has been kept off-site for more than one month, and the equipment has been used on the Internet and/or files loaded or any external devices attached to the computer equipment, it shall not be reconnected to the City's network without first being examined by IT staff. This will allow IT to ensure virus and other updates are current on the equipment.

Employees are responsible for taking reasonable precautions against theft or damage to computer equipment. Data of a confidential nature must be protected and must not be disclosed without authorization. Confidential data or information should be transferred using a secure device that requires authentication to access. If possible, the data should also be encrypted. Unauthorized access, manipulation, disclosure, or secondary release of such data constitutes a security breach.

Software installations are to be performed by Information Technology (IT) staff only. Only software owned by the City and approved by IT staff shall be installed on City computers. Installation of personal software on any City-owned equipment is expressly prohibited.

Computer equipment may not be used to download, copy, or store any copyrighted software, publications, music, video, or other content without permission from the copyright holder. The City allows music and videos to be played from the DVD/CD player, but the music or video may not be copied to the computer or network.

Any theft or damage to computer equipment is to be reported immediately to the IT staff and your supervisor.

When computer equipment assigned to an employee is returned to the City, the user is required to notify his/her supervisor, and to send a "help desk ticket" to IT staff notifying them of the change of status of the computer equipment if it has been off site for more than thirty days.

Working from a Non-City Computer

Using a personal electronic device such as a smartphone, netbook, other mobile device, laptop or personal computer to access City electronic communications and documents for work may make the personal electronic device subject to a records search. Personal electronic devices should not be used for working directly on City documents without approval from your department director.

A thumb drive (also known as a flash drive, jump drive, pen drive or memory stick) used to transport electronic communication and documents for work on personal electronic devices may make the thumb drive subject to a records search.

No personal thumb drives should be used on City computers without approval from IT. Sending electronic communications or documents to a personal email account or other online account may make the email account or other online account subject to a records search.

Virtual Private Network (VPN)

When using the City's VPN (a secure Internet connection that connects outside computers to the City's network), no electronic work communication or documents should be downloaded to a personal device. If documents are downloaded to a personal device, this may subject the personal device to a records search. If work needs to be done on a local device outside of work, a City device should be borrowed after getting approval from your department director.

Even if an employee follows all City policies and does not download any documents to their device (personal computer, smartphone and any other electronic device) used to access the City's network or information, the employee's device may still be subject to a records search if required by public records law or by court order to confirm that no data was downloaded to the device.

Social Media (Facebook, Twitter, Texts or Other Social Networks)

1. City of Forest Grove employees must follow the City's policies when posting to blogs, wikis or any other form of user-generated media on behalf of the City. Information posted is public information.
2. Employees must obtain approval from their department director to post to social websites on behalf of the City.
3. Messages sent or received via social networking sites may fall under the public records law. Check with the City Recorder for records retention requirements.
4. Employees must follow copyright, fair use and public disclosure laws.
5. Employees may not post materials related to political activities, parties or candidates.
6. Employees may not provide or post confidential information. Permission must be obtained from the appropriate person or department before publishing information.
7. Members of the public and City vendors or contractors may not be referenced without their approval.
8. Any use of City equipment and/or time to post personal items or access social media sites for personal use shall be brief and infrequent. Department Directors shall have the authority to prohibit employees from accessing social media sites on City equipment and/or time if such use is deemed to be disruptive in the workplace and/or if an employee is deemed to have violated any part of the policies contained herein.
9. Employees must respect their audience and City policies when posting on behalf of the City. Employees may not use ethnic slurs, personal insults, obscenity, material that is harassing, defamatory, fraudulent or discriminatory; or engage in any conduct that violates City policies and/or would not be acceptable in the City's workplace.

Laws and Licenses Compliance

Users are required to comply with all software licenses, copyright laws, Oregon Government Ethics Commission guidelines, City policies and state and federal laws when using the City's computers, sending or receiving email or accessing or downloading information from the Internet.

Unauthorized duplication of copyrighted computer software violates the law and is contrary to the City's standards of conduct. Employees will not engage in nor make or use unauthorized software copies under any circumstances. Legally acquired software in sufficient quantities for all computers will be provided by the City's Information Technology staff to meet the legitimate software needs for City work. The City and its employees will comply with all license and purchase terms regulating the use of any software acquired or used.

Copyright infringement is an unlawful act. The City will maintain strong internal controls to prevent the making or using of unauthorized software copies. Compliance with software licenses and copyright laws is required.

System Security

All employees have a responsibility to take reasonable precautions to protect the City's computer system. Reasonable precautions include but are not limited to: updating anti-virus software when requested by IT, not allowing unauthorized access to the computer system and safeguarding the employee's password.

If an employee becomes aware of a virus or the threat of a virus, the employee should immediately contact IT with the information. Information Technology will evaluate the risk and, if warranted, notify all employees of the precautions that need to be taken.

Email as a Public Record

Under Oregon's public records law, most electronic mail messages created for business purposes are public records. Although some messages may not fall under the definition of public record, it is safest to assume all messages created could be considered public record. The only privacy an employee can expect is that afforded through disclosure exemptions. The privacy afforded government employees using government email systems is minimal and an employee should have no expectation of privacy. Email that does not meet the definition of a public record may still have to be released as part of litigation.

Public Access and Exemption from Disclosure

Email, like other forms of public records, must be made available to any member of the public upon request unless it falls within one of the specific exemptions described in the public records statute. A person need not demonstrate a "legitimate" need for public records to be entitled to inspect them.

The City requires that all public records requests be made in writing. A request form is available on the City's website. Please check with your supervisor or City Recorder if you have a question about whether an electronic mail message should be provided to the public.

Retention and Disposition

The retention of records stored in electronic records systems, including email systems, is governed by the City's retention schedule. No single retention period encompasses all email. Email is only a method of communication, so employees must evaluate each message to determine where it fits into the City's retention schedule. The City has adopted Oregon Administrative Rule 166-200, "City General Records Retention Schedule." The schedule is available online at http://arcweb.sos.state.or.us/rules/OARS_100/OAR_166/166_200.html. If you have a question about the retention of a message, please contact the City Recorder.

An email mailbox should not be used for long-term storage. If an email falls within the definition of a public record it should be kept with the appropriate file. Printed messages should include any attachments and all header information, i.e., time and date, routing information, etc. It is the responsibility of the holder of the official record to make sure the file is updated. For example:

- An updated records policy is emailed to all employees. It is the responsibility of the person sending the email to keep the record copy.
- A citizen calls and leaves a detailed message regarding a pending file. The receptionist forwards the message through the email system. It is the responsibility of the person receiving the message to add the message to the file.
- Email related to a current project or issue may be retained on the system as a reference tool. Once the project has been completed or the issue resolved, the employee should verify that all relevant email is in the file and then delete the email from their email account in accordance with the City's records retention policy.

Policy Compliance

Employees who violate any part of this Electronic Communication Policy may have email access, Internet and other privileges suspended, and may be subject to disciplinary action up to and including termination of employment.

5.4 Employment Recordkeeping

It is the City's policy to establish and maintain records of employment for employees in all organizational units consistent with State and Federal regulations.

Your employee records are property of the City and the City will determine contents. At a minimum, your employment record will contain legally mandated documents pertinent to pay, benefits, working conditions, performance, training and other terms and conditions of employment. A separate "confidential" file will be maintained to store medical, benefits, worker's compensation and other sensitive material, including background check information for applicable positions. Management of official employment records for employees of the City is centralized in Human Resources. Please contact the Human Resources Manager regarding employment records requests.

To the extent required for day-to-day management, your ~~S~~supervisor may keep files on employee training, performance plans, notes on counseling sessions, etc. This file is considered confidential and stored in a secure file. The Department file will not contain sensitive material, e.g. medical information. Performance management data, i.e. notes illustrating performance accomplishments or shortfalls, customer complaints or commendations, notations of verbal counseling sessions, etc. may be incorporated in the performance evaluation for the period to which it is applicable. Thereafter, it will be purged from the supervisor's desk file. Generally, discipline documents such as interview notes or other associated and relevant material will be sent to the Human Resources Manager upon disposition of the issue for review, retention or destruction as appropriate.

No material that can be considered derogatory may be placed in your personnel file unless you have been given an opportunity to read it and be advised it will be placed on file. You will be asked to sign and date the file copy to acknowledge receipt of the material. Your signature does not indicate concurrence with the information presented, merely that the employee has had an opportunity for review. You may prepare written comments regarding the information believed to be derogatory, incorrect or a misrepresentation of facts. Your comments will be included as part of the file and retained until the referenced document is destroyed.

To the extent there is a discrepancy between this policy and a collective bargaining agreement, the collective bargaining agreement will govern.

Your records are confidential and access shall be managed as set forth in law and by City policy. Contents of your record may be reviewed by you, your immediate supervisor, your Department Director and your designated representative. Authorized individuals should contact the Human Resources Manager in advance to arrange a review appointment. You have the right to review and receive copies of the records maintained.

Separated employees may request a copy of employee records for up to one year from the date of separation. The City may charge a reasonable fee to defray reproduction costs.
Recruiting supervisors of the City are allowed to review the employee record in conjunction with internal reference checking. Again, contact the Human Resources Manager to schedule an appointment for the review.

Your employee file contents will be minimally retained as provided for by laws governing retention of City government records, as they may be revised from time to time. The City may elect to extend the retention period. The current retention schedule is available from Human Resources.

Public access to employee records will be managed in accordance with State and Federal laws regarding the release of public information. All requests for employee data should be directed to the Human Resources Manager. Normally, Human Resources will confirm employment, dates worked, rate of pay and eligibility for rehire by telephone. This will frequently meet the needs of other employers or lending institutions. All other requests for data must be submitted in writing with an accompanying employee release. Absent the release, Human Resources will review the request and, if permissible by law, provide the information. Otherwise the request will be denied.

The employee will be advised of the request and its disposition. Subpoenas will be honored consistent with law as confirmed by the City's legal counsel.

You must notify Human Resources in the event that you have a change in your name, marital status, address, telephone number, dependents, emergency contact, or any job related physical or other limitation~~s~~ which would impact your employment.

It is the City's policy to release only a current/former employee's position title, dates of employment, and salary range to outside agencies when conducting reference checks. If you wish the City to release any additional information, please contact Human Resources and complete a Reference Release form. The City will maintain this form in your personnel file.

5.5 Harassment

The City of Forest Grove recognizes that its strength lies in its employees. It is our policy that all employees have the right to work in an environment where the dignity of each individual is respected. For that reason, we expect all employees to conduct themselves in a manner that complies with our Harassment Policy. Any harassment of employees by fellow employees is not permitted, regardless of their working relationship or supervisory status. As an employer, the City encourages employees to report conduct that may violate our Harassment Policy so that concerns can be addressed and resolved as soon as possible.

The City will not tolerate conduct by any employee that harasses, disrupts, or interferes with another's work performance or which creates an intimidating, offensive, or hostile environment. We desire to maintain a working environment free from all forms of harassment, whether based upon race, color, religion, ancestry, national origin, age, marital or family status, veteran status, sexual orientation, physical or mental disabilities, on-the-job injuries, sex, or any other legally protected characteristic or status.

Behavior such as telling ethnic jokes, making religious slurs, using offensive "slang" or other derogatory terms denoting a person's race, age, national origin, disability, or mimicking one's speech, accent or disability, are examples of prohibited conduct and will not be tolerated. Employees are also prohibited from retaliating against anyone who complains about harassment or cooperates in a harassment investigation. ~~As an employer, the City encourages employees to report conduct that may violate our Harassment Policy so that concerns can be addressed and resolved as soon as possible.~~

While all forms of harassment are prohibited, it is our policy to emphasize that sexual harassment is specifically prohibited. As a starting point, it is important for employees to understand what kind of conduct is prohibited "sexual harassment". Under the law sexual harassment includes any unwelcome sexual advances, requests for sexual favors or other verbal/physical conduct of a sexual or gender-based nature when:

- Submission to such conduct is explicitly or implicitly made a term or condition of employment; OR

- Submission to or rejection of such conduct is used as the basis for making an employment decision; OR
- Such conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile or offensive work environment. (EEOC Guidelines issued 1980).

The first requirement in determining whether sexual harassment has occurred is that the behavior in question must be based on gender. The behavior may or may not be sexual in nature. The types of conduct which qualify as sexual in nature take a wide variety of forms, ranging from overt serious harassment, such as sexual assaults, rapes and propositioning, to insulting gender-related comments to subtle harassment such as complimenting an employee on his/her physical appearance and flirting.
Between these extremes, virtually any type of conduct that is sexual or gender-based in nature can become a form of prohibited sexual harassment. However, the most common forms of sexual harassment include:

- Dirty jokes;
- Sexual innuendoes;
- Talking about your sex life;
- Sexual gestures;
- Displaying calendars or printed materials of a sexual nature;
- Making offensive or stereotypical comments about members of one sex or the other;
- Making derogatory comments about ~~gays or lesbians~~ sexual orientation or gender identity;
- Using E-mail or other City communication systems to transmit information of a sexual nature;
- Sexual touching, including any type of contact with intimate body parts;
- Making graphic comments about another employee's physical attributes; and
- Making any type of comment that is sexual or gender-based in nature.

Even if this type of conduct occurs between employees off duty, it should be reported if it is offensive to you. This is because sexually offensive conduct that occurs between employees off the job may "carry over" to the job environment.

Similarly, if a non-employee subjects you to this type of conduct during your working time and it is offensive to you, please report it. We will investigate during your working time and address sexual harassment concerns regardless of who is engaging in the reported behavior.

The second requirement is that the conduct in question must be "unwelcome" to you. Often a person can stop sexually offensive conduct (dirty jokes, sexual comments, etc.) by simply telling the person who is engaging in this behavior that it is offensive and requesting that they stop. We encourage you to take this approach, if it is comfortable to you. However, no employee is required to complain directly to the offending employee. If you are more comfortable reporting the offensive conduct to your supervisor, department director or the Human Resources Manager, you may go directly to any of them.

As a practical matter, employees have a wide range of sensitivity levels . . . what one person considers offensive, another may not consider offensive. The best approach for any employee is to assume that sexual conduct, whether physical, verbal or otherwise, is likely to be offensive to someone. It is not necessary that the offensive conduct be directed at the particular person who raises a complaint. Often sexual harassment claims arise from one person overhearing or overseeing something not intended for them. The "bottom line" is that if you engage in this type of behavior you assume the risk that someone will be offended. Consequently, you assume the risk of being disciplined or discharged for violating the City's Harassment Policy.

It is your responsibility to act in a manner that is consistent with our harassment policy. This includes any messages or communications sent or received through our electronic communication systems. The use of information systems (including e-mail, Internet, Intranet) for the display or transmission of sexually explicit images, messages, off-color jokes, or anything that may be construed as harassment or showing disrespect for others, is prohibited.

It is your second responsibility to report conduct that you believe violates our Harassment Policy. If you are subjected to any type of harassment by an employee or anyone you come into contact with through your job or you have observed behavior or overheard comments that raise concerns regarding compliance with this policy, you should promptly contact either of the following people:

- Your supervisor;
- Your Department Director; or
- The Human Resources Manager.

We encourage employees to report claims and work with us to informally resolve problems involving harassment. Our ability to resolve these kinds of problems is dependent on your cooperation in reporting incidents that create an offensive work environment for you. We believe that all our employees have an affirmative obligation to promptly report harassment.

In the event an incident or complaint is reported, an investigation will be undertaken immediately. Investigations will be kept confidential to the extent we determine confidentiality can be maintained while allowing us to comply with our obligations. If you are not satisfied with the handling of a complaint or the action taken, you should bring the complaint to the next higher level of authority. Violators will be subject to appropriate disciplinary or other corrective action.

Each manager/supervisor has the responsibility to maintain the workplace free from any form of harassment.

It is also important for you to understand that the City respects the right of its employees to raise harassment concerns and participate in investigations. We do not allow supervisors, managers or employees to retaliate against employees who report harassment or cooperate with investigations. "Retaliation" is broadly construed and includes conduct such as giving an employee the cold shoulder, changing their duties, treating an employee rudely, etc. In short, we expect all employees to respect the right of other employees to raise harassment concerns and cooperate with investigations. By doing so you will help us resolve such concerns at an informal level.

Any employee who feels they have been retaliated against should promptly bring complaints or concerns about retaliation to their supervisor, Department Director, or the Human Resources Manager. These types of complaints will also be immediately investigated and violators will be subject to appropriate disciplinary or other corrective action.

5.6 Substance Abuse

General Provisions

The City is committed to establishing and maintaining a work place free from the effects of alcohol or drug use and abuse. In support of this policy, the City's drug-free awareness program provides employees information about the dangers of alcohol and drug abuse. City employees may also have access to dependency and rehabilitation counseling through City employee benefits programs.

It is a condition of employment with the City that all employees work drug and alcohol free. Employees must report any violations occurring on City premises or off City premises while conducting City business. A report of a criminal drug statute conviction must be made to your Department Director and the Human Resources Manager within five (5) days after the conviction. (This requirement is mandated by the Drug Free Workplace Act of 1988.) Employees are expected to report any suspected violations of this policy to their Supervisor.

The City recognizes drug and alcohol use may escalate to a serious illness and will provide reasonable support to employees who are working to overcome their dependence. Employees suffering from alcohol and/or drug dependency or abuse are encouraged to seek substance abuse counseling and rehabilitation through the employee assistance program or health plan providers. All treatment information is confidential. The employee's voluntary disclosure of treatment will not be the impetus for corrective action nor will it absolve the employee from discipline if disclosed after the discipline process has commenced.

A City employee may not knowingly possess, use, transfer, offer, share, attempt to sell or obtain, manufacture, or be under the influence of drugs or alcohol or the metabolite of the substance in any situation during which the employee is engaged in a job-related activity including, but not limited to, the following situations:

- While on or in City property, including but not limited to buildings, parking lots, or City leased or rented space;
- Driving or a passenger riding in any vehicle or equipment used to facilitate or conduct City business; and
- In any other circumstance in which the safety of employees, customers, clients, or the public at large; or the productivity, quality of work products or services, or security of property or information can be impacted.

Drug and alcohol possession or use of the metabolite of such substances are prohibited during any hours during which the employees are engaged in or conducting City business regardless of whether such time falls within normal work hours or the work week. This includes but is not limited to time off-duty when wearing a City uniform, or in conjunction with City-authorized activities except where the City Manager has authorized the moderate consumption of alcoholic beverages.

A City employee may not possess on City premises, in City vehicles or when otherwise representing the City any alcohol containers (e.g., cans, bottles, etc.) or drug paraphernalia. "Drug paraphernalia" means equipment, products, and materials of any kind that are marketed, designed for use, or used in connection with anything from the planting to the manufacturing, packaging, selling, concealing, or introducing into the body any illegal drug. City maintenance employees will not be in violation of this policy for clean-up and disposal of such material discarded by others.

Violations of this policy may result in corrective action up to and including termination and may result in legal charges.

The City reserves the right to inspect or search any employee's personal property on City premises, including City-owned parking structures and parking facilities, if the employee is reasonably suspected of having violated this policy. Employees do not have an expectation of privacy as to City premises. City areas subject to search include, but are not limited to desks, file cabinets, lockers and offices spaces, whether or not the employee is afforded the ability to lock such spaces. All City employees are deemed to consent to a search made under this policy. Refusal to cooperate in any such inspection or investigation may result in corrective action up to and including termination.

All City employees called to work in an emergency must notify the duty supervisor of alcohol consumption, ingestion of prescription or other drugs, or the metabolite of such substances, during off duty hours that result~~s~~ in substance presence in their systems when called to work. The supervisor will determine the individual's suitability for work. If approved by the supervisor to work, assignments may be off the front-line, administrative in nature as to free other employees for the safety-sensitive assignments. A Public Safety employee authorized to work will not be deemed to have violated this policy.

The Chief of Police or designee may suspend any or all of the provisions of this Policy as required to accommodate an on-going investigation, or other authorized police activity. Officers party to such an investigation must secure policy suspension authorization in advance of the anticipated consumption.

Prescription medication or other therapeutic substances authorized for use in Emergency Medical ~~Transport vehicles~~ care or storage in City facilities are exempted from this Policy.

Definitions

Drug: substance(s) considered unlawful under Drug-Free Workplace Act of 1988 or the metabolite of the substance including but not limited to marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP) and:

- Prescription or non-prescription drugs which may impair judgment or job performance.
- Drugs which may be illegal to use when not prescribed by a physician and shared prescription drugs for which the employee is not the patient.
- Prescription drugs which are prohibited are those which have either not been prescribed for the employee to treat an existing circumstance or those which, although prescribed for the employee, may impact the individual's ability to function safely at work and have not been brought to the attention of the employees' immediate supervisor. Drugs for personal health management for which side effects are not the norm, e.g. vitamins, birth control pills, etc., need not be disclosed if in fact no side effects are experienced. However, the employee is responsible for updating the supervisor if drug reaction varies from the norm and has the potential for impacting workplace performance.

Alcohol: ethanol, isopropanol, or methanol;

Drug Testing: checking for drug or alcohol use;

Conditional employment offer: delivering an invitation to work for the City which conditions acceptance upon a negative drug test;

Random: scientifically valid method of selecting employees for drug testing that ensures all covered employees have an equal chance of being chosen;

Reasonable suspicion: noticeable behavior or appearance that would lead a reasonable person to suspect drug or alcohol use or other activities prohibited by this policy that would warrant drug testing, work place search, EAP referral or all of the preceding. Reasonable suspicion testing must be accompanied by identifiable conditions including but not limited to: unkempt or disheveled appearance, staggering, slurred speech, odor of alcohol or other controlled substance emanating from the employee or inadequate or inappropriate work performance.

Sample: urine or breath specimen obtained from the person being tested.

Required Testing

The City may require the collection and testing of a sample of an employee's or prospective employee's urine or breath for any job-related purpose consistent with business necessity and the terms of this policy, including:

Pre-employment.

Pre-employment drug tests are conducted on ~~all~~ applicants if warranted by their position or required by state or federal law after a conditional employment offer has been made.

Reasonable Suspicion.

Reasonable suspicion drug and alcohol tests may be performed if there is evidence that would lead a reasonable person to suspect that the employee's ability to perform job functions is impaired or that the employee is otherwise engaged in the unlawful behavior defined in law or Policy. The employee will be given the opportunity to offer an alternate explanation if behavior triggers suspicion; however, the City reserves the right to determine whether reasonable suspicion exists. Only supervisors trained in the signs and symptoms of drug and alcohol use may order reasonable suspicion testing.

Post-accident.
Any accident in the workplace involving a City employee performing City business or driving a City vehicle may also be considered as constituting reasonable suspicion for testing.

City employees holding a Commercial Driver's Licenses (CDL), as required for their work activity, shall be subject to random drug and alcohol testing as mandated by the U.S. Department of Transportation (USDOT).

In addition to tests required of this section the City may require employees or groups of employees to undergo drug testing on a random or chance basis. For represented employees, this provision shall be subject to advanced bargaining with the union.

Employees shall notify the supervisor immediately upon beginning work when taking any medication (prescription or non-prescription) or other drugs which may interfere with performance and/or cause a safety hazard in operating City vehicles or equipment. The supervisor will keep such information confidential to the extent possible. Management, Human Resources or other appropriate parties may be consulted for guidance on leave and/or other employment concerns.

The City will arrange and pay for the cost of testing. Sample collection shall be performed in a manner that guarantees the individual's privacy to the maximum extent consistent with ensuring that the sample is not contaminated, adulterated, or incorrectly identified.

A USDOT drug test conducted under this Policy shall be considered to have yielded a positive result if the test establishes the presence of the drug at levels equal to or greater than the cutoff level prescribed by applicable legislation. Testing not subject to USDOT provisions shall be managed in accordance with cut off levels established by the U.S. Department of Health and Human Services for on-site testing.

The City shall normally schedule a drug test or an alcohol impairment test of employees during, or immediately before or after, a regular work period. A supervisor shall accompany the employee to the test site. If necessary, a family member will be contacted to escort the employee home or another employee will do the same to insure the safe transportation of the employee.

Alcohol or drug testing required by the City is considered to be work time for the purposes of compensation and benefits for current employees.

Upon request, the employee has the right to obtain the written test results and the City will comply within five days after receipt of the written request, so long as the written request is made within six months after the date of the test.

An employee shall have the opportunity to explain a positive result in a confidential setting before the City takes adverse employment action.

A communication received by the City relevant to drug test or alcohol impairment test results and received through the City's testing program is a confidential and privileged communication and may not be disclosed except:

- To the tested employee, prospective employee or another person designated in writing by the employee or prospective employee;
- To individuals designated by the City to receive and evaluate test results or hear the explanation of the employee or prospective employee; or
- As ordered by a court or governmental agency.

5.7 Vehicle Usage and Safety

~~This~~ The purpose of this policy is to ensure that employees and volunteers who drive on City business or as part of their regularly assigned job duties are properly licensed and maintain an acceptable driving record; and to provide guidance on the proper use of vehicles with the goal of preventing accidents and injuries. Vehicle crashes are costly to the City, but more importantly, they may result in injury to employees or members of the public. It is the driver's responsibility to operate the vehicle in a safe manner and to drive defensively to prevent injuries and property damage. The City expects each driver to drive in a safe and courteous manner pursuant to the Driver Safety Rules section of this administrative procedure. The attitude employees take when behind the wheel is the single most important factor in driving safely.

The Human Resources Manager is responsible for general administration of this policy including verifying the validity and history of employees' driving records and verifying job applicants and employees meet driving record standards established by this policy.

The City Risk Manager is responsible for the overall administration of the City's risk management program.

Applicability
This policy applies to all City employees, volunteers, and elected officials who drive as part of their official duties and responsibilities as an employee of the City. Police and Fire employees should also refer to Department specific rules and regulations regarding vehicle use related to their specific responsibilities and driving environment/ conditions. Departments with employees who are required to possess Commercial Driving Licenses (CDL's) are required to verify and monitor the endorsement qualifications to ensure compliance with legal requirements.

Vehicle Safety Committee
The Vehicle Safety Committee is comprised of the Human Resources Manager and a minimum of one additional Department Director appointed by the City Manager. The committee is responsible for:

- Reviewing crashes and the City's overall driver safety record to determine if there should be changes in policy or procedure; or if other corrective action (such as training, equipment changes, etc.) should be implemented to enhance the safe operation of City vehicles and/or personal vehicles on City business.

- Reviewing driving records of employees and making recommendations to Department Directors when persons should be disqualified from driving City vehicles and/or using personal vehicles for City business.
- Reviewing all other issues that arise with respect to compliance with this policy including providing an annual update to Department Directors.

City Risk Manager

The City Risk Manager will receive copies of all recommendations contained in reports forwarded by the Vehicle Safety Committee to Department Directors. It is the City Risk Manager's role to evaluate compliance with recommendations forwarded by the Vehicle Safety Committee. Additionally, the City Risk Manager may consult directly with the Department Director and/or the City Manager regarding the loss experience, recommendations, or any other issue that has the potential to result in future loss exposure to the City.

Driver Guidelines and Reporting Requirements

City vehicles are to be driven by authorized persons only, except in the case of repair testing by a mechanic or other authorized agent of the City.

Any employee who has a driver's license revoked or suspended shall immediately notify their supervisor the next business day and *immediately discontinue operation of the City vehicle*. Failure to do so may result in corrective action, including termination of employment.

All crashes in City vehicles, regardless of severity, must be reported to the police in the jurisdiction where the crash occurs and to the employee's immediate supervisor. Crashes are to be reported immediately (from the scene, during the same day, or as soon as practicable if immediate or same day reporting is not possible). Crashes in personal vehicles while on City business *must* follow these same crash procedures. Crashes involving the employee's personal injury must be reported to Human Resources for Worker's Compensation purposes. Failing to stop after a crash and/or failure to report a crash may result in corrective action, up to and including termination of employment.

Drivers must report all ticket convictions received and/or no contest pleas made during the operation of a City vehicle, or while driving a personal vehicle on City business, within 72 hours to their supervisor. Employees are personally responsible for all fines imposed due to convictions and/or no contest pleas.

Motor Vehicle Records will be obtained on all drivers prior to employment and on an ongoing basis if an employee's driving record posts a conviction, crash, and/or suspension. A driving record that is considered by the Vehicle Safety Committee to be in violation of the intent of this policy will result in a loss of the privilege of driving a City vehicle.

City business is defined as driving at the request, or for the benefit, of employer. It does not include normal commuting to and from work.

Driver Criteria & Administration

Employees must have a valid and current Driver's license to operate a City vehicle or a personal vehicle with current auto insurance while on City business.

Employees are expected to drive in a safe and responsible manner and to maintain a good driving record. The Vehicle Safety Committee is responsible for reviewing records, including crashes, moving violations, etc., to determine if an employee's driving record indicates a pattern of unsafe or irresponsible driving, and to make a recommendation to Department Directors for disqualification of City vehicle driving privileges.

All employees who drive ~~City~~ vehicles as a part of their employment will have their driving records monitored in compliance with the Department of Motor Vehicles, State of Oregon automated reporting system (A.R.S.).

Criteria that may indicate an unacceptable record includes, but is not limited to:

- Three or more minor moving violations within a three-year period.
- Two or more chargeable crashes within a three-year period. Chargeable means that the driver is determined to be the primary cause of the crash through speeding, inattention, etc. Contributing factors, such as weather or mechanical problems, will be taken into consideration. Any citation issued at the site of a crash will be considered a single incident.
- Any combination of crashes and/or moving violations based on the Driver Screening Guidelines.
- Suspension of Driver's License.

Violations include any ticket, charge, or other law enforcement proceeding relating to these, as well as independent evidence of violations.

If an employee is required to drive as part of their regularly assigned job duties and their driver's license becomes invalid or their driving record becomes unacceptable, the employee may be subject to disciplinary/corrective action as provided by the applicable collective bargaining agreement or the current City of Forest Grove Employee Handbook.

Driver Screening Guidelines

This information is intended to provide guidance for screening and approving City drivers. The Vehicle Safety Committee will take into account the particular job responsibilities of the position, the driving history of the employee, and the potential future exposure to the City.

Types of driving violations listed by risk category, are as follows:

Class 1 – Major Violations

- DWI/ DUI
- Refusing a substance test
- Fleeing or eluding a police officer
- Commission of a vehicular felony
- Vehicular manslaughter
- Hit and run
- Reckless driving
- Drag/ street racing

Class 2 – Crashes
- Crashes regardless of fault

Class 3 – Minor Violations
- Speeding
- Failure to yield
- Improper lane change
- Running red light or stop sign
- Suspension of driver's license
- Various moving violations

Driver Safety Rules
The use of a City vehicle while under the influence of intoxicants and other drugs (which could impair driving ability) is forbidden and is sufficient cause for discipline, up to and including termination of employment.

No driver should operate a City vehicle when his/her ability to do so safely has been impaired by illness, fatigue, injury, or prescription medication.

All drivers and passengers operating or riding in a City vehicle *must* wear seat belts, even if air bags are available.

Drivers are responsible for the security of City vehicles assigned to them. Unless explicitly authorized by employee's supervisor (e.g. Emergency Vehicles in Fire Department), the ~~The~~ vehicle engine must be shut off, ignition keys removed, and vehicle doors locked whenever the vehicle is left unattended.

The use of head lights and/or driving lights is encouraged at all times, or during inclement weather or at anytime when a distance of 500 feet ahead of the vehicle cannot be clearly seen. Emergency vehicles may be exempted due to Departmental operating policies.

All State and Local laws must be obeyed, including relevant Oregon Revised Statues (ORS) Traffic Codes.

Mobile Communication Devices
The City promotes safe driving practices to prevent motor vehicle crashes due to the use of Mobile Communication Devices (MCDs) while driving. A mobile communication device is defined as a cellular phone, text messaging device or wireless two-way communication device designed to receive and transmit voice or text communication. Employees who drive City vehicles or who drive personal vehicles while conducting City business must comply with all federal and state laws that govern the use of MCDs while driving. The City encourages drivers to keep MCD use at a minimum while their vehicle is in motion and to always use a hands-free accessory if he or she absolutely must utilize an MCD while driving. If doing so, please follow these recommendations:

- Familiarize yourself with the device features for easy dialing.

- Place your hands-free device in an accessible location, preferably in a fixed holder in front of you.
- Keep your conversations short.
- Inform the person on the phone that you are speaking from the car.
- Avoid conversations that involve concentration. If you must engage in a conversation that demands your concentration, pull to the side of the road and stop your vehicle in a safe place.
- Avoid or terminate stressful or emotional calls while driving.
- Avoid using MCDs in unsafe or high risk situations while driving, e.g., construction sites, near heavy machinery, school zones, areas of greater foot traffic, etc.
- Never look up phone numbers while driving.
- Never use an MCD in adverse weather or in difficult traffic conditions.

Departments engaged in public safety operations are responsible for developing and enforcing departmental work rules related to the use of MCDs while driving and shall provide clear expectations for safe approved use.

Calls for emergency help, reporting illegal activity or to prevent injury to people or property are allowed if no other person in the vehicle is capable of doing so, but drivers shall make every effort to safely park the vehicle if possible before making such calls.

Employees who use two-way radios are permitted to monitor the radio and to briefly respond. If a longer response is needed, the driver is expected to park the vehicle before making the call.

Crash Procedures

In an attempt to minimize the results of a crash, the driver must prevent further damages or injuries and obtain all pertinent information and report it accurately.

Call for medical aid if necessary.

Call the police. All crashes, regardless of severity, must be reported to the police. If the driver cannot get to a phone, he/she should write a note giving location to a reliable appearing motorist and ask him to notify the police.

Record names and addresses of driver, witnesses, and occupants of the other vehicles and any medical personnel who may arrive at the scene.

Do not discuss the crash with anyone at the scene except the police. Do not accept any responsibility for the crash. Do not argue with anyone.

Provide the other party with your name, address, driver’s license number, and insurance information.

Immediately report the crash to your supervisor. Provide a copy of the crash report and/or your written description of the crash to the City Risk Manager.

There will be a formal crash review conducted on each crash to determine cause and how the crash could have been prevented.

General Rules and Regulations for the Use of City Vehicles
Vehicle Priority

#1 – 24-Hour assigned vehicle

#2 - Used during work day

#3 - Pool vehicle

A vehicle assigned to an employee under priority #1 may be used for personal transportation only as specifically defined in the *Personal Use, Passengers & Authorized Drivers of City Vehicles* section at the end of this policy.

An employee to whom a 24-hour vehicle is assigned shall be fully responsible for the coordination of general maintenance and proper care of the vehicle.

The vehicle color, factory options and equipment are standardized and shall not be altered, except as authorized by the City.

It is the responsibility of the assigned driver to inform the Office Manager for Administrative Services of any pool vehicle maintenance needs or safety problems they become aware of.

Employees shall drive vehicles with reasonable prudence to conserve fuel and sustain them at the highest operating efficiency.

Employees to whom a 24-hour assigned vehicle is issued will be held accountable for maintaining proper fluid levels and tire air pressure, present the vehicle for repair, service, or adjustment whenever such is needed, and preventative maintenance when time is due.

City vehicles are provided to eligible employees to enable them to efficiently perform their job functions for the City. They are not intended to be fringe benefit items.

No employee will be allowed the use of a City vehicle and/or fuel credit card for their personal use or gain.

No vehicle will be used for transporting any bulk material that protrudes from trunk/cargo area or interior compartment without properly securing based on the loading requirements.

Assigned City fuel credit cards are to be used for fuel and/or required maintenance products only, and for the assigned vehicle only, unless otherwise authorized by their supervisor. Employees are to use the self-service fuel island and to use regular unleaded gas only, unless otherwise specified. Department Directors may authorize the use of personal vehicles and reimburse fuel expenses at a rate established by the City Manager.

City vehicles must not be taken out of the State of Oregon without prior supervisor approval.

Copies of the Vehicle Registration, a Copy of the Insurance Card, and a Vehicle Crash Report Packet must be kept in the vehicle at all times.

Use of Pool Vehicles

The City will maintain a small pool of vehicles which may be used by employees for travel on City business.

City Vehicles should be reserved and are available on a first-come, first-served basis. Out-of-town travel receives priority if a conflict exists.

The pool vehicles are to be used only for City business. When the pool vehicles are not in use, they are to be left at their assigned location. Pool vehicles are not to be taken home at night unless authorized by prior supervisory approval.

Assigned City fuel credit cards are to be used only with the assigned pool vehicle.

Pool vehicles are to be left with no less than a half a tank of fuel when returned.

Pool vehicles are meant to be used in place of a personal vehicle for business trips.

Pool vehicles are to be kept clean. Trash should not be left in the pool vehicles.

Smoking is not allowed in any City vehicles.

Personal Automobiles

The City's insurance coverage only extends to the City for liability that may arise as a result of a crash in excess of your personal auto insurance while a personal automobile is being used by the employee for official City business. Damage to employee-owned personal autos (including an employee's personal auto deductible), as well as injury to passengers and/or third parties, are the responsibility of the employee. Employees who use personal vehicles for City business must maintain all insurances required under State law.

Those employees who occasionally use their personal vehicle for City business will be reimbursed on a mileage basis pursuant to the current Federal Government reimbursement rate. Reimbursed mileage is defined as mileage driven over and above the employee's normal commuting mileage.

Personal Use, Passengers, & Authorized Drivers of City Vehicles

The use of a City-owned auto must be within the course and scope of an employee's employment. Personal use of City-owned vehicles is not allowed unless the employee has an emergency response role and is on call at the time of use. Any liability that may result from the personal use of a City-owned auto outside the course and scope of employment is the sole responsibility of the employee.

City vehicles are to be driven by authorized employees only, or in case of repair testing, by a mechanic. Spouses, other family members, or other non-employees, are *not* authorized to drive City vehicles.

Passengers are normally limited to those individuals who need to ride in the vehicle to conduct City business, or as approved by the Department Director.

5.8 Workplace Violence

The City understands the importance of a safe and secure environment for its employees and recognizes the need to create a violence-free workplace for both its employees and the public. This policy is intended to prevent workplace violence from occurring and therefore describes prohibited conduct, warning signs identified with potentially violent behavior, procedures for reporting violations of this policy, and other pertinent information that is necessary to help deter violence in the workplace.

The City has a "zero tolerance" policy for any actions that threaten its employees or customers in the workplace. All violent behavior is considered inappropriate in the workplace**,** on both the part of employees and customers, and will not be tolerated. Violence, as defined by this policy is strictly and specifically prohibited by the City. No existing policy, practice, or procedure should be interpreted to prohibit decisions designed to prevent a threat from being carried out, a violent act from occurring or a life threatening situation from developing.

The policy applies to all departments of the City with respect to the conduct of all employees. For the purpose of this policy 'employees' of the City includes volunteers in all departments of the City, while independent contractors and community service workers are excluded.

<u>Weapons in the Workplace</u>
Bringing a deadly weapon to the workplace or carrying a deadly weapon while at work is strictly prohibited. For the purpose of this policy, "workplace" is defined as the facility where an individual is working and the parking lot where employees are designated to park their cars. This prohibition does not apply to persons authorized to carry weapons as part of their job responsibility, such as police officers and specifically identified persons within the fire department. For the purpose of this policy, "deadly weapon" means a device, instrument or object that is specifically designed for causing death or serious physical injury. The prohibition applies to employees who have a concealed weapon permit. Under no circumstances shall an individual who has not already been exempt from the prohibition have a weapon stored in a City-owned vehicle or facility. The prohibition does not apply to personal defense devices, such as personal attack alarms, nor to chemical defense sprays, such as mace.

<u>Reporting</u>
All employees are responsible for notifying their supervisor if they become aware of any threat or violent act in the workplace or on City property. An incident assessment report should be completed by the supervisor or the Human Resources Manager upon notification that such an incident has occurred. Under some circumstances, the Police Department may be informed of the contents of a report for the safety and well-being of employees.

<u>Confidentiality</u>

While the City cannot promise complete confidentiality due to the need to investigate, information about any complaint will be treated as confidentially as possible, consistent with proper investigation and responsive action. Generally, this means confidential information will be shared on a need-to-know basis.

Police Intervention

Since members of the Police Department are employees of the City, it is pertinent to outline when they are to be involved in any situation that might arise. The role of the Police is to enforce the law, and they will be asked to intercede in situations when a law may be broken, or if an employee feels it is necessary to contact them concerning their safety on the job. Where criminal wrongdoing is apparent, the matter will be reported to the Police Department.

Domestic Violence

Incidents of domestic violence at work shall be reported and investigated the same as other violent incidents. The City may become involved and take action if or when there is violent behavior which takes place while the employee is on the job or at the workplace.

Restraining Order

All individuals who apply for or obtain a protective or restraining order which lists their place of work or makes a reference to a person not being within a certain yardage of the employee are encouraged to inform their supervisor so as to assist in eliminating any chance of this person causing them or any fellow employees harm at the workplace.

Searches

The City reserves the right to search any property owned by the City when there are reasonable grounds. For the purpose of this policy, "reasonable grounds" includes when the City has reasons for suspecting that the search will turn up evidence that the employee is in violation of this policy. Therefore, employees should have no expectation of privacy concerning City property, i.e. desks and lockers. This is for the welfare and well being of City employees and to prevent any unauthorized persons from bringing a deadly weapon into the workplace.

Workplace Violence Defined

For the purpose of this policy, 'workplace violence' is defined as any act of physical, verbal, or written aggression by an individual or by a group, that occurs in the workplace or arises out of work activities. This includes any and all infliction of bodily injury or the attempt to make harmful physical contact, verbal and physical harassment, verbal and physical threats, and any actions that cause others to feel unsafe in the workplace.

Warning Signs of Potentially Violent Individuals

There is no exact method to predict when a person will become violent. One or more of these warning signs may be displayed before a person becomes violent but does not necessarily indicate that an individual will become violent. A display of these signs should trigger concern as they are usually exhibited by people experiencing problems. The signs are not limited to the following:

- Irrational beliefs and ideas

- Displays of unwarranted anger
- Verbal, nonverbal or written threats or intimidation
- New or increased source of stress at home or work
- Fascination with weaponry and/or acts of violence
- Inability to take criticism
- Feelings of being victimized
- Expressions of a plan to hurt oneself or others
- Intoxication from alcohol or other substances
- Externalization of blame
- Unreciprocated romantic obsession
- Expressions of hopelessness or heightened anxiety
- Taking up much of supervisor's time with behavior or performance problems
- Violence towards inanimate objects
- Productivity and/or attendance problems
- Reaction of fear among co-workers or clients
- Stealing or sabotaging projects or equipment
- Drastic change in belief systems
- Lack of concern for the safety of others

Categories of Workplace Violence

Violence by "strangers": This type of violence is committed by a person who is a "stranger" to the workplace and the persons working there~~. A~~; a person who enters the facilities with the purpose of committing a robbery or other violent acts, such as rape or murder.

Violence by "customers or clients": This type of violence is committed by a person who is either the recipient, or the object, of a service provided by the workplace or the victim.

Violence by "co-workers": This type of violence is committed by a person who has a work-relationship with the workplace. This designation includes employees, supervisors, and managers. This could result from a corrective action, unsatisfactory review, unfavorable grievance resolution, denied promotion, or contract negotiations. In addition, the violent act could be due to the individual's thoughts and feelings that are going on inside which may not necessarily be related to anything in the external world. If an individual feels persecuted or abused, even without any basis in reality, that person could become agitated or violent.

Violence by "personal relations": This type of violence is committed by an individual who has some personal relationship with a worker in the workplace, such as a current or former spouse, lover, or friend, or by an individual with difficulties at home, with the family, or with finances.

Threats

A threat is defined as an expression of intent to commit violence that places the listener in fear of imminent bodily harm, or is of such a nature that a reasonable person could be placed in fear of imminent bodily harm upon perceiving the expression of intent. The overall context of a statement, including nonverbal communications, should be taken into account to determine if such a statement is a threat covered by this policy. Threats are typically defined in three (3) categories: veiled, conditional, and direct.

- Veiled Threats - A veiled threat involves reference to a violent act and an association with the present situation. A veiled threat may be made to sound innocent, such as "I sure hope that what happened in Oklahoma City does not happen to you" or it may be more subtle, such as "They're pushing me so hard, I'm not sure what I might do."

- Conditional Threats - A conditional threat contains the words "if," or "or". For example, "If you do that, I'm going to shoot you" or "Approve my application or I'll get even with you later".

- Direct Threat - A direct threat is a warning of a pending violent act. "I'm going to punch you in the nose" is an example of a direct threat.

Results and Repercussions
The City will deal with corrective action on an individual basis. In determining the appropriate corrective action (if any), the City will consider all of the circumstances, including the nature of the complaint and the context in which events occurred. If evidence exists to support the allegations, corrective action, up to and including discharge, will be taken against the offender and a record of any corrective action taken will be included in the employee's personnel file. Individuals who lodge good faith complaints or who participate in a City investigation will not be retaliated against or otherwise treated adversely relating to the reporting of the situation or participation in an investigation.

5.9 Employee Health and Safety

The City is committed to providing our employees with a safe and healthy work environment. To accomplish this goal, both management and employees must diligently undertake efforts to promote safety.

The City has established a Safety Committee to bring employees and management together in a non-adversarial, cooperative effort to promote safety and health. The Safety Committee has representatives from each Department and meets monthly to review workplace hazards and make recommendations for change.

The committee is charged with the responsibility to define problems and obstacles for loss prevention; identify hazards and suggest corrective actions; help identify employee safety training needs; and to develop accident investigation procedures.

The City, through its supervisory personnel, develops and implements safety rules and regulations. This process is ongoing and requires periodic safety audits. Safety audits are undertaken to determine the necessity and feasibility of providing devices or safeguards to make the workplace safe and healthful. The organization also educates employees as to hazards of the workplace and trains employees as to such hazards and the proper and safe method to perform job tasks.

You are expected to give your full-time skill and attention to the performance of your job responsibilities utilizing the highest standard of care and good judgment. You are also expected to follow all safety rules and regulations at all times including the use of protective clothing and equipment, attendance at all training sessions related to your job description, and follow the directions of warning signs or signals and/or directions of supervisory personnel.

Safety rules and regulations will be issued or modified from time to time and shall be effective immediately. Rules and regulations will be distributed to you and posted on the safety bulletin board.

If an injury occurs you are required to:

1. Take remedial first aid actions
2. Report injury as soon as possible
3. Seek emergency care if necessary
4. Fill out accident form
5. Provide supervisor with a medical release from Doctor
6. Review incident with your Departmental Safety Coordinator

Smoking in the Workplace
~~The City believes that smoking is a danger to health and is a cause of material annoyance and discomfort to those who are present in the same or confined places. As a result all facilities are designated as non-smoking.~~

~~Places outside the building may be designated as a smoking area. Smoking is limited to these areas. If you have a concern about the areas designated, you should speak with your supervisor. Smoking in City vehicles is strictly prohibited.~~

The City is dedicated to providing a healthy, comfortable and productive work environment for all employees. The health risks of exposure to secondhand smoke have been well established and smoking can also be a cause of material annoyance and discomfort to those who are present in the same or confined places. There are additional sanitation risks associated with smokeless tobacco in terms of spitting and disposal of tobacco in open containers, sinks or walking surfaces. As a result all City facilities and property are designated as non-smoking and tobacco-free.

The use of tobacco and/or nicotine-related products and smoking are prohibited during work time and within any City-owned, leased or managed property, including but not limited to buildings, vehicles, parks and temporary work areas. Prohibited products include:

- Cigarettes
- Cigars
- Pipes
- Plant-products
- Electronic smoking devices
- Smokeless tobacco

Employee Right to Know/Hazard Communication Program

The City provides a Hazard Communication Program so that all employees are aware of chemical hazards in the workplace. By becoming knowledgeable about this information, you can help prevent injuries and illnesses from chemical exposure. If you have any questions regarding chemical hazards, do not delay in asking your supervisor, the Safety Officer, or the Human Resource Manager.

The following safety precautions have been taken to prevent injuries and illnesses from chemical exposure:

Container Labeling
Each Department Director will verify that all containers received for use will:

- Be clearly labeled as to the contents.
- Note the appropriate hazard warning.
- List the manufacturer's name and address.

It is the policy of this organization that no container will be released for use until the above data is verified.

The supervisor in each section will ensure that all secondary containers are labeled with either an extra copy of the original manufacturer's label or with generic labels that have identification and hazard warning blocks.

~~Material~~ Safety Data Sheets (~~M~~SDS)
Copies of ~~material~~ safety data sheets for all hazardous chemicals that employees of this organization may be exposed to will be kept in each Department. Data sheets will be available to all employees in their work area for review during each work shift. If data sheets are not available, or new chemicals in use for which you do not have ~~Material~~ Safety Data Sheets, you should immediately contact your supervisor before using the chemical or the machine containing it.

Employee Information and Training
~~Prior to starting~~ When you begin work, ~~you will attend a~~ your supervisor will conduct a health and safety orientation and you will receive information and training about the following:

- An overview of the requirements contained in the Hazard Communication Rules;
- Chemicals present in your workplace operations;
- Location and availability of our written hazard communication program;
- Physical and health effects of the hazardous chemicals;
- Methods and observation techniques used to determine the presence or release of hazardous chemicals in the work area; and,
- How to reduce or prevent exposure to these hazardous chemicals through the use of control/work practices and personal protective equipment.

After ~~attending the~~ receiving this training ~~class~~, you will sign a form to verify that you attended the training, received ~~our~~ any applicable written materials, and understood the organization's policies on hazard communication.

Prior to a new hazardous chemical being introduced into any section of this organization, each employee of that section will be given information as outlined above. The Department Director is responsible for ensuring that ~~Material~~ Safety Data Sheets (~~M~~SDS) on new chemical(s) are available.

5.10 Security Identification (ID) Badge Program

The safety of employees, visitors, and facilities is a top priority for the City of Forest Grove. The Security ID Badge Program establishes parameters for the issuance and use of Security ID Badges and is the primary way to communicate affiliation and authorization to be in non-public areas of the City's facilities.

This policy defines the Security ID Badge Program and the related procedures for the City to help ensure public and employee safety within City facilities and grounds. The reasons for this policy include the following public safety objectives:

- The personal safety of staff, visitors, and the public.
- The protection of the City's physical assets from potential harm, including theft, damage, or other potential risks.
- The protection of the entire community from any compromise of the select agents entrusted to the City.
- The protection of people, work product, infrastructure, and physical assets from intentional acts of disruption or terrorism.

To help achieve the City's safety and security goals, the following individuals are required to wear Security ID Badges:

- Persons who enter non-public space to provide service
- Persons working in targeted high-risk areas
- Persons who must wear identification to meet legal requirements

All Security ID Badges are the property of the City and are intended to provide official employee and visitor identification for access to non-public spaces. The Security ID Badge is not transferable and is valid for the period specified on the badge. Any misuse, alteration or fabrication of the badge will subject the holder to corrective action by the City. An expiration date is required and will be printed on the ID badge.

The Security ID Badge shall be worn and displayed face-up at all times, and presented and/or surrendered to City officials upon request. Failure by employees to wear and display the Security ID Badge may result in corrective action. Badges issued to employees and individuals affiliated with the City must be returned to the appropriate department upon separation from the assignment. Badges issued to volunteers and visitors must be returned to the issuing department at the end of the authorized period.

The Security ID Badge helps to create and promote a safe and secure environment for the City Community by:

- eliminating concerns about non-affiliated/unauthorized persons accessing restricted City spaces,
- increasing accountability of visitors to the City,
- providing a greater impetus to call attention to suspicious persons, and
- encouraging City staff to verify authorization before allowing access to non-public City spaces.

Department Responsibilities

Provide education on Security ID Badge program; provide departmental management and oversight of department activities related to the Security ID Badge Program.

- Ensure that all employees are aware of and adhere to this policy.
- Counsel any member of their staff who fails on a regular or repeated basis to comply with this policy.
- Ensure visitor compliance with this policy through check-in / check-out procedures.

All Badge Recipients

Responsible to know and comply with the Security ID Badge Program and related procedures and instructions, including the following protocol:

- Know and comply with the Security ID Badge Program.
- Provide one of the following forms of photo ID when picking up a badge: drivers license, state ID, Passport, Birth Certificate, or military ID.
- Wear the Security ID Badge at all times while in City facilities and/or during working hours.
- Wear the Badge above the waist, on the front of the person, and in a manner such that the photo and name are readily and easily visible to others.
- Do not loan or transfer the Security ID Badge to anyone, for any reason, and under no conditions.
- Do not deface or in any way alter, or duplicate the Security ID Badge in any manner.
- Immediately report the loss of the Security ID Badge to your supervisor.
- Upon termination or leave from assignment on which the Badge was issued, return the Badge according to policy for termination, leave, etc.

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CHAPTER 6

PERFORMANCE MANAGEMENT

6.1 Performance Management

To accomplish a meaningful performance evaluation system upon which the City can continuously monitor the effectiveness of the organization and its operations, all employees will receive regularly scheduled formal performance evaluations prior to the employee's anniversary date. Performance evaluations are required at least annually regardless of the employee's eligibility for an increase in pay. New employees during their initial probationary period will be evaluated at least once every six (6) months.

The objectives of our Performance Management and formal appraisal process are:

- To ensure that each employee knows how they are performing against established performance standards;
- To determine how well the City is performing in assisting with employee work performance and organizational objectives;
- To encourage communication and two-way feedback;
- To provide a consistent, objective, and fair method of making compensation decisions;
- To provide a tool for career planning; and
- To provide a permanent record of employee performance and contribution.

Managers and supervisors are accountable for providing employee development actions designed to improve and enhance employee performance such as:

- Reasonable employee training;
- Assigning, directing, monitoring and reviewing employee work;
- Assisting employees in correcting deficiencies; and
- Objectively evaluating employee performance during the evaluation period.

Our performance appraisal program is intended to be participatory, involving your input as much as that of your supervisor, thereby helping you to contribute to the growth and improvement of your career and the City. You are encouraged to:

- Inquire about your performance from time to time;
- Accept additional responsibilities and show initiative;
- Review opportunities for advancement within the organization;
- Ask for assistance in developing a goal-oriented path for advancement within the department or City; and
- Learn about training available to assist you in improving your skills, qualifying for a promotion, or lateral transfer.

Performance evaluations serve as one factor in decisions related to employment such as training, merit pay increases, job assignments, employee development, promotions and retention. Written evaluations are to identify specific performance levels as compared to established standards, to acknowledge the merit of above standard performance and to prescribe the means and methods of correcting performance deficiencies to the required level of performance.

6.2 Corrective Action

The City has high performance expectations because we strongly believe that everyone benefits when we all work together and conduct ourselves in a manner that mutually reflects the best interests of co-workers and the City. It is the philosophy of the City to take corrective action measures when needed for the purpose of correcting areas of performance deficiency or to deal with violations of policies and work rules. The purpose of corrective action is to both correct the situation and avoid repetition.

You are expected to carry out your duties in a manner that contributes to a positive and productive work environment and supports the goals and objectives of the City. Any action or behavior that detracts from this goal or that detracts from encouraging an environment based on professionalism and respect will be considered cause for corrective action.

Examples of cause for corrective action include, but are not limited to:

- Performing any unlawful act while on duty; or any conviction of a felony or misdemeanor, particularly those that are related to the position you hold.
- Indulging in conduct that reflects discredit upon the City or impedes the effective performance of City functions.
- Using position as a City employee to gain financial benefit or avoid financial cost for self, relatives or personal business.
- Indulging in offensive conduct, disrespectful treatment of other employees, public officials or members of the public, or any conduct prohibited by City policies, including all those referenced herein, safety policies, and any other policies established by your Department.
- On duty or off duty use of social media to post statements that disclose confidential information obtained through City employment; discriminate against, harass or defame City employees; or otherwise violate City of Forest Grove policies.
- The use of alcoholic beverages, illegal drugs or the misuse of prescription drugs while on duty. Being under the influence of intoxicants or illegal drugs. Being under the influence of prescription drugs that affect the performance of your duties.
- Insubordination or failure to meet the stated expectations of your supervisor, in situations where the instruction is lawful and does not pose a risk of harm to you.
- Performing duties in an inefficient manner or intentionally wasting time in the performance of duties. Inattention to duty or failure to be productive.
- Inability to perform or intentionally failing to perform the duties and responsibilities of your assigned position.
- Inability to perform or intentionally failing to perform the required job competencies.
- Unauthorized use of, damage to or negligence in, the care and handling of City property or equipment.
- Absence without authorization or misuse of City leave, repeated tardiness, which are not protected by law.
- Untruthfulness, whether verbal or written, regarding any employment matter related to your position or application for employment. Falsification of City documents or records.
- Willful violation of any provisions of ordinance or policy adopted by the City Council or City Manager.

You will be informed if corrective action is necessary as soon as possible after any performance problem has been identified. Your manager or supervisor will discuss the situation with you, explaining the policy and the necessity of corrective action to avoid other corrective actions and ensure that the action is carried out in a manner that does not cause you unnecessary embarrassment.

Although one or more corrective action measures may be taken in connection with a particular performance problem, a formal order is not required. Corrective action may include any of a variety of actions depending on the circumstances and severity of the particular situation.

Counseling sessions, letters of expectation and oral reprimands are intended only to serve as warnings and will not be considered corrective action. Any corrective action taken during a probationary period, whether initial or transitional, will not impact the right of the City to discontinue your employment in this position at any time. Please refer to Chapter 3 for additional information on initial and probationary appointments.

Corrective actions may be taken at the discretion of management and include **any** of the following:

- Written reprimand.
- Suspension without pay.
- Demotion in position or salary.
- Termination of employment.

Each action will be documented in your personnel file. The corrective action process may not always commence with a verbal counseling or include every step. The above options are not to be seen as a process in which one step always follows another. Some acts, particularly those that are intentional or serious, warrant more severe action on the first or subsequent offense. Each situation will be evaluated given the nature and seriousness of the offense, your work history, and the environment in which the offense took place.

Prior to initiating any of the above actions or any other action impacting pay for a regular employee or an employee serving a transitional probationary period, the supervisor will:

- Provide the employee with proper written notification of the pending allegations; and
- Provide a meaningful opportunity for the employee to respond orally or in writing to the allegations; and
- Give consideration to all relevant information prior to taking action.

When an employee is suspended without pay, the employee will not accrue leave during any periods in which they are not in pay status.

In cases where the Department Director determines that it is necessary to end the employment relationship between the City and a regular employee, the Department Director will review the facts with the Human Resources Manager prior to action. The employee will receive written notification of the cause for separation.

Exempt employees may be suspended without pay under this policy, but only in full-day increments. Their pay will be reduced in an amount that is proportionate to the number of days suspended.

An employee may request and have removed from his or her personnel file any letter of reprimand which is more than two (2) years old if there have been no related problems during that period. An employee may request to remove any letter imposing corrective action more severe than a letter of reprimand which is more than five (5) years old, provided there is no subsequent related disciplinary action taken during the intervening period of time. In the event there is more than one letter imposing corrective action which is more severe than a letter of reprimand, none of the letters may be removed until the most recent letter is more than five (5) years old.

6.3 Appeals and Dispute Resolution

The City strives to create and sustain an environment where employees feel respected and safe from reprisal in bringing forth issues relating to their employment. To that end, the City will endeavor to resolve employee concerns informally, at the lowest possible level, and in a manner that is fair and considerate of all those involved. When issues covered by this policy cannot be resolved informally through discussions with the employee's supervisor, the employee may initiate an appeal. Retaliation towards an employee for initiating an appeal is expressly prohibited and may be grounds for termination.

The following types of appeals are covered under this policy:

- Position designation (classification);
- Denial of reassignment during a reduction in force;
- Corrective Action (excluding oral & written reprimands)
- A perceived violation of City policy;
- A perceived improper administration of a City policy;
- Other work-related disagreements (excluding performance evaluations).

The deadline for initiating an appeal for any of the above issues will be seven (7) calendar days from the date the employee first had knowledge of the issue, or when the employee was first informed of the intended corrective action. In cases of termination, the deadline for initiating an appeal is seven (7) calendar days from the effective date of the termination. Only a non-represented employee who has completed their initial probationary period is eligible to appeal corrective actions. Represented employees may not use this process to address any subject that is covered under the terms of their collective bargaining agreement. All management personnel are responsible to ensure that the appeal process is administered in a fair and consistent manner.

Appeal Steps

Step 1 - Immediate Supervisor: The appeal will be filed with the employee's supervisor. The supervisor, or other manager or supervisor appointed by the Department Director, will respond in writing to the employee within seven (7) days of receipt.

Step 2 - Department Director: Appeals which are unresolved at Step 1 may be submitted to the Department Director within seven (7) days of receipt of the response at Step 1. The Department Director will respond in writing to the employee within fourteen (14) days of receipt.

Step 3 - City Manager: Appeals which are unresolved at Step 2 may be submitted to the City Manager within seven (7) days of receipt of the response at Step 2. The City Manager will respond in writing to the employee within fourteen (14) days of receipt. The City Manager may support the Department Director's decision, reverse the decision, or modify it. The City Manager's decision is final and binding.

Issues relating to behavior that is perceived as unlawful harassment or the reporting of improper governmental action may be addressed through separate protocols, as the situation warrants.

CHAPTER 7

SEPARATION FROM EMPLOYMENT

7.1 Separation from Employment

Separation from employment with the City occurs when you voluntarily resign, you are laid off or terminated by the organization.

Resignation
In order to resign in good standing, the City would appreciate receiving notification of intent to resign at least ten working days prior to departure date for employees and thirty days for supervisors and management level personnel.

Employees who resign from the organization in good standing may be eligible for re-employment consideration. To determine eligibility, former employees must file an employment application with the Human Resources Manager and await notification of an available position. Applications received from former employees will be considered and processed using the same procedures and standards that govern all other applicants. When a position becomes available, the Human Resources Manager and the Department Director will review the former employee's performance records and the circumstances surrounding the termination of previous employment with the organization. The City is under no obligation to rehire former employees. An employee who is reinstated to the same position within one year of separation shall be appointed at the same rate of pay, benefits, and seniority held at the time of resignation. All other rehires shall be considered to be new employees.

Job Elimination, Reduction in Work Hours or Staff
The City's desire is to avoid circumstances that require a reduction in hours or staff, but we also recognize that situations may arise where we will need to make such reductions. Depending upon the circumstances, we may respond in a variety of ways, including offering a voluntary reduction in hours or days of work, reducing your work hours or days of work, reducing expenses by other means, or by a reduction of the workforce. Among the factors we will consider in selecting employees for any reduced hours or reduction in force are:

- Your department, location, or job;
- Your job knowledge, skill and ability to do the required work;
- Your performance, attendance, safety and disciplinary history and records;
- Your possession of licenses, registrations and or certifications required by the job;
- Your creativity and teamwork skills, if required for the job;
- Your demonstrated willingness to go the extra mile for the organization, co-workers and customers; and,
- The efficiency of our operation.

Evaluation of these factors is in our discretion. When we conclude that all the factors are substantially equal, we will reduce the hours of or lay off the employee with the least length of service. The immediate supervisor will personally notify employees of a layoff. After explaining the layoff procedure, you will be given a letter describing the conditions of the layoff, such as the effects on benefits, the possibility of reemployment, procedures, and any outplacement services.

Affected employees will be given two weeks' notice of lay-off, during which time the employee shall be allowed reasonable time off with pay to pursue other employment. During a one-year period of time following the lay-off, the City shall consider those persons laid-off for rehire, if a suitable position becomes available. An offer of re-employment may be made orally or in writing to the last address reflected in your personnel records. It is your obligation to keep us informed of any changes in your telephone number and address. The offer will identify the available job and the date you are to report to work. If you decline reemployment or fail to report on the date specified, you will be deemed to have waived any reemployment privileges and will be treated as a voluntary resignation.

Discharge
"At will" employees may be terminated at any time, with or without cause and without right of appeal. Employees serving Initial Probation are considered "at will". Please see Chapters 2 and 3.

All regular employees are hired at the City for an indefinite period of time and may be discharged with cause. However, our philosophy and general practice is to provide employees, who have completed initial probation with an opportunity to correct minor performance and conduct problems before discharge is implemented.

The City has a corrective action policy found in Chapter 6 of this Handbook that describes action management may take, at our discretion, to correct performance infractions prior to discharging employees.

The decision to discharge employees is based not only on the seriousness of the current performance infraction but also on the individual's overall performance record and length of service with the City.

The City also believes that our employees should be given an opportunity to be heard in matters involving corrective action, including discharge, and we have provided a formal problem resolution procedure found in Chapter 6 of this Handbook for that purpose. You are encouraged to use the procedure to resolve any issues you may have that cannot be resolved by consulting with your supervisor.

Exit Interview
An exit interview will be scheduled with you when you leave the organization. This gives you an opportunity to get any unresolved issues addressed before leaving the organization and allows us to solicit your honest opinions of our organization and any suggestions for improvement of the City. We encourage all employees to participate in an exit interview when they separate from employment and we value all opinions and suggestions we receive in the process.

Return of Organization Property
Upon separation from your employment, either voluntarily or otherwise, you must return all organization property in your possession by your last day of employment. City property includes credit cards, organization vehicles, keys, ID cards, pagers, cellular phones, tablets, laptops, tools,

software, computer ~~disks~~ storage devices (e.g. USB drives), uniforms, this Handbook and any other items in your possession that belong to the organization.

CHAPTER 8

EMPLOYEE BENEFITS

8.1 Benefits Overview

The City strives to provide the best, most equitable and cost-effective benefits for employees in recognition of the influence employment benefits have on the economic and personal welfare of our employees. Paid in various benefit forms on your behalf, the total cost to provide the benefit program described in this Handbook and other documents is a significant supplement to your pay and should be viewed as additional compensation.

Policies, provisions and procedures that govern the City's benefit program apply to all regular full-time and part-time employees, whether exempt or nonexempt status, unless otherwise provided in a particular benefit plan.

If you are covered by a collective bargaining agreement please refer to it for information concerning your level of benefits, eligibility, and enrollment costs related to all fringe benefits.

Some benefits may earn credit during your new-hire introductory period, but eligibility to use the benefit will not occur in most cases until you obtain regular status, or meet other conditions of employment specified in the Handbook or contained in the benefit policy/plan booklets.

<u>Benefit Pro-ration and Employee Cost Sharing</u>
If you are a regular part-time employee, some of your benefits are determined on a prorated amount of hours according to your benefit accrual rate or other formula. For example, you will accrue vacation and sick leave benefits at a lower rate than full time employees. Your accrual rate is based on the number of hours your position is budgeted.

Discretionary employment benefits, those benefits that are not mandated by state or federal law, are selected and controlled by the City Council through adopted resolutions. Decisions to provide and continue providing these benefits are based on such considerations as cost, composition of our workforce, operational efficiency, and desirability of benefit provisions. Where costs of discretionary insurance benefit plans exceed the City's interest, ability, or willingness to pay the full premium rate to maintain the current benefit level, you may be required to share in the cost to continue the insurance plan coverage.

<u>Benefit Design and Modification</u>
The City reserves the right to design plan provisions and to add, eliminate, or in other ways modify any discretionary benefits described in this Handbook or elsewhere in plan documents, where and when it is deemed in the City's best interest to do so. These benefits are subject to change depending on Council decision and available resources.

<u>Benefit Plan Documents</u>
You will be provided with summary plan descriptions upon eligibility and enrollment. The benefit programs are explicitly defined in legal documents, including insurance contracts, official plan texts, and trust agreements. In the event of a conflict between these documents and this policy, the plan documents will govern. All of these official documents are readily available from the Human Resources Manager for your review. We ask that you refer any questions about this information to the Human Resources Manager.

8.2 Health Insurance Benefit

The City currently provides health, dental, and vision insurance coverage for ~~all regular~~ employees and their dependents if they are otherwise eligible to participate in the plan. You will be provided with information about the plan at the time ~~of~~ you become eligible to participate in the plan. You are asked to review the summary plan description for answers to questions regarding coverage, eligibility, and cost. Any need for further information should be referred to the Human Resources Manager.

Eligibility

This benefit is provided for all regular full-time employees and regular part-time employees who are scheduled to work 20 or more hours per week on an ongoing basis. Additionally, temporary or intermittent employees who are regularly scheduled to work 30 or more hours per week on an ongoing basis, or who have averaged 30 or more hours during the City's established 12 month look-back period in accordance with the Affordable Care Act, will also be eligible for health insurance benefits. If otherwise eligible, you may begin to participate in the plan the first of the month after your hire date. Temporary and intermittent employees who do not meet the eligibility requirements outlined above are not eligible to participate in the health insurance plan.

~~If you are a regular part-time employee, and are scheduled to work at least twenty (20) hours or more per week on an ongoing basis, you may be eligible for health insurance with additional cost sharing.~~ Please contact the Human Resources Manager to discuss the eligibility for this benefit.

Plan Enrollment

Upon eligibility, you may complete enrollment forms. If you do not wish to enroll at the time of eligibility, and later decide to request enrollment, a verification of insurability form may be required from your ~~physician~~ previous health insurance provider, and your request for enrollment is subject to possible rejection by the healthcare plan insurance carrier.

Annually, an open enrollment period will be conducted during which times you may make changes to your elections and dependent coverage.

The cost of the monthly premium for full time, regular employees is shared between our employees and the organization as adopted by the City Council. Please contact Human Resources for current premium costs.

The cost of the monthly premium for part-time, regular employees is approximately 55%. Please contact Human Resources for specific information.

Any eligible employee who chooses not to enroll in the insurance plan is not entitled to any other form of compensation in lieu of coverage and is required to sign a written waiver of participation.

Premium Cost

Specific types of coverage and benefit payment schedules are described in the City's health care plan booklets that are available to all eligible employees. At the time of eligibility and during Open Enrollment each year we will inform you about the contribution the City will make toward your monthly premiums if you are eligible to participate in the plan. Premium rates are established by the insurance carrier and are subject to change-usually based on increased costs to provide medical services and the amount of services required by our employees.

Any premium co-payment and dependent coverage you are required to pay is funded through a payroll deduction.

Termination of Coverage
In the event that you or your dependents lose eligibility to participate in the health plan, you may have the health plan coverage extended for a period of time. Eligibility can be lost due to a prolonged absence from work or upon the occurrence of certain "qualifying events," that would otherwise cause your group health coverage to terminate. Examples of qualifying events are termination of employment, reduction of hours, divorce or legal separation, entitlement to benefits under Medicare, a child dependent reaching majority age or a leave of absence.

You, your spouse, and/or dependents are permitted to continue group health insurance for a certain period of time at your own expense. However, continuation does not occur automatically. You must notify us in writing within 60 days after the date a covered family member will lose coverage because of an event or the covered family member will permanently lose the right to continuation coverage. Election of coverage and payment of the premium must then occur within a specified time limit for coverage to continue. You and any covered dependent will be given a notice covering the provisions of the law at the time you enroll and again upon the occurrence of any qualifying event.

8.3 Life Insurance

Group Life
The organization currently provides group life insurance coverage for regular ~~full-time~~ employees eligible under the City's current policy. Employees will be provided with information about eligibility in the plan at the time of hire. The organization pays for the full premium. The standard coverage equals one times the employee's annual base pay rounded to the next thousand with a ~~ten thousand ($10,000) minimum and a seventy-five thousand ($75,000)~~ one-hundred forty thousand dollar ($140,000) maximum. Employees may elect additional coverage at their own expense.

Dependent
Employees may elect dependent coverage and/or additional dependent coverage at their own expense.

8.4 Long-Term Disability

The City provides a Group Long-term Disability plan. The plan provides compensation to regular employees eligible under the City's current policy ~~employees~~ who are unable to work due to an accident or illness lasting ninety (90) days or more. Employees will be provided with information about the plan at the time of hire. The City currently pays for the full premium.

8.5 Section 125 Plan

The City may provide~~s~~ Section 125 plans, including the Premium Only, Healthcare Flexible Spending Account, and Dependent Care Assistance plans as authorized by IRS code. These plans allow employees to have group medical or dental costs deducted from their paychecks on a pre-tax basis.

The Premium Only Plan allows the employee portion of premiums to be deducted on a pre-tax basis, reducing payroll taxes for both the City and the employee.

The Healthcare Flexible Spending Account (FSA) is available for insurance co-payments, deductibles, and other eligible medical expenses not reimbursed by insurance as defined by IRS Section 213(d).

The Dependent Care Assistance Plan (DCAP) covers the cost of caring for a dependent while the employee and spouse work.

Additional information is available during open enrollment or by contacting Human Resources.

8.6 Retirement Plans

~~After six months of full-time employment, regular full-time employees are required to participate in the City's retirement plan. The City pays the employee's portion of the contribution at a rate established by annual salary. Contributions to the retirement plan must meet actuarial requirements. Employees who terminate prior to being eligible for vesting rights must withdraw their contributions to the plan. Please contact the Human Resources Manager for a copy of the plan documents.~~

After six months of full-time employment, regular full-time employees are required to participate in one of the City's retirement plans depending on the employee group he/she is in: the Defined Benefit Plan or the Defined Contribution Plan. Eligible regular part-time employees regularly scheduled to work at least 20 hours per week will be enrolled in the Defined Contribution Plan**.**

1. Defined Benefit Plan: the City pays the employee's portion of the contribution at a rate established by annual salary. Contributions to the retirement plan must meet actuarial requirements. Employees who terminate prior to being eligible for vesting rights must withdraw their contributions to the plan. Please contact the Human Resources Manager for a copy of the plan documents.
2. Defined Contribution Plan: the City contributes a percentage of the employee's base pay as established by resolution of the City Council into a 401(a) plan selected by the

employee. Retirement benefits for the defined contribution plan are based on the accumulated contributions and earnings over the employee's participation in the plan. The retirement benefits are dependent on the accumulated account balance for each employee at retirement. Guidelines for withdrawals will be governed by the rules in accordance with IRS Section 401(a) rules. There are no vesting requirements for this plan.

8.7 Health Reimbursement Arrangement (VEBA)

Regular employees who elect a health insurance plan with ~~a minimum deductible of $500 per person~~ the City of Forest Grove will receive monthly contributions of one percent (1%) of the employee's base salary to a medical savings account Voluntary Employees' Beneficiary Association (VEBA) plan, under Section 501 (c) (9) of the Internal Revenue Code. This benefit is designed to help you plan for retirement medical costs. Please contact Human Resources for additional information.

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CHAPTER 9

TYPES OF LEAVE

9.1 Vacation Leave

All regular non-represented full-time and part-time employees are eligible for vacation based on the schedules below.

FLSA Exempt positions:

Continuous years of service	Benefit
1 to 2 years	15 days per year
2 to 5 years	20 days per year
more than 5 years	25 days per year

FLSA Non-Exempt:

Continuous years of service	Benefit
1 to 2 years	10 days per year
2 to 5 years	12 days per year
5 to 10 years	15 days per year
10 to 15 years	20 days per year
more than 15 years	25 days per year

Regular, part-time employees' monthly and accrual limit is based on a pro-rata basis calculated on the work schedule established by your position. For purposes of vacation, continuous service will be calculated from the nearest first of the month related to your date of hire. Vacation hours will not accrue when an employee is on an unpaid leave of absence on an hour-for-hour basis.

The purpose of vacation and personal time is to allow employees to enjoy periods of time away from work and have time available for personal use. Vacation time is intended to provide time away from work for rest and recreation. Vacation time will be paid out at separation in accordance with applicable laws.

Time is not to be banked and never used; therefore, your accrual limit cannot exceed 45 days (360 hours). Vacation benefits will stop accruing when the maximum allowed has been reached until you reduce the total below the maximum, at which time the benefit will begin accruing again.

Initial probationary employees will not be eligible to use accrued vacation until the employee has completed six (6) months of service, unless otherwise designated by the City Manager. The City Manager may, due to labor market competition or other business related factors, assign a higher vacation accrual rate.

Vacation leave ~~is accumulated on the last workday of the month and~~ is available for use after it is credited to your leave bank. FLSA non-exempt employees must use vacation in no less than ~~one~~ quarter hour (15 minute) increments. FLSA exempt employees are ~~not~~ required to use appropriate accrued vacation leave ~~if they are absent for less than a full day for any reason covered under this policy~~ to cover absences from work that result in them falling more than four hours short of their average weekly work schedule (40 hours per week for full-time employees). Accrued leave is not required if the exempt employee's absence is the result of flexing work schedules due to workload. ~~Vacation hours will not accrue when an employee is on an unpaid leave of absence on an hour-for-hour basis.~~

Any employee wishing to use vacation time should request vacation hours as early as possible so that arrangements for coverage can be made. Requests for vacation time are to be made in writing and given to your supervisor. Every attempt will be made to grant each request, however, no guarantees can be offered. In the event of competing requests for times submitted at the same time, approval will be given to the employee with the longest tenure.

~~Use of vacation accruals in excess of two weeks immediately preceding a retirement date is not allowed.~~ Vacation leave may not be used to extend an employee's length of employment at the time of termination.

Once approved, vacation leave may not be modified to sick leave unless the event qualifies under the Family Medical Leave policy as a serious health condition.

Vacation Buy-Back

Non-represented, FLSA Exempt, employees who have used forty (40) hours of vacation in a designated twelve (12) month period and who have at least eighty (80) hours of vacation "on the books" at the end of that twelve (12) month period are eligible for vacation buy-back. Vacation buy-back allows an employee to take pay for up to forty (40) hours of vacation. This option will be made available two times during the year, but may be used by an employee only once during a twelve (12) month period. Additional information is available from the Human Resources Manager.

9.2 Sick Leave

Sick Leave

All regular full-time and part-time employees may use sick leave accruals when either the employee or a member of their immediate family is ill or requires medical or dental care or for Oregon parental leave. Immediate family is defined as spouse, same sex domestic partner, parents, children, children of the same-sex domestic partner, siblings, grandparents, grandchildren, in-laws, parents of the same sex domestic partners, and other close relatives who reside in the employee's household. The Human Resources Manager may approve exceptions to this policy on a case-by-case basis upon written justification from the employee.

Regular, full-time employees accrue sick leave at a rate of eight (8) hours per month. Regular part-time employees receive a prorated amount based on scheduled hours. Sick hours will not accrue when an employee is on an unpaid leave of absence on an hour for hour basis. Sick time accumulated will not exceed 1400 hours. Sick leave ~~is accumulated on the last workday of the month and~~ is available for use after it is credited to your leave bank.

FLSA non-exempt employees must use sick leave in no less than ~~one~~ quarter hour (15 minute) increments. FLSA exempt employees are ~~not~~ required to use accrued sick leave ~~if they are~~

~~absent for less than a full day for any reason covered under this policy~~ to cover absences from work that result in them falling more than four hours short of their average weekly work schedule (40 hours per week for full-time employees). Accrued leave is not required if the exempt employee's absence is the result of flexing work schedules due to workload. ~~Sick hours will not accrue when an employee is on an unpaid leave of absence on an hour for hour basis. Sick time accumulated will not exceed 1400 hours.~~

It is in your best interest not to be at work when you are disabled due to illness or injury. It is your supervisor's responsibility to send you home if you are incapacitated or a threat to other employees' health and/or safety and you are expected to cooperate with the decision.

Time for routine doctor or dentist appointments should be charged to sick time unless other arrangements have been made with your supervisor. You are encouraged to make such appointments before arriving to work or after work hours, if possible.

In the event of an extended leave, you must use accumulated sick leave in conjunction with income protection plans or other sources of disability income to achieve full pay for as long as possible. However, at no time can the combination of these exceed normal earnings.

You are expected to notify your supervisor at the beginning of each workday during illness or injury. Exceptions to this include a serious accidental injury, hospitalization, or when it is known in advance that you will be absent for a certain period of time.

A Medical Release Statement may be requested for review before you return to work in certain situations.

Unused sick leave is not paid at termination, but may be convertible under the terms of the City's Defined Benefit Retirement Plan. Please refer to the Defined Benefit Retirement Plan documents for additional information.

In the case of a work-related accident or injury, you may use sick time to offset any days not paid through Workers' Compensation, or to offset the reduction in regular pay until accumulated sick time is used. However, at no time can the combination of these exceed normal earnings, nor can you use more sick time than that accumulated.

Donated Leave Program

The City has implemented a leave donation program to assist regular employees who have, as a result of extended or catastrophic illness and/or injury, exhausted all accumulated leave (sick, vacation, personal, and compensatory time) and are not receiving workers' compensation or retirement benefits.

Employees may voluntarily donate vacation leave or compensatory time in increments of one hour or more to an eligible employee's sick leave account, based on the conversion of the donor's salary rate to sick leave hours at the donee's salary rate.

Donors are prohibited from recovering any unused hours from the donee's sick leave account once donation has been credited. Donations are required to be documented, including the donor's signature and any verification of need of the employee receiving donations. The period of time an employee is eligible to receive donated leave will not exceed ninety (90) calendar days in any twelve (12) month period, non-retroactive. The Human Resources Manager is responsible for establishing and administering the donated leave program and making final determinations regarding need. Request for donated leave must be made to the Human Resources Manager.

Employees receiving donations must understand that the use of donated vacation leave or compensatory time as sick leave may offset disability payments.

9.3 Paid Holidays

The City observes the following holidays each year. The organization is officially closed on these days, unless otherwise determined by the Department:

New Year's Day
Martin Luther King Jr. Day
Memorial Day
Independence Day
Labor Day
Veterans Day (See 9.14 below)
Thanksgiving Day
Day after Thanksgiving
Christmas
~~Two Personal Holidays~~

In addition, eligible employees will also receive two personal holidays per year.

If a holiday falls on a Sunday, it will be observed on the following Monday. When a holiday falls on a Saturday, it will be observed on the previous Friday.

Personal Holidays are credited at the beginning of the calendar year and shall be prorated to the nearest hour for newly hired employees. Personal Holiday hours must be used in no less than quarter hour (15 minute) increments. Personal Holidays must be used within the year credited or forfeited. Personal Holiday hours are payable at termination for regular employees only.

Regular full-time and part-time employees are eligible for Holiday pay. Full-time employees receive eight (8) hours of holiday pay as paid time, regardless of the number of hours scheduled to work on the holiday. Employees are required to supplement their holiday pay with vacation, compensatory, or actual work hours to cover the scheduled hours.

Part-time, regular employees will receive a pro-rated amount of paid time based on their regularly scheduled time. For instance, a regular, part-time employee working 20 hours per week would receive 4 hours of holiday pay because they are working 50% of full-time.

To be eligible for holiday pay, the employee must be in pay status the regularly scheduled work day immediately preceding and immediately after the holiday.

If covered by a collective bargaining agreement, please refer to it for specific language related to holiday pay, eligibility, and use.

9.4 Leaves of Absence Policy

The City recognizes that our employees may encounter many situations that require a temporary extended absence from work. We offer several different types of leaves of absence for this purpose:

Bereavement Leave
Civic Duty Leave
Family & Medical Leave
Worker's Compensation Leave
Personal Leave
Administrative Leave
Uniformed Services Leave and Re-Employment
Domestic Violence Leave
Lactation Leave
Veterans Day Leave

The type of leave may determine which employees are eligible and what procedure is to be followed in requesting and obtaining the leave. The effect of the leave on benefit accruals, benefits and reinstatement rights also vary according to the type of leave you are requesting. Each of these leaves is discussed on the following pages. If you have any questions about your potential eligibility for a leave or your benefits and rights while on a leave, please contact the Human Resources Manager.

9.5 Bereavement Leave

Regular full-time and part-time employees are eligible to take a Bereavement Leave in the event of death of ~~the following~~ immediate family members as defined below: (Also see Section 9.7 – Family and Medical Leave for information about Bereavement Leave under OFLA.)

Coverage
Immediate family is defined as spouse, same sex domestic partner, parents, children, children of the same-sex domestic partner, siblings, grandparents, grandchildren, in-laws (including father, mother, brother or sister), parents of the same sex domestic partners, and other close relatives who reside in the employee's household.

The Human Resources Manager may approve exceptions to this policy on a case-by-case basis upon written request from the employee.

Length of Leave
You are allowed to take up to five consecutive regularly scheduled working days away from work for a bereavement leave for immediate family members. If you need additional time off for any bereavement purpose, you must use earned vacation, compensatory time, or apply for an unpaid personal leave of absence.

Request Procedure
You are expected to give us as much notice as possible of the need for time-off so that we can make arrangements to cover your absence. Determination to grant the leave will be made by your Department Director. Verification of family relationship and death may be requested in limited circumstances.

Pay while on Leave
If you are a regular employee, you will continue receiving your regular pay for up to the five days allowance. Exempt employees will continue receiving their regular salary for any additional partial days missed for any bereavement purpose.

Status of Benefits
Eligibility for benefits or continuance of benefit accruals are not affected by bereavement leaves. If the length of your absence extends beyond the five-day leave allowance and you are granted additional time off in the form of a personal leave, the effect of the additional leave on your benefits will be determined by the City's personal leave policy, later in this chapter.

Reinstatement
You will be reinstated to the same position you held at the time your leave began subject to our general reinstatement policy.

9.6 Civic Duty Leave

Jury or Witness Duty
If you are subpoenaed to serve as a witness or on jury duty you may obtain a leave of absence. If it is felt that your absence would create an undue hardship to you or the City, we may request, with your full agreement, that you be excused from jury duty.

Length of Leave
Jury or witness duty leave is available for the period of time covered by the initial subpoena or court order and any involuntary extensions. If an employee is released from jury or witness duty prior to the completion of his/her scheduled shift, he/she must return to work for the remainder of the scheduled work shift.

Request Procedure

You must notify your Department Director as soon as you receive the notice or as soon as is practicable so that arrangements can be made to cover the position. You are expected to provide us with a copy of the subpoena or notice within five days after it is received.

Pay while on Leave
You will be compensated for the difference between the civic pay received and your regular rate of pay for up to sixty (60) days. Any continued absence beyond 60 days must be charged against your accrued vacation, compensatory time, or unpaid in the event no leave balance exists. You must remit to the City any remuneration received, less expenses, in order to receive your regular pay for the leave. Please speak with the Human Resources Manager if you have any questions pertaining to the procedure.

Status of Benefits
Benefits are not affected by jury or witness duty leaves.

Reinstatement
You will be reinstated to the same position you held at the time your leave began subject to our general reinstatement policy. You are expected to report to work during regular work hours when not in court. If requested, you must supply proof of appearance in court or serving on a jury.

9.7 Family and Medical Leave

It is the City's policy to provide eligible employees unpaid leave for childbirth; adoption; foster child placement; the care of a seriously ill spouse, child, grandchild, parent, or grandparent; the employee's own serious health condition; to care for a sick child; for bereavement leave for employee's spouse, parent, parent-in-law, child, grandparent, grandchild, same sex domestic partner and an individual standing in loco parentis; or to care for an injured service member in accordance with applicable federal and state legislation.

The Family and Medical Leave Policy (FML) covers employees including employees absent from work due to occupational related illness or injury, except to the extent provisions in applicable collective bargaining agreements, state or federal laws provide otherwise. Workplace injuries that qualify for family leave under this policy will not be counted against an employee's Oregon Family Leave Act (OFLA) entitlement.

The Family and Medical Leave Policy (FML) consolidates provisions of the Federal Family and Medical Leave Act (FMLA), Oregon Family Leave Act (OFLA), and the Oregon Military Family Leave Act (OMFLA). To the extent that provisions vary, this policy adopts the regulation more beneficial to the employee. To the extent the employee fails to qualify under this Policy, eligibility will be reviewed under leave laws individually to ensure employee rights are protected.

FML will run concurrently with other paid or unpaid leave for which the employee is eligible and qualifies, unless otherwise prohibited by collective bargaining agreement, state or federal law.

Eligibility
To qualify for FML employees, including those engaged for limited duration, must meet the following criteria:

- FMLA
  Employee must have been employed by the City for at least twelve (12) months, and worked at least 1250 hours during the 12-month period immediately preceding the leave.

- OFLA
  Employee must have been employed by the City for at least 180 calendar days immediately preceding the leave and have worked for an average of at least 25 hours per week during the 180 days immediately preceding the leave. Employees are eligible for parental leave after being employed for 180 calendar days, without regard to the number of hours worked per week.

- OMFLA
  Employee must have worked an average of 20 hours per week for the City for at least 180 calendar days immediately preceding the date the employee takes OMFLA leave.

In determining the 12 calendar months and 180 calendar days, the number of days an employee has been on the payroll are counted, including all paid and unpaid time. The 1250 hours, 25 hours per week, and 20 hours per week minimums are actual hours worked.

Purpose of Leave:

- Parental
  Leave to care for a child under the age of 18 born to or placed for adoption or foster care with the employee. Under OFLA, an employee who uses 12 workweeks of parental leave is entitled to take up to 12 additional workweeks of sick child leave.

- Employee Medical
  Leave because of the employee's own serious health condition, which prevents the employee from performing at least one essential function of his or her job. This includes pregnancy-related disability and absences from work due to prenatal care. Under OFLA, a woman using pregnancy disability leave is entitled to up to 12 additional workweeks of leave in the same year for any qualifying OFLA purpose.

- Family Medical Care
  Leave to care for an employee's family member with a serious health condition. Under Federal law, covered family members include a spouse, child or parent. Under state law, covered family members also include same sex domestic partners, parents-in-law, grandparents or grandchildren of the employee.

- Military Caregiver
  Leave to care for ~~an injured~~ ~~recovering~~ a seriously ill or injured covered service member who is the employee's parent, child, or spouse or for whom the employee is the next of kin. Such

leave may be taken for up to 26 workweeks in any single 12 month period. Leave to care for a military service member, when combined with all other FMLA leave may not exceed 26 workweeks in a single 12 month period. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness that 1) either existed before the beginning of the service member's active duty and which was aggravated by service in the line of duty on active duty, or 2) was incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list. A covered service member is also a veteran discharged under conditions other than dishonorable within the five-year period before the employee first takes military caregiver leave to care for that veteran who is undergoing medical treatment, recuperation or therapy for a serious injury of illness. This is covered under federal law.

- Qualifying Exigency
  Leave for a qualifying exigency arising out of the fact that the employee's parent, child or spouse is a member of the Armed Forces (including the National Guard and Reserves) and is on covered active duty ~~on active military duty~~ or has been notified of an impending call or order to covered active duty ~~in the Armed Forces in support of a contingency operation~~. For members of the regular Armed Forces, covered duty is defined as duty during deployment of the member with the Armed Forces to a foreign country. For members of the National Guard or Reserves, covered duty is defined as duty during deployment of the member with the Armed Forces to a foreign country under a call or order to active duty in support of a contingency operation. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, ~~and~~ attending post-deployment reintegration briefings, caring for the service member's parent when the parent is incapable of self-care and the service member has been called to active duty, and spending up to fifteen (15) calendar days with a military member who is on Rest and Recuperation leave during covered active duty (such leave may be used only during the military member's Rest and Recuperation leave). An employee's request for qualifying exigency must be supported by appropriate certification. Qualifying exigency leave ~~This~~ is covered under federal law.

- Oregon Military Family Leave Act
  Leave for a spouse or domestic partner of a member of the Armed Forces, the National Guard, or military reserve who has been called to active duty or notified of impending call to active duty, or who has been deployed. An eligible employee may take a total of 14 calendar days leave per deployment after the military spouse or domestic partner has been notified of an impending call or order to active duty and before deployment and when the military spouse is on leave from deployment.

- Bereavement Leave under OFLA
  Leave for an employee to attend the funeral or alternative to a funeral of a covered family member (as defined by OFLA: see first paragraph of this section), to make arrangements necessitated by the death of the family member, or to grieve the death of the family member. An eligible employee may take up to 14 calendar days of leave within a twelve month period

per death of a covered family member. Leave must be taken within 60 days of the date the employee receives notice of the death of the family member. Eligible employee may begin leave prior to formal notice to the employer, but must at least provide verbal notice of the need for leave within 24 hours of commencing the leave, plus provide written notice and explanation of the need for leave within three days of returning to work.

Employees may, if necessary, take multiple bereavement leaves during any OFLA year. Employees with multiple family member deaths are not required to take leave concurrently for each family member. Bereavement leave will be credited against the employee's 12 weeks of leave under OFLA.

Bereavement Leave taken under the provisions of Section 9.5 and this Section will be combined and credited against the employee's 12 weeks of family leave allowed under OFLA. See Section 9.5 for information regarding pay during bereavement leave.

Definition of a Serious Health Condition

Under FMLA, a serious health condition is an illness, injury, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three (3) consecutive calendar days combined with at least two (2) visits to a health care provider or one (1) visit and a regimen of continuing treatment or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Under OFLA, a serious health condition is defined as set forth under ORS 659A.150(6).

Length of Leave

Eligible employees are permitted to take a total of twelve (12) workweeks of leave in a rolling 12-month period counted from the first day the employee begins leave for any qualifying event. Parental leave must be taken in one contiguous block within the 12 months immediately following the birth or placement of a child, unless otherwise agreed to by the City.

Leave required due to the serious health condition of the employee, family member or child, or Oregon Military Family Leave and Qualifying Exigency Leave may be granted on an intermittent or reduced hour basis. If appropriate, an employee's request for intermittent leave will be considered as business requirements allow.

Exempt employees' salaries will be reduced proportionately by hours not worked.

With the employee's concurrence, the City may temporarily transfer the employee on approved intermittent leave to another position that can more easily accommodate recurring absence. In the case of a transfer, the employee will not suffer loss of pay or benefits and only that leave attributable to reduced hours will be counted against the employee's leave entitlement. The employee so assigned will be returned to the regular position unless leave taken plus the period of time worked in the alternate assignment exceeds leave allowable by law, in which case the City reserves the right to replace the employee's position.

Based on business demands, parents working for the same employer may be required to take leave consecutively instead of concurrently.

Whenever possible, absences for planned medical treatment or other appointments should be scheduled to minimize disruption in the workplace.

An employee who gives unequivocal notice of intent not to return to work from FML is entitled to complete the approved leave, providing that the original need for leave still exists. The employee remains entitled to all rights and protections of law and Policy, including, but not limited to, the use of accrued leave and health benefits. However, the City is relieved from job restoration obligations.

Counting Leave

FML leave is accounted for on the basis of the employee's usual workweek. For example, an employee normally scheduled for five (5), eight (8) hour work days would have one-fifth (1/5) of one (1) week or eight (8) hours counted as FML for each full day absence.

Pay

Employees will receive no regular compensation while on FML leave~~.~~, except for bereavement leave in accordance with Section 9.5 – Bereavement Leave.

Employees absent on FML due to a serious health condition for self or qualifying family member will be required to use available accrued sick, vacation, holiday leaves, or in the case of the employee's own serious health condition, workers' compensation and/or Long-Term Disability benefits, in that order before going into authorized unpaid time. Employees may choose to use accrued compensatory time in lieu of accrued leave until it is exhausted.

Employees who are absent for parental leave will be required to use accrued time from accrued vacation, holiday and sick leave, as elected by the employee, before going into authorized unpaid time.

~~Employees may choose to use accrued compensatory time in lieu of accrued leave until it is exhausted.~~

Under specific conditions, an employee exempt from overtime under the Fair Labor Standards Act on reduced hours leave may have their pay docked for less than full-time absences without jeopardizing their exempt status.

Benefits While on Leave

Group employee benefits will continue if the employee makes the required employee premium payments while on leave. In the case of premium payment default, the City will advance employee cost share and recover the advance upon the employee's return to work at the rate of 10% of the employee's gross pay each pay period.

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Under FMLA, leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

If the leave qualifies for Oregon Family Medical Leave or the Oregon Military Family Leave Act, continued health care benefits may not be paid for by the City at its sole discretion. Employees should check with Human Resources to resolve any questions regarding the continuation of health care benefits.

The City will terminate maintenance of an employee's benefits coverage effective when employment would have terminated if the employee had not taken FML, or when:

- The employee fails to return from leave.
- The employee's leave entitlement under FML and other applicable leaves expire.
- The group health plan terminates.

Unpaid premiums not subject to the above exceptions are considered a debt owed to the City by the employee. The City will endeavor to collect the debt through whatever means practicable. The City may recover its share of the premium through deductions from any amount owed to the employee, such as unpaid wages, vacation pay, etc. Any deductions will be made in compliance with state and federal law.

Other Benefits While on Leave
While on FML, an employee will be eligible for paid holidays if in pay status the day before and the day after the holiday. Holiday hours will be counted toward the employee's FML entitlement unless leave is taken on an intermittent or reduced hours basis.

An employee on FML leave *will not* accrue seniority-based benefits, such as sick or vacation pay while not in pay status, unless provided for otherwise by policy or collectively bargained agreement.

Any period of approved FML will be treated as continued service for retirement and savings plans vesting and participation purposes.

Reinstatement after leave will be without loss of any employee benefit or right earned or accrued at the beginning of the leave, except that benefits may be reduced by the amount used during the leave, e.g. vacation hours, holiday hours, sick hours, etc.

Leave Application
In order to avoid business disruption, an employee must notify the City in writing of the request for leave at least thirty (30) days prior to the beginning of a foreseeable need. Employees are required to complete a leave application form for all leaves and to provide medical certification for leaves involving a serious health condition.

When the need for leave is not foreseeable, or its approximate timing uncertain (e.g., adoption placement, medical emergency), notice is required as soon as is practical given the particular circumstances. In this situation the employee or a representative if the employee is incapacitated, must notify the immediate supervisor as promptly as available means of communication permit. If an emergency occurs while at work, the employee must notify the immediate supervisor before leaving the workplace.

An employee seeking Oregon Military Family leave must provide notice of the intent to take leave within five (5) business days of receiving official notice of an impending call or order to active duty, or for a leave from deployment, or as soon as practicable when official notice is provided less than five (5) days from commencement of leave.

Certification Requirements

An employee's request for family medical leave due to the serious health condition of the employee or the employee's qualifying family member requires written medical certification from a health care provider as soon as possible but no later than 15 calendar days following a request for certification by the City. Certification of a serious health condition shall include the date when the condition began, its expected duration and a brief statement of treatment. For medical leave of the employee's own medical condition, the certification must also include a statement that the employee is unable to perform work of any kind or a statement that the employee is unable to perform the essential functions of the position. For a family member who is seriously ill, the certification must include a statement that the patient/family member, requires assistance and that the employee's presence would be beneficial or desirable.

An employee requesting Qualifying Exigency Leave is required to complete a Certification of Qualifying Exigency for Military Leave including written documentation confirming the military member's call to active duty. A copy of the military member's active duty orders is required for an employee requesting Oregon Military Family Leave.

If an employee fails to provide notice within two (2) days after the need for leave becomes apparent, the absence may be deemed unexcused, and the employee may be subject to corrective action consistent with policy and/or collectively bargained agreement.

The City may require a second medical opinion when it questions a health care provider's certification. If the second opinion conflicts with the first, the employee and City must designate a health care provider for a third opinion which will be final and binding. The City will pay associated provider expenses, as well as reasonable "out-of-pocket" travel expenses.

If requested by the City, re-certification of a medical condition must be provided every 30 days for condition duration, unless waived by the City. Earlier confirmation may be required if:

- Significant changes impact the then current disability certification, e.g. complications, severity of condition necessitates more frequent absences; or,
- The City receives information that casts doubt on the stated reason for the absence.

When absent from work due to illness, injury, or other disability, the employee must refrain from engaging in activities that may impede a timely return to regular job duties without prior approval of the City and the attending practitioner.

Employer Notice
Under FMLA, the City must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employee's rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

The City must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Return to Work
An employee is expected to return to work as soon as medically able, as determined by a health care provider or, in the case of parental leave, as approved in advance of the leave start date.

Generally, an employee has two (2) business days to inform the supervisor of the discovery that more or less time will be needed than originally agreed. Failure to provide such notice, especially for leave extension, may result in extension denial or corrective action up to and including termination of employment.

Return to work certification is required before an employee returns to work as outlined below.

This certification must be based on the health care provider's review of the employee's essential job duties, as outlined in their job description. Information on the release should be limited to the condition that caused the leave.

Reinstatement will be delayed until a health care provider certifies the employee as able to return to the former or equivalent job. Return to modified duty may be accommodated, not to exceed six-months unless approved in advance by the City Manager. Employment may be terminated if the employee fails to provide this certification or a new medical certification for a serious health condition. The City reserves the right to proceed with termination in the event all protected leave is exhausted, unless precluded by collectively bargained agreement.

Generally, an employee returning from FML leave will be reinstated to their former or equivalent job unless the employee would not otherwise have been employed at the time reinstatement is requested. If, for business reasons, the employee's former job and equivalent jobs have been discontinued during the family leave period, the employee will be reinstated to an available and suitable position, if one exists. If one does not exist, the employee will be separated in accordance with policy or collectively bargained agreement.

The employee may be required to periodically provide notice regarding intent to return to work upon the conclusion of the approved leave. The employee's unequivocal decision to voluntarily separate releases the City from its reinstatement obligation.

Other details regarding this policy are available from the Human Resources Manager.

FMLA Specific Provisions

Under FMLA is it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer. FMLA does not affect any federal or state law prohibiting discrimination, or supersede any state or local law or collective bargaining agreement which provides greater family or medical leave rights.

9.8 Workers' Compensation Leave

The City will insure employees for injuries received while at work as provided under the Oregon State Worker's Compensation Act. The day of injury will be considered a normal work day and will be paid by the City.

All job-related injuries or illnesses are to be reported to the supervisor immediately, regardless of severity. In the case of serious injury, your reporting obligation will be deferred until circumstances reasonably permit a report to be made. Failure to report an injury or illness may preclude or delay the payment of any benefits to you and could subject the City to fines and penalties.

A probationary or regular employee receiving time-loss payments under workers' compensation may, in addition, draw upon sick, vacation, and/or compensatory time accruals to make up the difference between the workers' compensation payment and their normal net pay. Use of accruals in this manner will be subject to the standard deductions. If a probationary or regular employee is absent for less than 112 scheduled work hours due to an injury compensable under workers' compensation, the City will pay the employees regular wages for up to the first 24 scheduled hours of work missed.

Non-represented probationary and regular employees receiving time-loss payments will be credited with full-accrual payroll periods for up to 60 calendar days.

In any event, no duplication of payments between the City's workers' compensation carrier and the City will be allowed.

Return to Work of Injured Workers

It is the policy of the City of Forest Grove to return its employees with compensable work-related injuries or illnesses to an available and suitable position as soon as possible. To achieve this, the City shall provide, where possible, temporarily modified work (light duty) while the employee is recovering. Light duty positions are not a property right and, therefore, they are not guaranteed in all situations. Any light duty work assignment must provide benefit to both the City and the injured worker.

This policy applies to all City employees when appropriate. Departmental operating policies and/or City labor agreements may provide additional procedural requirements but do not alter the authority of this policy. The City will determine appropriate work hours, shifts, duration and location of all work assignments and reserves the right to determine the availability, appropriateness, and continuation of all light duty assignments.

The injured employee shall report immediately all accidents, incidents, work-related injuries or illnesses to his/her supervisor whether or not medical care is anticipated. If the immediate supervisor is not available, the report shall be made to the next level supervisor or the Human Resources Manager. Upon receiving medical care, the employee shall provide a report of medical condition prepared by the attending physician within 24 hours of medical treatment to the Human Resources Manager. The employee should inform their physician that the City has a return to work program with light duty/modified work assignments available and review their current job duties and responsibilities with the physician. The medical report(s) shall contain specific and objective information such as employee capabilities, limitations and prognosis for use by the City to determine an appropriate work assignment or leave status. The employee will then provide the documentation requesting a light duty assignment including the tentative start date, duration, and specific limitations imposed by their physician, and prognosis for release to full duties. The employee will not be allowed to return to work without a signed release from their attending physician.

Supervisors are required to review the injured worker return-to-work process with the employee, complete an Injury Report Form 801 within 24 hours of the injury if an injury requiring medical treatment has occurred, and immediately forward it to Human Resources Manager. Supervisors must also investigate and complete an Oregon Occupational Safety & Health Division (OR-OSHA) on-the-job injury incident report within 24 hours and send the report to the Human Resources Manager. The supervisor will ensure that the injured employee has a current copy of their job description, if requested by the physician, to aid the physician in their evaluation.

The Department Director will offer an available light duty work assignment to an injured employee, where feasible. The temporary assignment shall be in agreement with the physician's medical restrictions, be consistent with agency policies and collective bargaining agreements, and normally be limited to a 90-day period during which time interim evaluations shall be made. The assignment must not only accommodate the employee’s limitations, but also provide benefit to the City. The employee during this period of modified work assignment will maintain his/her permanent position with regular salary, seniority and benefits. Upon release to regular duties, the employee will return to his/her regular assignment.

In the event that an employee is determined to have a permanent restriction and is unable to return to his/her original assignment, they will be evaluated pursuant to State and Federal law.

9.9 Personal Leave

Regular full-time and part-time employees may be granted a personal leave of absence without pay under certain circumstances. A personal leave of absence is an approved period of time away from work for personal reasons that does not fall under the guidelines of the Family and

Medical Leave policy, or other leave policy. A personal leave of absence is granted at the discretion of the City Manager and is normally granted to protect the length of service and benefit rights for an employee whose service might otherwise be terminated.

Eligibility
You become eligible for a personal leave of absence after six (6) months of service. If you desire to take a personal leave of absence you must first gain approval of your Department Director.

Length of Leave
The leave may be requested for any time over 30 days. A personal leave of absence starts on the first regular workday following the last day worked.

Request Procedure
A written request should be submitted to your Department Director at least one week (5 working days) in advance of any time not worked which exceeds ten days, except in cases of emergency. Any leave request must include an expected date of return. If you do not return within three days of that date, and no extension has been requested, you will be assumed to have voluntarily resigned.

Pay while on Leave
Personal leaves of absence are without pay. You must exhaust any accrued leave prior to beginning a personal leave of absence, unless authorized by the City Manager.

Status of Benefits
Insurance coverage will not be maintained for you while on a personal leave of absence. You may continue insurance coverage by paying the full premium by the first of each month if continuance of insurance coverage desired. Benefits do not accrue during a leave of absence, but are retained at the same level.

Reinstatement
The organization will attempt to arrange employment for individuals returning from a personal leave of absence, but no guarantees are made. While you are on a personal leave of absence, you are required to check in with your supervisor on a regular basis, to inform us of your status and to notify us of any change in personal data.

9.10 Administrative Leave

There are two types of administrative leave within the City.

Investigations
When situations arise which require review by the City and where the City Manager believes it is in the best interest of the City to temporarily remove an employee from the work environment, however an immediate suspension is inappropriate, the City Manager may authorize an administrative absence with pay. Except in cases where the City is awaiting the results of a

fitness for duty examination, Administrative Absence With Pay will normally not exceed thirty (30) consecutive calendar days.

In Lieu of Overtime
Regular, non-represented, FLSA exempt full-time employees are eligible to receive 5 days (40 hours) of administrative leave in lieu of overtime compensation on a calendar year basis. Administrative leave is credited at the beginning of the calendar year and shall be prorated to the nearest hour for newly hired employees. Employees must receive supervisor approval prior to taking administrative leave. Administrative leave must be used within the year credited or forfeited. Administrative leave hours are forfeited upon termination.

9.11 Uniformed Services Leave and Re-Employment

Regular employees requiring a leave of absence for service in the uniformed services are provided leave and will be re-employed at the end of the leave. Policies governing this leave are designed according to the Uniformed Services Leave and Re-employment Act and applicable state regulations. The policy covers those employees who enter active military duty voluntarily and extends to Reservists or National Guard members who are called to limited active duty or extended training duty, including regularly scheduled active duty for training.

Eligibility
All employees of the organization except those hired on a temporary basis are eligible for the leave.

Length of Leave
The length of the military leave is determined by the uniformed services organization calling you to active duty or military encampment.

Request Procedure
You must provide written notice of your obligation or intention to perform service in the uniformed services, unless notice is precluded by military necessity or is otherwise unreasonable or impossible. Failure to do so may result in loss of re-employment rights.

Pay while on Leave
Employees of the City who are members of the Oregon National Guard or any reserve component of the armed forces of the United States are entitled to a paid leave of absence from duties for a period not to exceed fifteen (15) calendar days in any federal fiscal year (October 1 through September 30) for Active Duty Training (ADT) or Inactive Duty Training (IDT), provided the employee is employed at least six months prior to the leave.

Military leaves are without pay unless you elect to utilize vacation, compensatory time, or other benefits earned before commencement of the leave and are otherwise eligible to use such benefits. You must request and obtain approval to leave accrual pay during military leaves of absence.

Status of Benefits

Reservists, National Guard members and veterans returning from military service in the Armed Forces have and retain rights with respect to seniority, vacation, compensation and length of service pay increases, as may be from time to time provided by applicable statutes of the United States and the state of Oregon. You may maintain health care insurance benefits for up to 18 months while on leave by paying the insurance premium through COBRA for any leave extending beyond 30 days.

The City will continue to credit your retirement account on your behalf during periods of active duty if you are currently an active member in the retirement plan.

Reinstatement
If you are returning from a Uniformed Service Leave, you must report to work or request re-employment within prescribed time limits, which are based on the length of the leave:

> 1 to 30 days: You are expected to report to work on the first regularly scheduled workday following completion of training and you will be reinstated to the same position you held at the time the service leave began.
>
> 31 to 180 days: If you are a Reservist or National Guard member returning from initial active duty for training you must submit an application for re-employment within 31 days after release from service under honorable conditions. You will be returned to the same position held at the time the service leave began, provided the leave has been for less than 90 days in length. If 91 days or longer, when you return you will be reinstated to the same job, or comparable job in terms of like seniority, status and pay, as long as you are qualified to perform the duties.
>
> 181 days or longer: If you are returning from active duty in the armed services, you must submit an application for re-employment within 90 days after completion of satisfactory service. You will be reinstated to an equivalent position as long as you are qualified to perform the duties and the organization's circumstances have not changed to the extent that it would be impossible or unreasonable to provide re-employment. When returning, you are required to provide documentation to verify your rights to re-employment, including your separation papers. Time limits for application for re-employment are extended for up to two years for disabled veterans.

Failure to file an application within the required time period forfeits the right to re-employment.

9.12 Domestic Violence Leave

An employee who is a victim of domestic violence, sexual assault or stalking or is a parent or guardian of a minor child or dependent, who is a victim, may be entitled to take unpaid protected leave from work to obtain services or treatment.

Eligibility
You will be eligible to take domestic violence leave if you have worked an average of 25 or more hours per week for at least 180 days immediately prior to the period of leave.

Types of Services /Treatment
An employee may take leave to seek legal or law enforcement assistance, to secure medical treatment, to obtain counseling, to relocate or to take other reasonable steps to ensure the health and well-being of themselves or their child or legal dependent.

Employees who are the victim of domestic violence, sexual assault or stalking may request a reasonable safety accommodation in the work place. A reasonable safety accommodation could include a transfer, reassignment, modified work schedule, unpaid leave, changed work telephone number, changed work station, installed lock or any other adjustment to the job structure, work place facility or work requirement in response to actual or threatened domestic violence, sexual assault or stalking. The reasonableness of the safety accommodation will depend on the particular circumstances at issue.

Length of Leave
The amount and length of time you make take is limited to that which does not create an undue hardship on the City.

Request Procedure
An employee accessing this leave provision needs to request time off from Human Resources as much in advance as possible to aid in scheduling with their Department. Information shared will be considered confidential.

Pay While on Leave
Domestic Violence leave is unpaid; however eligible employees who take this type of leave are required to use any accrued paid time available to them.

9.13 Lactation Leave

The City promotes and supports expressing breast milk on its premises, and will support employees' continuation of expressing breast milk upon return to work. Female employees may use up to 30 minutes of unpaid time during every four hour work period to express milk until their babies are 18 months old.

9.14 Veterans Day Leave

An employee who is scheduled to work on Veterans Day and is a veteran as defined in ORS 408.225 may request to take the day off under the following circumstances:

1. The employee must provide the City with at least 21 days prior notice that he/she is requesting Veterans Day off; and
2. The employee must provide the City documentation verifying that he/she is a veteran as defined in ORS 408.225.

The City will do one of the following within 14 calendar days before Veterans Day:
1. Grant the qualifying employee the day off. The employee will be required to use appropriate paid leave to cover his/her absence; or

2. Deny the request to take Veteran's Day off due to the employee's absence causing an undue hardship, such as significant economic or operational disruptions. The employee will be allowed to choose a single day off before the following Veterans Day. The day off must be in addition to any other time off to which the employee would otherwise be entitled. The employee will be required to use appropriate paid leave to cover his/her absence.

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CHAPTER 10

OTHER FRINGE BENEFITS

10.1 Deferred Compensation

The City provides a voluntary deferred compensation plan (457b) through multiple vendors. ~~All~~ ~~c~~ Contributions may be made pre-tax or post-tax through payroll deduction and are made at no cost to the City. Please contact Human Resources for additional information.

10.2 Wellness

The City recognizes that the health and fitness of all employees contributes to a higher level of morale and performance. The City's Wellness Program is aimed at improving overall employee health and fitness through identification of risk factors, encouragement of physical fitness and lifestyle changes, and ongoing education.

The City's Wellness Program may incorporate~~s~~ the following:

- A Citywide Health Fair,
- Brown bag lunch hour sessions in the summer,
- Free admission to fitness or public swim sessions and water aerobics classes at the Aquatic Center,
- A monthly fitness center subsidy in the amount of $7.50 (Please note, the fitness subsidy is considered taxable income), and
- Monthly distribution of the Hope Health Letter.

Please contact Human Resources for additional information about any of these services.

10.3 Employee Assistance Program (EAP)

The City makes available to employees an Employee Assistance Program (EAP) designed to assist in the identification and resolution of concerns or problems (personal or job related), which may adversely affect an employee's personal or professional well-being or job performance. These personal concerns may include, but are not limited to, health, marital status, family, financial, substance abuse, emotional/stress and other personal matters. The Employee Assistance Program includes:

- A written directive describing program services; procedures for obtaining program services;
- Confidential, appropriate and timely problem assessment services;
- Referrals to services, either workplace or community resources for appropriate diagnosis, treatment, and follow-up;
- Written procedures and guidelines for referral to and/or mandatory participation; and,
- Training of designated supervisory personnel in the program services, supervisor's role and responsibility, and identification of employee behaviors which would indicate the existence of employee concerns, problems and/or issues that could impact employee job performance.

An employee's referral may either be voluntary, in which the employee elects to participate in the program, or it may be a supervisory referral, in which a supervisor uses agency guidelines to refer an employee into the program. Appropriate measures are taken to ensure confidentiality of

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records for employees admitted to the program, according to established City policy and state and federal regulations.

10.4 Education & Training

The City supports and advocates continued education and training for every employee to enhance their job performance and assist in their potential career advancement within the City.

Regular e~~E~~mployees who have completed their initial probationary period may request reimbursement for the costs of college-level courses ~~work~~, seminars, and conferences relevant to their role in the organization within the following guidelines:

1. Such requests must be made in writing to the Department Director and approved prior to the employee's enrollment or participation. Department Directors must submit requests for approval to the City Manager.
2. Funds for such expenditures must be available in the current budget.
3. The employee may not be receiving reimbursement for tuition from any other source, nor be otherwise compensated for completion of the course by the City.
4. Reimbursement for all classes will be made only if the employee produces a receipt for the cost of the course and evidence indicating attainment of a "C" grade or better for undergraduate classes; a "B" grade or better for post-graduate classes; or passage of the course in a pass/fail course.
5. Reimbursement for college tuition shall be limited to $400.00 per course up to a maximum of $2,400 per fiscal year per employee.
6. Courses which are offered only during regular working hours may be approved by the Department Director, provided time off can be arranged and reasonable arrangements can be made to make up the time off.

10.5 Credit Union

Employees and family members are eligible to join the Credit Union immediately upon hire.

10.6 Voluntary Supplemental Benefits

The City currently ~~provides three additional~~ offers several voluntary supplemental insurance plans for employees to consider~~:~~.

- ~~Voluntary short term disability provides income protection during the first ninety (90) days of a disability.~~
- ~~Voluntary supplemental accident provides coverage for a variety of injuries and accident related expenses, such as hospitalization, physical therapy, hospital intensive care, transportation and lodging due to an on or off-job accident.~~
- ~~Voluntary critical illness supplements major medical coverage and group disability by helping employees pay the direct and indirect costs associated with a critical illness or event.~~

All of the supplemental insurances are offered to regular employees on a post-tax basis. Participation in supplemental insurance plans is voluntary and solely at the employee's expense. Please contact Human Resources for additional information about any of the supplemental benefits.

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CHAPTER 11

ACKNOWLEDGEMENT

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Handbook Receipt Acknowledgment Form

As an employee of the City of Forest Grove, I acknowledge the following things:

1. I have received a copy of the Employee Handbook. I understand that the Handbook contains important information about the City's policies, work rules and my benefits. I also understand that the Handbook outlines my responsibilities as an employee of the City. I also understand that I have the responsibility to read and understand the information in the Handbook, and to ask my supervisor for clarification of any information I do not understand.

2. I understand that this Handbook is not a contract of employment or a guarantee of specific treatment in specific situations. Except for any supplemental safety policies and rules that apply to employees in certain jobs or work areas, or otherwise stated in a written employment contract, I understand that this Handbook supersedes all prior Handbooks, policies and understandings on the subjects contained in it.

3. I understand that unless stated in an employment contract, the City has the right to change, modify, add to, substitute or eliminate, interpret and apply, in its sole judgment, the policies, rules and benefits described in this Handbook. I understand that should the content be changed in any way, the City will require an additional signed acknowledgment from me to indicate that I am aware of the changes.

4. I understand that the Council is the only body authorized to make changes in the policies, rules and benefits described in this Handbook and that all such changes must be in writing to be valid. I also understand that the City Manager is the only person who will ever have the authority to enter into an employment contract, and that all such contracts must be in writing and signed by both parties to be valid.

5. I am aware that I may be given confidential information during the course of my employment, such as customer lists or other information. I understand that this information is critical to the success of the City and I agree not to disseminate or use it outside of the workplace. In the event of my termination, either voluntary or involuntary, I agree not to use this information or communicate it to any other individual, organization or entity.

6. I understand that if there is a possibility that I may drive a vehicle on City business in the course of my employment, my driving record will be monitored to ensure compliance with the City's driving policy outlined in Section 5.7 of this Handbook.

I also acknowledge that I have asked for and received clarification on any of the ~~five~~ six items listed on this acknowledgement form that I did not understand, before signing it.

Employee Signature	Date
Print Employee's Name	Driver's License Number
Date of Birth	

forest grove

Memorandum

To: City Council

From: Jon Holan, Community Development Director

Date: July 13, 2015

Re: Continued Joint Work Session on Endorsements and Level of Authority for the Sustainability Commission

---

Issues: The City Council and Sustainability Commission met on June 8th to discuss endorsements from community groups and a proposed plastic bag ordinance. There was only time to discuss the plastic bag ordinance. This upcoming work session is to discuss the second topic, endorsements and level of authority for the Sustainability Commission to carry out their activities without City Council direction.

Background:

Endorsements: Eden Acres at the February 26th meeting approached the Sustainability Commission for an endorsement of their program and efforts to establish a permanent location. After further discussion, the Commission understands that it may establish partnerships with other organizations but not consider endorsements. This is a similar approach as the Park and Rec Commission has taken.

The area needing further discussion is to what degree can the Sustainability Commission pursue carrying out activities for implementing the Sustainability Action Plan? The Commission desires to exercise discretion to form partnerships with stakeholders and take action on the plan adopted by the Council, then informing the Council regularly. Areas of discussion are as follows:

- Discretion toward implementation of action plans endorsed in the adopted plan (i.e., proceed with actions that are consistent with city policies & ordinances)

- Discretion to collaborate with local non-profits, service agencies and businesses pertaining to the adopted action plans. (i.e., issue letters of support or partnership that demonstrate joint commitment to sustainability)

- Discretion to collaborate with other commissions related to shared responsibilities and goals tied to sustainability. (i.e., meet with chairs of other commissions to coordinate, and/or periodic guest in Sustainability Commission meetings)

- Discretion to engage department directors pertaining to action plans that intersect their mission (in concert with staff liaison). (i.e., get a baseline on what is already happening, future plans and how we can help; stakeholder alignment on recommendations to the Council)

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3A.

forest grove

Memorandum

TO: **Mayor Peter Truax and City Councilors**

FROM: **Anna D. Ruggles, CMC, City Recorder**

DATE: **July 13, 2015**

SUBJECT: **Council Meeting Minutes of June 22, 2015**

Item 3 A. Approve City Council Regular Meeting Minutes of June 22, 2015, will be submitted to Council at the August meeting due to staff workload and schedule.

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3B.

forest grove

Memorandum

To: Mayor Truax and City Councilors

From: Anna D. Ruggles, CMC, City Recorder
Janie Schutz, Police Chief
Tom Gamble, City Manager Pro Tem

Subject: Endorse New Liquor License Application

Date: July 13, 2015

BACKGROUND:
ORS 471.166 establishes the process for local government to make recommendation to the Oregon Liquor Control Commission (OLCC) concerning the suitability of a new liquor license application.

Pursuant to City Code 7.805, any person or business requesting City Council endorsement for a new liquor license application must submit to a criminal background check and must obtain or have a valid City business license in accordance with City Code if applicable. The Police Chief has conducted a thorough investigation of the licensee and responsible parties and has made a favorable recommendation to approve the attached liquor license application, along with one of the following recommendations:

- **Forward with Approval** ~ no legal basis for denial.
- **Forward with Approval**, supporting documentation attached, pursuant to this Memorandum. A criminal record exists; however, the record does not contain valid basis for denial as provided by Oregon liquor laws (i.e., felony drug or alcohol-related convictions). (Dissemination of criminal record checks is prohibited by State law and is exempted from public disclosure).
- **Reject Application,** supporting Memorandum required ~ the Police Chief has substantial evidence and opposition that warrants a Public Hearing before the City Council to hear testimony and to be used in the City's decision-making process.

STAFF RECOMMENDATION:
Staff recommends the City Council endorse the attached liquor license application. The City's endorsement will be submitted to OLCC for final determination.

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forest grove

FOR CITY USE ONLY
(Please return to City Recorder)

The City of Forest Grove Recommends that license be

☐ Granted ☐ Denied

$100.00 Original App Fee: Paid:______
$ 75.00 Change App Fee:
$ 35.00 Renewal or Temp App Fee
$ 20.25 Special Event
Acct No.100-21-10-450050 Receipt#:__________

FOREST GROVE POLICE DEPARTMENT

LIQUOR LICENSE RECOMMENDATION

NAME OF APPLICANT/BUSINESS: BUFFET DYNASTY, INC. (Applicant: Ying Yun Wei)

APPLICANT/BUSINESS ADDRESS: 2834 E. Pacific Avenue – Forest Grove

LIQUOR LICENSE TYPE: New Application (Limited On-Premises Sales)

CITY BUSINESS LICENSE: BL-001845

TYPE OF LICENSE REQUESTED:
Application is being made for

ACTION: ☐ Change in Application ☑ **New Application** ☐ Renewal ☐ Special Event ☐ Temporary ☐ Other: ________	☐ **FULL ON-PREMISES SALES:** F-COM licenses are required to have dining seating. Allows the sale and service of distilled spirits, malt beverages, and wine for consumption on the licensed premises. Also allows licensees who are pre-approved to cater events off the licensed premises. ☐ **BREWERY – PUBLIC HOUSE** This license allows the holder to manufacture malt beverages and sell to patrons and wholesalers and allows the holder to sell malt beverages, wine and cider for consumption at the business and "to go".	☑ **LIMITED ON-PREMISES SALES:** Allows the sale of malt beverages, wine and cider for consumption on the licensed premises and the sale of kegs of malt beverages for off premises consumption. Also allows licensees who are pre-approved to cater events off the licensed premises. ☐ **OFF-PREMISES SALES:** Allows the sale of malt beverages, wine and cider in factory sealed containers for consumption off the licensed premises and allows approved licensees to offer sample tasting of malt beverages, wine and cider.
☐ Business ☐ Change in Ownership ☐ Greater Privilege ☐ Additional Privilege ☐ Other ________	☐ F – CAT Caterer ☑ F – COM Commercial Establishment ☐ F – PC Passenger Carrier ☐ F – CLU Private Club (Parties & Events) ☐ F – SEW or SEG Special Event ☐ F – PL Other Public Location	☐ Brewery Public House ☐ Fuel Pumps ☐ Grower ☐ Warehouse ☐ Winery/Grower ☐ Other: ________

APPLICABLE CRIMINAL/DRIVING RECORD:

☑ NONE ☐ SUPPORTING DOCUMENTATION ATTACHED

RECOMMENDED ACTION:

☑ FORWARD WITH APPROVAL ☐ REJECT APPLICATION (Memorandum Required)

Janie Schutz [signature] 6/29/15

Janie Schutz, Chief of Police - or Designee ***Date***

OREGON LIQUOR CONTROL COMMISSION
LIQUOR LICENSE APPLICATION

Application is being made for:

LICENSE TYPES
- ☐ Full On-Premises Sales ($402.60/yr)
  - ☐ 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
- ☐ 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 ☐ Limited Liability Company ☐ Individuals

CITY AND COUNTY USE ONLY

Date application received: ____________

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: ____________

Date: ____________

90-day authority: ☐ Yes ☐ No

1. Entity or Individuals applying for the license: [See SECTION 1 of the Guide]
① Buffet Dynasty Inc ③ ____________
② ____________ ④ ____________
2. Trade Name (dba): Buffet Dynasty
3. Business Location: 2834 E Pacific Ave (number, street, rural route) Forest Grove (city) washing (county) O.R (state) 97116 (ZIP code)
4. Business Mailing Address: 2834 E Pacific Ave (PO box, number, street, rural route) Forest Grove (city) O.R (state) 97116 (ZIP code)
5. Business Numbers: 503 430 7144 (phone) 503 430 5612 (fax)
6. Is the business at this location currently licensed by OLCC? ☐ Yes ☑ No
7. If yes to whom: ____________ Type of License: ____________
8. Former Business Name: Thai Food Restaurant
9. Will you have a manager? ☑ Yes ☐ No Name: Ying Yun Wei (manager must fill out an Individual History form)
10. What is the local governing body where your business is located? Forest Grove (name of city or county)
11. Contact person for this application: Ying Yun Wei (name) 503 430 7144 (phone number(s))
2834 E Pacific Ave Forest Grove O.R 97116 (address) ____________ (fax number) ____________ (e-mail address)

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 Ying Yun wei Date 4/21/2015 ③ ____________ Date ______
② Zhu Wei Chen Date 6/28/2015 ④ ____________ Date ______

BUSINESS INFORMATION

Please Print or Type

Applicant Name: Buffet Dynasty Inc Phone: 503 430 7144

Trade Name (dba): Buffet Dynasty

Business Location Address: 2834 E Pacific Ave

City: Forest Grove OR ZIP Code: 97116

DAYS AND HOURS OF OPERATION

Business Hours:

Sunday	11:00am	to	9:30pm
Monday	11:00am	to	9:30 pm
Tuesday	11:00am	to	9:30pm
Wednesday	11:00am	to	9:30pm
Thursday	11:00am	to	9:30pm
Friday	11:00am	to	10:00pm
Saturday	11:00am	to	10:00 pm

Outdoor Area Hours:

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: N/A

DAYS & HOURS OF LIVE OR DJ MUSIC

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

SEATING COUNT

Restaurant: 150 Outdoor: ______

Lounge: ______ Other (explain): ______

Banquet: ______ Total Seating: 150

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: Jingjun Wei **Date:** 4/28/2015

1-800-452-OLCC (6522)

www.oregon.gov/olcc

(rev. 12/07)

CORPORATION QUESTIONNAIRE

Please Print or Type

Corporation Name: Buffet Dynasty, Inc Year Incorporated: 2015

Trade Name (dba): Buffet Dynasty

Business Location Address: 2834 E Pacific Ave

City: Forest Grove O-R ZIP Code: 97116

List Corporate Officers:

(name)	(title)
Ying Yun wei	President
Zhi Wei Chen	Treasure
Zhi Wei Chen	secretary

List Board of Directors:

(name)
Ying Yun wei
Zhi wei chen

List Stockholders: (Note: If any stockholder is another legal entity, that entity may also need to complete another Corporation Questionnaire. See Liquor License Application Guide for more information.)

Stockholders:	Number of Shares Held:
Ying Yun Wei	50%
Zhi wei chen	50%

Number of Stock Shares:

Issued: 100%

Unissued: 0%

Total Shares Authorized to Issue: 100%

Server Education Designee: Ying Yun Wei **DOB:** 9/19/1980
(See Liquor License Application Guide for more information)

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

Officer's Signature: Ying Yun Wei (name) President (title) **Date:** 4/28/2015

1-800-452-OLCC (6522)
www.oregon.gov/olcc

(rev. 08/11)

3C.

PUBLIC ARTS COMMISSION
Thursday, May 14, 2015
Community Auditorium
Page 1

MINUTES APPROVED BY THE PAC ON JUNE 11, 2015

PRESENT: Emily Lux, Linda Taylor, Pat Truax, Dana Zurcher, Kathleen Leatham, Youth Rep. Yasmine Weil-Pourfard, Dana Lommen, Kathy Broom, Laura Frye, Helvi Smith, Richard Kidd, Staff liaison Colleen Winters.
Guest(s): None
Absent: None

1. CALL TO ORDER: Kathleen called the meeting to order at 5:00 pm.

2. CITIZEN COMMUNICATION: N/A

3. APPROVAL OF PAC MEETING MINUTES: Motion to approve last month's minutes with corrections by Dana Zurcher, seconded by Pat Truax. Motion accepted.

4. ADDITIONS/DELETIONS: N/A

5. BUSINESS:

A. **2015-2016 CEP Grant:** (Due by 5pm, May 29). This year's CEP grant will focus on the acquisition of a kinetic sculpture. The Fire Station mural project has funded 50% through the Fire Fighters' Association. The remaining amount to be funded is $2,500. The new CEP guidelines state that $8,000 is the maximum allowable funding per project. There is no limit to the number of projects submitted per organization, but multiple applications may lessen the chances of gaining multiple board member approval. Four board members must endorse a project for it to be funded. The Public Arts Commission discussed submitting two applications-one for the kinetic sculpture acquisition, and another for the fire station mural with subcategories to fund First Wednesday, mini-grants, and additional items. Richard Kidd suggested that two separate sets of people present the grants to City Council. Presentations will be June 11 in the evening.

B. **Kinetic Sculpture:** Linda Taylor forwarded an email from Andrew Carson. Not all of the PAC inquiries regarding the sculpture were answered. The commission is remaining open about exploring the purchase of a public sculpture from any suitable professional artist, it has not been officially narrowed down to Andrew Carson. Colleen spoke with Tom Gamble about city-owned properties that may be appropriate location for public sculpture installation. Tom's advice was to first explore parks. If no parks are deemed fitting, the commission should explore secondary city-owned locations. Discussion of locations included the Forest Grove Aquatic Center, Lincoln Park and Rogers Park. Colleen suggested a process of elimination to determine location, first looking at what the space has to have in order to be an ideal setting. Parameters need to be selected prior to the CEP grant application deadline on 5/29. A subcommittee was formed to review the sculpture acquisition process, outline location requirements and explore fitting spaces. Their first meeting will be held on Monday at the library at 5:15.

C. Updates:

- First Wednesday: A sign-up form to volunteer for June 3rd, July 1st and August 5th was distributed. The banner for Public Arts Commission will be displayed, and the public banner project to be installed at the market entrance is being initiated. PAC requested a different booth location due to the signage display repeatedly falling over due to wind. There is a Pacific student interested in volunteering for the First Wednesday events.
- Walking brochure: We are still waiting for the background photograph; it is set to be delivered tomorrow. Printing will take seven days. We are set to have an announcement in the June utility bill that the Public Art Walking Tour maps are available.
- Finance report: An anonymous donor paid for the PAC ad in the Chamber of Commerce map. The ending balance for the CEP grant for this year will pay for the walking brochure and receipts from Adelante Mujeres, not to exceed $648. $638.04 is left for the brochure (estimated printing cost, $545.) The balance could be put towards a board reinforcement for the First Wednesday display to keep it adequately weighted to prevent it from blowing over.

6. <u>COMMISSIONER COMMUNICATIONS:</u>

- The Sundial dedication is from 2-4pm at Thatcher Park on Sunday, May 17. PAC commissioners are encouraged to attend.
- Kathleen – Memory care resident patients wrote a children's book. The book was read during children's hour and the writers were able to attend.
- Dana Lommen – Theatre in the Grove's *Mama Won't Fly* opens May 29.
- Richard – At 5pm on Wednesday, May 20, the Annual Rotary Club steak feed will be held at Pacific University in the commons. The City Manager position is down to five candidates. Presentations on the 22nd from the final three candidates are open to the public.

7. <u>STAFF COMMUNICATIONS:</u>

- Colleen-Dia Del Ninos: 278 children attended, more than 400 people total. Volunteers were excellent, and Linda did an incredible job of orchestrating the event. This program is funded by the Friends of the Forest Grove Library.
- Bench repair: Colleen spoke with Tom about the repair of the bench outside of the City Auditorium. There is very specific language in the artist contract regarding the repair. Tom is overseeing the process to ensure the repairs are made.

8. <u>ADJOURNMENT:</u> Kathleen Leatham adjourned the meeting at 6:28pm.

The next meeting will be June 11, 2015, in the Rogers Room of the Forest Grove Library.

Respectfully Submitted by Emily Lux

30.

APPROVED

COMMUNITY FORESTRY COMMISSION
CITY AUDITORIUM
MAIN STREET, FOREST GROVE, OR
April 15, 2015

Meeting called to order at 5:38:17. President Jen Warren in Chair.

Members Present – Jen Warren, David Hunter, Dale Wiley,
Bruce Countryman, Lance Schamberger, Mark Nakajima

Members Absent –

Staff Present: Dan Riordan – Steve Huffman

Council Liaison: Ron Thompson

Meeting Minutes Approval: Minutes were presented and reviewed corrected. Mark moved and David seconded for approval of the minutes. Unanimous vote for approval.

Citizen Communication: None

OLD BUSINESS

URBAN FORESTRY MANAGEMENT PLAN SURVEY – Bruce reviewed the Urban Forest Management Plan and said there was a May meeting planned on 5 / 5 / 15 with the CCI. Data back from the survey that was in the utility billing had 162 responses returned so far.

ARBOR DAY / WEEK 2015

The Arbor Day tree planting went well with 2 classes from the Community School participating. David, Dale and Mark attended with Ron Thompson, Dan Riordan and Steve Huffman. Our thanks go to EF Nursery for their donation of the trees and the digger to dig the holes for us.

COMMUNITY ENHANCEMENT GRANTS There was discussion of applying of a Community Enhancement grant to fund tree inspections, a new banner and the purchase of some gator bags to assist in new street tree establishment by citizens who could check them out from the City. The time line being fairly short, Dan said he would prepare the grant and submit to the City, Jen will present the grant request at the City Council meeting.

MEMBER AND LIASON POSITION OPEN – It was noted that we still have one open position on the Commission to fill and that the Liaison position was also open. Ron Thompson said he would be interested in continuing as council Liaison and the CFC encouraged that.

NEW BUSINESS

PROJECT REPORTS

None at this time.

NEXT MEETING

Next meeting will be May 20, 2015 at the Community Auditorium at 5:30 pm.

MEETING ADJOURNMENT

David moved and Lance seconded to adjourn the meeting. Unanimous affirmative vote adjourned the meeting. Meeting was adjourned at 6:22:16 pm.

Respectfully submitted,

Dale Wiley
CFC Secretary

Monthly Building Activity Report

3E.

June-15

2014-2015

	Period:	June-14	Period:	June-15
Category	# of Permits	Value	# of Permits	Value
Man. Home Setup				
Sing-Family New	16	$3,570,928	10	$2,342,980
SFR Addition & Alt/Repair	5	$238,130	7	$180,374
Mult. Fam. New/At	2	$652,530		
Group Care Facility				
Commercial New	1	$149,034		
Commerical Addition	1	$1,408,359		
Commercial Alt/Repair	4	$3,351,540	7	$1,494,950
Industrial New				
Industrial Addition				
Industrial Alt/Repair				
Gov/Pub/Inst (new/add)				
Signs	3	$6,369	1	$200
Grading	1		1	
Demolitions	2		3	
Total	**35**	**$9,376,891**	**29**	**$4,018,503**

Fiscal Year-to-Date

2013-2014		2014-2015	
Permits	**Value**	**Permits**	**Value**
284	$56,635,089	272	$37,497,348

Permit Fee Summary Report (Detail)
CITY OF CORNELIUS

Report Group	Fee Code	Fee Description	Amount
bldg	bldpmt	Building Permit Fee	1,414.50
bldg	blplrv	Building Plan Review Fee	909.39
bldg	bsolar	Res. Solar Installation	293.00
bldg	mcplrv	Mechanical Plan Review	47.75
bldg	mcstsf	Mechanical State Surcharge Equ	25.47
bldg	mcstsr	Mechanical State Surcharge	22.92
bldg	mech	Mechanical Permit Fee/equip.	212.05
bldg	mecval	Mech.Commercial Permit Fee	191.00
bldg	plmb	Plumbing Permit Fee	60.25
bldg	plstsr	Plumbing State Surcharge	7.23
bldg	stsur	State Surcharge	204.90
		Total for Group bldg	**3,388.46**
		Grand Total:	**3,388.46**

Permits Summary by Type
CITY OF CORNELIUS
For 06/01/2015 to 06/30/2015

Permit Type	Description	Permits	Square Feet	Valuation	Fees Paid	Custom Field Valuation
xmecca	Cornelius Mechnical Permit CommercialAlt/Add/Repai	1	0.00	0.00	62.20	0.00
xmeccn	Cornelius Mechanical Permit Commercial New	1	0.00	0.00	199.47	0.00
xmrotc	Cornelius Mechanical Residential Over the Counter	7	0.00	0.00	237.52	0.00
xpotc	Cornelius Plumbing Over the Counter	1	0.00	0.00	67.48	0.00
xsfadd	Cornelius Single Family Addition	1	206.00	4,464.02	182.49	4,464.02
xsfn	Cornelius Single Family Dwelling New	1	1,819.00	176,142.55	2,311.14	176,142.55
xsolar	Cornelius Residential Solar Structural Installatio	2	0.00	0.00	328.16	0.00
Grand Total		**14**	**2,025.00**	**180,606.57**	**3,388.46**	**180,606.57**

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4.

forest grove

PUBLIC HEARING RESCHEDULED TO AUGUST 10, 2015

NOTICE OF PUBLIC HEARING
FOREST GROVE CITY COUNCIL & URBAN RENEWAL AGENCY BOARD OF DIRECTORS

TRANSFER OF CITY OWNED PROPERTY KNOWN AS THE "TIMES-LITHO" SITE TO THE URBAN RENEWAL AGENCY FOR REDEVELOPMENT CONSISTENT WITH THE FOREST GROVE URBAN RENEWAL PLAN

NOTICE IS HEREBY GIVEN that the Forest Grove City Council and Urban Renewal Agency Board of Directors will hold separate public hearings on **Monday, July 13, 2015,** at **7:00 p.m.**, or thereafter, in the Community Auditorium, 1915 Main Street, Forest Grove, to consider a purchase and sale agreement between the City of Forest Grove, and Urban Renewal Agency of the City of Forest Grove, for property in the Forest Grove Town Center, known as the "Times-Litho" site. The subject property is located north of Pacific Avenue between A Street and B Street and includes the following tax lots: 1S306BB03400, 1S306BB03700, 1S306BB03702, 1S306BB03800, 1S306BB04100, 1S306BB04200, 1S306BB04300, 1S306BB04301, 1S306BB04400, 1S306BB04500. The Urban Renewal Agency Board of Directors oversees implementation of the Forest Grove Urban Renewal Plan adopted by Ordinance 2014-07 on June 23, 2014, and subsequently amended on June 22, 2015. The subject property is identified in the Forest Grove Urban Renewal Plan for potential acquisition by the Urban Renewal Agency for redevelopment consistent with the urban renewal plan.

This hearing is open to the public and interested parties are encouraged to attend. A copy of the staff report will be made available for inspection seven (7) days before the hearing. Written comments or testimony may be submitted at the hearing or sent to the attention of Daniel Riordan, Senior Planner, Community Development Department, 1924 Council Street, PO Box 326, Forest Gove, Oregon, 97116, prior to the hearing. For information about the proposal, please contact Daniel Riordan at (503) 992-3226, or via E-mail at driordan@forestgrove-or.gov.

Anna D. Ruggles, CMC, City Recorder
City of Forest Grove

To be published July 8, 2015

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Washington County Museum

Washington County Museum

5

The importance of museums . . .

...to expand our understanding of our universe in order to enhance he lives of future generations.

Washington County Museum

PDF PAGE 160

The museum's mission . . .

. . . to ignite the imagination and bring to life the diverse cultures that so richly define this remarkable region.

Washington County Museum

The director's goal . . .

...to innovate the museum into an indispensible cultural asset for Washington County.

Washington County Museum

The strategies . . .

...to reach outside the museum's walls;
...to connect with ALL areas of Washington County;
...to partner with multiple entities in each community.

Washington County Museum

The activities . . .

...new exhibitions;
...new programs;
...new opportunities.

Washington County Museum

City Celebrations . . .

…a monthly focus on each municipality in Washington County.

Washington County Museum

City Celebrations opportunities . . .

...FREE ADMISSION to the museum on the third Saturday;

...50% admission discount throughout the month;

...free or discounted outreach programs;

...special community displays online and at the Washington County Museum.

Washington County Museum

City Celebrations Calendar

September 2015 - Cornelius
October 2015 – Tigard
November 2015 - Beaverton
December 2015 – Hillsboro
January 2016 - Tualatin
February 2016 - Forest Grove
March 2016 – Bank
April 2016 - Sherwood
May 2016 – Gaston
June 2016 - King City
July 2016 – North Plains
August 2016 – Wilsonville

Washington County Museum

City Celebrations Partners

Muicipalities
Historical Societies
Libraries
Schools

Washington County Museum

Thank you.

Washington County Museum

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6.

forest grove

July 13, 2015

REPORT ON AN ORDINANCE OF THE CITY OF FOREST GROVE GRANTING A NON-EXCLUSIVE CABLE FRANCHISE TO COMCAST OF OREGON II, INC.

Project Team: **Paul Downey, Administrative Services Director**
Tom Gamble, City Manager Pro Tem

ISSUE STATEMENT The City is being asked to approve the granting of a non-exclusive cable franchise to Comcast of Oregon II, Inc. (Comcast). The Metropolitan Area Communications Commission (MACC) has negotiated a proposed ten-year franchise agreement on behalf of its member cities who will be participating members in this franchise agreement.

BACKGROUND Attached to this staff report and the ordinance are: 1) the MACC staff report discussing the key points of the franchise agreement; 2) the MACC resolution recommending that the member cities approve the proposed franchise agreement (Exhibit B); 3) the proposed Comcast Cable Services Franchise (Exhibit A – Ordinance); 4) a chart comparing the current and proposed Comcast franchises (Exhibit C); and 5) MACC questions and answers sheet (Exhibit D). This report will not discuss the elements of the proposed franchise since the material from MACC covers the proposed franchise in depth. MACC staff will be present at the Council meeting to present the proposed franchise and answer the Council's questions. Representative(s) from Comcast are also scheduled to be present at the meeting.

The MACC Board has unanimously recommended that the twelve affected jurisdictions grant Comcast cable authority. All the affected jurisdictions must pass the franchise agreement in order for it to be valid. If a member jurisdiction does not vote in favor of the proposed franchise, it fails for all jurisdictions. It is also not possible for individual jurisdictions to alter or change the proposed terms. Each jurisdiction must either accept or reject the entire agreement as proposed.

RECOMMENDATION Staff is recommending that the City Council approve the ordinance granting the non-exclusive cable franchise to Comcast.

COMCAST CABLE TV FRANCHISE RECOMMENDATION TO THE CITY OF FOREST GROVE

Prepared by the Metropolitan Area Communications Commission
July 2015

On June 10, 2015, the Board of Commissioners of the Metropolitan Area Communications Commission (MACC) recommended, by a unanimous vote, that your City and the other fourteen MACC member jurisdictions grant Comcast of Oregon II, Inc. (Comcast) a 10-year renewal of the company's cable television franchise (see Exhibit A, MACC Recommending Resolution). A copy of the recommended franchise agreement and a Comparison of that agreement to the current Comcast franchise are enclosed with this report (see Exhibits B and C).

MACC staff and representatives of Comcast will be available at your meeting to answer any questions.

By the terms of the MACC Intergovernmental Agreement, to which your jurisdiction is a party, every affected MACC jurisdiction must adopt the franchise, as recommended, to renew the Comcast franchise – if one jurisdiction votes no, it vetoes the franchise for the others.

The Recommended Agreement – The recommended ten year franchise agreement retains the important financial, service and regulatory benefits that the member jurisdictions have relied on for the past 17 years of the existing franchise. It also includes technology updates for Tualatin Valley Community Television's (TVCTV) programming such as high-definition equipment and transmission, as well as lower and guaranteed costs for the our jurisdictions' use of broadband network services provided by the Public Communication Network (PCN). The franchise is structured to make it comparable to the 2007 Frontier Franchise, where applicable, to maintain level playing field conditions, including updated customer services requirements.

BACKGROUND

The City has been served by Comcast since 2002 under a franchise originally granted to AT&T Broadband in 1999. That franchise expired in 2014, but has been extended by action of MACC and the member jurisdictions twice.

Federal law (47 USC §546) sets out a three-year structure for (1) determining the area's cable related needs and interests (the "Needs Assessment") and (2) negotiating a renewed cable franchise. In the Spring of 2011, MACC, on behalf of its fifteen member jurisdictions, began a process to renew the cable television franchise of Comcast's local franchise holder, Comcast of Tualatin Valley, Inc. Federal law provides for a cable operator's continued use of the right of way as long as it meets certain requirements.[1]

Negotiations began in February 2013 and concluded on May 29, 2015.

[1] 47 USC §546

Highlights of the Franchise

Term. The recommended Franchise Agreement will run ten years, from July 1, 2015 through June 30, 2025. The current Comcast franchise will remain in effect as necessary through the franchise adoption process.

Gross Revenue Definition. The Gross Revenue definition is used to determine the basis on which a five percent Franchise Fee is paid. (Five percent is the maximum allowed under federal law.) The franchise definition is **substantively unchanged** from the current Comcast franchise. Comcast will continue to pay on each of the revenue streams the company receives from the use of its Cable System – except for the revenue gained from Comcast's Institutional Network (PCN) services (see *Institutional Network* below). This revenue will no longer be included as part of the company's "Gross Revenue." The result is an approximate 1.5% reduction in revenue, based on 2014 revenue.

Competition. The Comcast franchise was negotiated to maintain a level playing field environment for the increasingly competitive cable television market. The Verizon cable franchise (which was purchased by **Frontier Communications**, provides cable service in eleven member jurisdictions) was granted in 2007. The recommended Comcast franchise includes Frontier's updated customer service standards and other provisions to ensure the companies are operating under the same regulatory environment as much as possible. In addition, the franchise has a provision that allows for possible amendments should new technology or a new regulatory environment present itself. See the Franchise Comparison for more details.

PEG Access. All key PEG commitments are continued or improved in the recommended Franchise Agreement. MACC will continue to provide Public and Government Access, including the city and county meeting coverage provided by TVCTV. One **High Definition (HD) PEG channel** will be added to the Comcast channel lineup beginning this Fall. Additional HD PEG channels will continue to be added until all channels are in HD (at the time when all Basic channels are carried in HD). **Standard Definition (SD) channels** will continue to be simultaneously carried (until SD is no longer available) to ensure all subscribers have access to this programming.

Institutional Network (PCN). The PCN, MACC and Comcast's public data network, is the largest single change in the new Franchise Agreement. The Franchise provides Comcast with the ability to provide these **services through an Affiliate** (Metro-E). This change allows Comcast to have more individualized business-based relationships with the 20 jurisdictional and special district PCN customers. In return, PCN customers will have access to **significantly lower (averaging 25%) and steady (rates will no longer be subject to annual increases) costs,** as well as more options for levels of service.

PEG/PCN Fund. MACC currently receives $1.00 per subscriber per month from Comcast (a cost the company passes on to its subscribers), adding up to about $1,200,000 per year. This revenue supports PEG Access equipment needs and the operational and equipment expenses of PCN users. The new franchise agreement decreases the fee, and thus subscriber's cost, from $1.00 per month to 80¢ per month. However, MACC's net revenue is offset through the addition of approximately 25,000 Comcast subscribers in West Linn and portions of unincorporated Washington County – a result of uniting three separate Comcast franchises currently administered by MACC into this new Comcast franchise.*

MACC staff is comfortable that this Fund will continue to provide for a viable and strong PEG program and all of the critical support PCN Users have come to rely on for the last 17 years.

Customer Service. MACC was successful in establishing **standard Customer Service requirements** for all cable operators in the MACC jurisdictions, including:

- Telephone Availability requirements;
- Installation and Service requirements;
- Billing requirements and outage credits;
- Customer Complaint procedures;
- Notices to customers for channel lineup and rate changes; and
- Dozens of additional reliability, notice and information requirements.

Franchise Violations and Remedies. The Commission's ability to levy fines against Comcast is **capped** in this Franchise Agreement, at $75,000 per year, comparable to the level in the Frontier franchise. The Commission has not levied fines against Comcast that exceed this amount for more than ten years.

PUBLIC COMMENT

MACC advertised the Commission meeting and solicited public comments in local area newspapers, as well as on the maccor.org website in March and June.

CONCLUSION

Your MACC representative, along with the other MACC Commissioners, has recommended the Comcast Franchise Agreement as an excellent agreement that will serve the interests of cable subscribers for the next ten years. This recommended Franchise Agreement retains the basic elements and long-term benefits of the cable television franchises on which the Member Jurisdictions have come to rely — financial stability, the ability to meaningfully respond to customer service deficiencies, superior PEG Access programming and support, and the guarantee of an institutional network that meets the current and future needs of the area at a reduced cost for users.

A reminder: All 15 MACC Jurisdictions must approve the Franchise Agreement for it to become effective.

Attachment: Exhibit B – MACC Recommending Resolution 2015-05
Exhibit C – Comparison of the 1999 franchise to the 2015 franchise
Exhibit D – MACC Questions & Answers about the Recommended Franchise
City of Forest Grove Ordinance No. 2015-07
Exhibit A – Recommended Comcast Franchise Agreement

* Note that similar PEG/PCN Fund provisions of the West Linn and a second unincorporated Washington County franchise expired along with those franchise requirements from 2005 through 2007, and will now be reinstated at this lower amount. MACC will respond to any customer inquiries.

Exhibit ~~A~~ B

METROPOLITAN AREA COMMUNICATIONS COMMISSION

RESOLUTION 2015-05

A RESOLUTION RECOMMENDING THE MEMBER JURISDICTIONS OF THE METROPOLITAN AREA COMMUNICATIONS COMMISSION GRANT COMCAST OF OREGON II, INC. A CABLE SERVICES FRANCHISE

WHEREAS, in 1980 the Metropolitan Area Communications Commission (hereinafter MACC) was formed by Intergovernmental Cooperation Agreement, amended in 2002 and now an Intergovernmental Agreement (hereinafter IGA) to work cooperatively and jointly on communications issues, in particular the franchising of cable services and the common administration and regulation of such franchises;

WHEREAS, today the member jurisdictions of MACC consist of Washington County and the cities of Banks, Beaverton, Cornelius, Durham, Forest Grove, Gaston, Hillsboro, King City, Lake Oswego, North Plains, Rivergrove, Tigard, Tualatin, and West Linn;

WHEREAS, the IGA authorizes MACC and its jurisdictions to grant one or more nonexclusive franchises to construct, operate, and maintain a cable system within the combined boundaries of the member jurisdictions;,

WHEREAS, the IGA requires that each member jurisdiction formally approve any joint cable services franchise agreements, or any amendment or renewal of such agreements;

WHEREAS, MACC and/or its member jurisdictions have previously granted cable franchises to TCI Cablevision of the Tualatin Valley, Inc., in 1999, and to TCI Cablevision of Oregon, Inc. in 1995 (to serve West Linn and a portion of Washington County) and those franchises are now held by Comcast of Tualatin Valley, or Comcast of Oregon II, Inc., the grantee's lawful successors in interest;

WHEREAS, on March 9, 2011, Comcast requested that its franchise agreement with MACC and its member jurisdictions be renewed;

WHEREAS, staff began holding informal negotiations sessions with Comcast in February 2013;

WHEREAS, the Commission, at its December 11, 2013 meeting, ratified the Executive Committee's action of November 22, 2013, directing staff to initiate the Formal Renewal Process as set out in Section 626 of the Cable Act on behalf of the Commission;

WHEREAS, while the Formal Renewal Process moved forward, MACC met informally with representatives of Comcast to resolve outstanding differences in the terms of a renewed franchise, which meetings have resulted in a proposed cable services franchise acceptable to MACC and Comcast; and,

WHEREAS, MACC has provided adequate notice and opportunities for public comment on the proposed new cable services franchise including public hearings held on March 18, 2015 and June 10, 2015; and,

WHEREAS, the MACC Board of Commissioners finds the proposed new cable franchise reflects the cable-related community needs of the member jurisdictions, and that Comcast has the legal, technical, and financial qualifications to own and operate the proposed cable services system, and therefore recommends to its member jurisdictions that they grant the franchise to Comcast of Oregon II, Inc;

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE METROPOLITAN AREA COMMUNICATIONS COMMISSION THAT:

1. MACC recommends to its member jurisdictions that they grant Comcast a cable services franchise substantially in the form attached hereto as Exhibit A ("Franchise").

2. In accordance with the requirements of the IGA, the member jurisdictions' grant of the Franchise shall be contingent on the affirmative vote of each member jurisdiction's governing body.

3. The MACC Administrator is hereby authorized to execute the Franchise on behalf of the member jurisdictions only after MACC staff's determination that Comcast has fulfilled the Franchise acceptance provisions contained in the Franchise and that each member jurisdiction has approved the Franchise.

4. This resolution shall be effective from and after its adoption.

ADOPTED BY THE BOARD OF COMMISSIONERS OF THE METROPOLITAN AREA COMMUNICATIONS COMMISSION THIS 10TH DAY OF JUNE, 2015.

Arne Nyberg, Chair

Attachment: Exhibit A - Comcast Cable Services Franchise

Exhibit C

COMCAST CURRENT and PROPOSED FRANCHISE COMPARISON
Metropolitan Area Communications Commission
June 10, 2015

FRANCHISE PROVISION	Today's COMCAST	§	July 2015 COMCAST	§
Term	15 years (the standard in 1999)	2.3	10 years (current national standard)	2.3
ROW AUTHORITY				
Police Powers and Right of Way Use	Comcast must abide by all generally applicable Codes in each member jurisdiction.	2 & 10	No change.	2 & 10
Competition	Competitor's franchise must be "reasonably comparable…in order that one operator not be granted an unfair competitive advantage…". MACC makes that determination, which may be adjudicated.	2.6	**If** competitor's franchise has terms that are perceived to be less demanding on these points: • 5% franchise fee • PEG funding • PEG channels • Customer Service standards • Complimentary services **Then**, this process could be initiated by Comcast: (1) discussion with MACC to mitigate the Comcast franchise, and then, if not resolved, (2) court review, or (3) a reduction in the franchise term to not more than 30 months. Step 3 would result in a new negotiated franchise through the renewal procedures of the Cable Act. <u>Only applies to the specific jurisdiction(s)</u> where a competitor's franchise is granted and challenged by Comcast.	2.6

FRANCHISE PROVISION	Today's COMCAST	§	July 2015 COMCAST	§
FINANCE				
Franchise fees	5% of gross revenues	3.1	No change	3.1
Gross Revenue Definition	Among the most aggressive Gross Revenue definitions in the country. MACC collected approximately $6.6M in CY 2014	1.18	MACC retained its broad definition of Gross Revenue – the application of a 5% fee on all revenue attributable to Cable Services. Still better standard than most franchises and all area franchises. If the revenue base is the same, MACC collections in CY2015 would be: $6.5M, a 1.5% drop. (No longer includes PCN revenue due to changes in PCN management.)	1.24
Audit authority	Authority to audit once each 12 months; If franchise fees are underpaid by 3% or more, Comcast pays the total cost of the audit	3.6	Retained all data submission requirements. No changes in the timing of, or the way MACC conducts audits. If underpaid 4% or more, company pays the total cost of the audit up to $15,000. Comparable to Frontier.	3.6
Insurance Limits	General Liability: $2 million Broadcasters Liab: $1 million Auto BI/PD: $2 million Employers Liab: $2 million	5.1	General Liability: $3 million Broadcasters Liab: $1 million Auto BI/PD: $2 million Employers Liab: $2 million	5.1

FRANCHISE PROVISION	Today's COMCAST	§	July 2015 COMCAST	§
PEG PROGRAMMING				
PEG Channels	6 channels required in MACC/Washington County franchises; 5 channels in West Linn franchise. There is potential for additional channels. MACC programs 4 Public & Government Channels.	9	5 channels required, but no change in current usage A side agreement provides the potential to discontinue the CAN (11) and PCC (27) channels if all other metro areas systems do so. Public and Government channels are guaranteed.	9.2
PEG/PCN Fee	$1.00 per subscriber /month Requires a Competitive Grant Process.	9.7	Although the per subscriber fee, falls to $0.80 per month, there is no reduction on the PEG/PCN Fund: Combining the three franchises requires Comcast to provide funding based on an additional 25,000 subscribers. Commission will allocate funding following a review of current PEG/PCN Fund Policy early next Fiscal Year.	13
HD Channels	No HD channels	n/a	3 new HD channels implemented over 4 years.	9.4
PEG Origination Points	Seven Activated Origination Points	9.5	Eighteen Activated Origination Points – new sites for council meetings and other programming direct from jurisdiction sites. Includes new Cornelius & Tualatin City Hall locations.	9.8

FRANCHISE PROVISION	Today's COMCAST	§	July 2015 COMCAST	§
CUSTOMER SERVICE	1999 standard Customer Service Requirements.	6	Comcast will abide by the Frontier customer service model, unifying the standards that apply to all cable operators in the MACC area.	Attc. A
Telephone Answering	90% of the calls answered within 30 seconds	6.3	No change	Attc. A-2
Local office	One center conveniently located in the franchise area to provide pick up/drop off equipment, bill payment, and complaints	6.2	No local office requirement, which matches Frontier requirement to pick up or drop off equipment free of charge (using Comcast representative home visit, prepaid mailer, or establishing a local business office). Note that Comcast, however, is opening additional offices in the MACC area.	Attc. A-6
Fines	Telephone answering: Failure to meet standard – $10,000 first violation; $20,000 2nd violation; $30,000 3rd violation Other Violations: $250/day No cap on total fines.	15	No change in current fine schedule, but now capped and proportional to Frontier's franchise – at $75,000/year.	15

FRANCHISE PROVISION	Today's COMCAST	§	July 2015 COMCAST	§
Institutional Network (PCN)	Upgrade of existing network, run by Comcast Cable with protections and services guaranteed by the MACC Franchise. Rates rise 3.5% per year. Current rates: $250 - $1150/mo.	11.2	Comcast is required by the Franchise to maintain and provide PCN network services. Most standards provided for in individual customer agreements. Rates guaranteed for 10 years: New rates: $90 - $850/month Approximately 25% or greater cost savings to member jurisdictions. Network-wide jurisdiction savings of $150,000 - $250,000 per year.	12 & Attc. D

Exhibit D

Comcast Cable Franchise
Questions and Answers
Prepared by MACC
July 2015

Q1: What is MACC?

A: Your jurisdiction is a member of the Metropolitan Area Communications Commission – a fifteen member joint powers organization. MACC was created in 1980 to provide a centralized agency to prepare for, negotiate and administer cable television franchises. On behalf of the member jurisdictions, in accordance with its Intergovernmental Agreement (IGA), MACC provides the daily management of the area's cable franchises (Comcast and Frontier), including:

- Finance - Franchise fee collection, audits, insurance and bonds
- Centralized Customer Service Regulation – all complaint calls should come to MACC
- TVCTV's Public and Government Access programming services – a division of MACC
- General administration and compliance with Federal cable television franchising rules
- Coordination of the Public Communications Network (PCN)

Q2: How does MACC operate?

A: Each member jurisdiction is an equal partner in MACC. Jurisdictions appoint a MACC Commissioner who participates, reviews and recommends new and renewed cable television franchises along with other administrative chores. When MACC recommends a cable franchise, the MACC IGA requires that every member jurisdiction approve the franchise in order to make it effective. Each MACC jurisdiction, from the smallest (Gaston) to the largest (Washington County) has one vote.

Q3: How are cable television franchise negotiations different than other negotiations?

A: Incumbent Cable Operators, such as Comcast, have the right to renew their franchise through negotiation. While there are certain limiting federal laws and requirements, a company already in the Right of Way has rights to continue service unless it has failed to perform, or it will not meet the demonstrated needs of the communities it serves.

Federal law provides a lengthy and somewhat costly three-year renewal window. By combining resources in MACC, the renewal process is more affordable and effective for the member jurisdictions. MACC began preparations for franchise negotiation in 2011 and began negotiations in 2013. Negotiations took 28 months to complete.

Q4: What benefits does the Comcast franchise provide my jurisdiction?

A: The primary benefits are financial, reduced-cost connectivity and customer service regulation:

- The 5% franchise fee paid by Comcast provides about $6.5million to the member jurisdictions each year. The Franchise provides for continued fee review and audit functions by MACC.
- PCN service costs are reduced - small jurisdictions retain complimentary PCN connectivity.
- Public Meeting coverage through TVCTV is secured, and upgraded to High Definition (HD).
- The PEG/PCN Fee (currently $1/month) is reduced to 80¢/month.
- Complementary TV service will still be provided to public buildings.

Q5: What is non-negotiable in a cable television franchise?

A: Federal Law restricts local governments from negotiating:

- Rates for service or equipment.
- Programming – either including or excluding any particular channel.
- The type of technology a cable operator uses to transmit its signals.
- Franchise provisions re: Comcast's Internet services.
- And, the amount of the franchise fee is capped under the Cable Act at 5% of Gross Revenue.

Q6: How does this franchise address competition issues?

A: In every way possible, Comcast and MACC tried to ensure a level playing field in the recommended franchise. Cable television is an increasingly competitive environment, with new options and providers every day. Since the law is moving slower than the technology, cable companies, including Comcast, are insisting on a process to address unknown competitive situations.

This was one of the most difficult areas to resolve in negotiations. However, MACC has negotiated a limited commitment that addresses Comcast's concerns without undermining the rights and authority of the member jurisdictions.

Q6: When will the new Franchise be effective?

A: Once MACC certifies that all 15 MACC jurisdictions have approved the new Comcast Agreement, probably in early September, the new Comcast Franchise will be retroactively effective back to July 1, 2015

For additional questions about the renewal process, contact **Fred Christ**, MACC Administrator at **503-645-7365 x206** or at fchrist@maccor.org. MACC's website is at: www.maccor.org

ORDINANCE NO. 2015-07

AN ORDINANCE OF THE CITY OF FOREST GROVE GRANTING A NON-EXCLUSIVE CABLE FRANCHISE TO COMCAST OF OREGON II, INC.

WHEREAS, in 1980 the Metropolitan Area Communications Commission (hereinafter "MACC") was formed by Intergovernmental Cooperation Agreement, amended in 2002 and now an Intergovernmental Agreement (hereinafter "IGA") to enable its member jurisdictions to work cooperatively and jointly on communications issues, in particular the joint franchising of cable services and the common administration and regulation of such franchises, and the City of Forest Grove (hereinafter "City") is a member of MACC;

WHEREAS, the IGA authorizes MACC and its member jurisdictions to grant one or more nonexclusive franchises for the construction, operation and maintenance of a cable service system within the combined boundaries of the member jurisdictions;

WHEREAS, the IGA requires that each member jurisdiction to be served by the proposed franchisee must approve any cable service franchise;

WHEREAS, the City has previously granted a cable franchise to TCI Cablevision of Tualatin Valley, Inc. and that franchise is now held by Comcast of Tualatin Valley, the grantee's lawful successor in interest;

WHEREAS, the Board of Commissioners of MACC, by Resolution 2015-05 adopted on the 10th day of June, 2015, recommended that the member jurisdictions grant a franchise to Comcast of Oregon II, Inc. in the form attached hereto as Exhibit "A," which authorizes the provision of cable services from July 1, 2015 through June 30, 2025;

WHEREAS, MACC and the City have provided adequate notice and opportunities for public comment on the proposed cable services franchise including public hearings on March 18, 2015 and June 10, 2015;

WHEREAS, the Council finds that approval of the recommended franchise is in the best interest of the City and its citizens, consistent with applicable federal law;

NOW THEREFORE, THE CITY OF FOREST GROVE ORDAINS AS FOLLOWS:

Section 1. There is hereby granted to Comcast of Oregon II, Inc. a non-exclusive cable services franchise on the terms and conditions contained in Exhibit "A".

Section 2. The grant of franchise at Section 1 is conditioned upon each of the following events:

(a) The affirmative vote of the governing body of each MACC member jurisdiction;

(b) Comcast of Oregon II, Inc.'s fulfillment of the franchise acceptance provisions contained in the Franchise; and

(c) Formal written determination by the MACC Administrator that, in accordance with the requirements of the IGA, each of the above two events has occurred.

Section 3. This ordinance is effective 30 days following its enactment by the City Council.

PRESENTED AND PASSED the first reading this 13th day of July, 2015.

PASSED the second reading this 10th day of August, 2015.

____

Anna D, Ruggles, City Recorder

APPROVED by the Mayor this 10th day of August, 2015.

____

Peter B. Truax, Mayor

Exhibit ~~B~~ A

CABLE TELEVISION

FRANCHISE AGREEMENT

Between the Jurisdictions participating in the

METROPOLITAN AREA

COMMUNICATIONS COMMISSION

AND

COMCAST OF OREGON II, INC.

May 29, 2015

TABLE OF CONTENTS

SECTION 1. DEFINITIONS

For the purposes of this Agreement and all attachments included hereto, the following terms, phrases, words and their derivations shall have the meaning given below unless the context indicates otherwise. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined shall be given their common and ordinary meaning. The word "shall" is always mandatory and not merely directory.

1.1 Access means the availability for noncommercial use by various agencies, institutions, organizations, groups and individuals in the community, including Grantor and its designees, of the Cable System to acquire, create, receive, and distribute video and Signals as permitted under applicable law, including, but not limited to:

(A) **Public Access** means Access where organizations, groups or individual members of the general public, on a nondiscriminatory basis, are the primary Programmers or users having editorial control over the content;

(B) **Educational Access** means Access where Schools and educational institutions are the primary Programmers or users having editorial control over the content;

(C) **Governmental Access** means Access where governmental institutions are the primary Programmers or users having editorial control over the content; and

(D) **PEG Access** means Public Access, Educational Access, and Governmental Access, collectively.

1.2 **Access Center** means a facility or facilities where Public, Educational, or Governmental use Signals are managed and delivered Upstream to the Grantee for Downstream transmission to Subscribers or to other Access Centers via a dedicated connection.

1.3 **Access Channel** means any Channel, or portion thereof, designated for non-commercial Access purposes or otherwise made available to facilitate or transmit Access programming or service.

1.4 **Affiliate** when used in connection with Grantee means any corporation, Person or entity that owns or controls, is owned or controlled by, or is under common ownership or control with, Grantee.

1.5 **Basic Service** means any service tier which includes the retransmission of local television broadcast Signals and PEG Access Channels, or as such service tier may be further defined by federal law.

1.6 **Cable Act** means the Cable Communications Policy Act of 1984 and the Cable Television Consumer Protection and Competition Act of 1992 and any amendments thereto, including those contained in the Telecommunications Act of 1996.

1.7 **Cable Operator** means any Person or group of Persons, including Grantee, who provide Cable Service over a Cable System and directly owns a significant interest in such Cable System, or who otherwise control or are responsible for, through any arrangement, the management and operation of such a Cable System.

1.8 **Cable Service** means the one-way transmission to Subscribers of video programming or other programming service and Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

1.9 **Cable System** means a facility, consisting of a set of closed transmission paths and associated Signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within a community, but such term does not include (1) a facility that serves only to retransmit the television Signals of one (1) or more television broadcast stations; (2) a facility that serves Subscribers without using any Public Right of Way; (3) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the federal Communications Act (47 U.S.C. 201 et seq.), except that such facility shall be considered a Cable System (other than for purposes of Section 621(c) (47 U.S.C. § 541(c)) to the extent such facility is used in the transmission of video programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand service; (4) an open video system that complies with federal statutes; or (5) any facilities of any electric utility used solely for operating its electric utility systems.

1.10 **Capacity** means the maximum ability to carry Signals or other information within a specified format.

1.11 **Capital or Capital Cost** means the expenditure of funds for resources whose useful life can be expected to exceed a period of one (1) year or longer as consistent with Generally Accepted Accounting Principles ("GAAP").

1.12 **Channel** means a time or frequency slot or technical equivalent on the Cable System in a specified format, discretely identified and capable of carrying full motion color video and audio, and may include other non-video subcarriers and digital information.

1.13 **Commission** means the Metropolitan Area Communications Commission and its officers, agents and employees, created and exercising its powers pursuant to an Intergovernmental Cooperation Agreement entered into by Grantors herein, as authorized by state law (particularly ORS Chapter 190) and the laws, charters, and other authority of the individual member units of local government who are members of the Commission. The powers of the Commission have been delegated to it by Grantors and although it may exercise those powers as an entity, it remains a composite of Grantors herein.

1.14 **Demarcation** means up to and including the device (as of the Effective Date known as the "modulator") where the DAP Signal is converted into a format to be transmitted over a fiber connection to Grantee.

1.15 **Designated Access Provider ("DAP")** means the entity or entities designated by the Grantor to manage or co-manage PE G Access Channels and Access Centers. The Grantor may be a Designated Access Provider; however, any entity designated by the Grantor shall not be a third party beneficiary under this Agreement.

1.16 **Downstream** means the transport of Signals from the Headend to Subscribers or to Interconnection points served by the Cable System.

1.17 **Effective Date** means the date defined in Section 2.4 herein.

1.18 **FCC** means the Federal Communications Commission.

1.19 **Fiber** means a transmission medium of optical strands of cable capable of carrying Signals by means of lightwave impulses.

1.20 **Franchise** means the non-exclusive and revocable authorization or renewal thereof for the construction or operation of a Cable System such as is granted by this Agreement, whether such authorization is designated as a Franchise, license, resolution, contract, certificate, agreement or otherwise.

1.21 **Franchise Area** means the area within the legal jurisdictional boundaries of the individual member units of local government who are members of the Commission during the term of this Agreement. The Franchise Area shall include any additional signers of the Intergovernmental Agreement only if Grantee is currently providing Cable Service in such additional areas. For purposes of Washington County, the Franchise Area includes only the unincorporated areas within the legal jurisdictional boundaries of the County.

1.22 **Grantee** means Comcast of Oregon, II, Inc. or its permitted successors, transferees or assignees.

1.23 **Grantor** means, individually and, where applicable, collectively, the Oregon cities of Banks, Beaverton, Cornelius, Durham, Forest Grove, Gaston, Hillsboro, King City, Lake Oswego, North Plains, Rivergrove, Tigard, Tualatin, and West Linn together with Washington County, Oregon.

1.24 **Gross Revenue** means, and shall be construed broadly to include, all amounts in whatever form and from all sources derived directly or indirectly by Grantee and/or an Affiliate from the operation of Grantee's Cable System to provide Cable Services within the Franchise Area. Gross Revenues include, by way of illustration and not limitation:

- Fees for Cable Services, regardless of whether such Cable Services are provided to residential or commercial Subscribers, including revenues derived from the provision of all Cable Services (including but not limited to pay or premium Cable Services, digital Cable Services, pay-per-view, pay-per-event, audio channels and video-on-demand Cable Services);
- Installation, disconnection, reconnection, downgrade, upgrade, maintenance, repair, or similar charges associated with Subscriber Cable Service;
- fees paid to Grantee for Channels designated for commercial/leased access use; which shall be allocated on a pro rata basis using total Cable Service Subscribers within the Franchise Area;
- Converter, remote control, and other Cable Service equipment rentals, leases, or sales;
- Payments for pre-paid Cable Services and/or equipment;
- Advertising Revenues as defined herein;
- Fees including, but not limited to: (1) late fees, convenience fees and administrative fees which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total Grantee revenues within the Franchise Area; (2) Franchise fees; (3) the FCC user fee and (4) PEG fees if included on Subscriber billing statements;
- Revenues from program guides; and
- Commissions from home shopping channels and other Cable Service revenue sharing arrangements which shall be allocated on a pro rata basis using total Cable Service Subscribers within the Franchise Area.

- Gross Revenues" shall not be net of: (1) any operating expense; (2) any accrual, including without limitation, any accrual for commissions to Affiliates; or (3) any other expenditure, regardless of whether such expense, accrual, or expenditure reflects a cash payment. "Gross Revenues", however, shall not be double counted. Revenues of both Grantee and an Affiliate that represent a transfer of funds between the Grantee and the Affiliate, and that would otherwise constitute Gross Revenues of both the Grantee and the Affiliate, shall be counted only once for purposes of determining Gross Revenues. Similarly, operating expenses of the Grantee which are payable from Grantee's revenue to an Affiliate and which may otherwise constitute revenue of the Affiliate, shall not constitute additional Gross Revenues for the purpose of this Franchise. "Gross Revenues" shall include amounts earned by Affiliates only to the extent that Grantee could, in concept, have earned such types of revenue in connection with the operation of Grantee's Cable System to provide Cable Services and recorded such types of revenue in its books and Records directly, but for the existence of Affiliates. "Gross Revenues" shall not include sales taxes imposed by law on Subscribers that the Grantee is obligated to collect. With the exception of recovered bad debt, "Gross Revenues" shall not include bad debt.

(A) "Advertising Revenues" shall mean amounts derived from sales of advertising that are made available to Grantee's Cable System Subscribers within the Franchise Area and shall be allocated on a pro rata basis using total Cable Service Subscribers reached by the advertising. Whenever Grantee acts as the principal in advertising arrangements involving representation firms and/or advertising Interconnects and/or other multichannel video providers, Advertising Revenues subject to Franchise fees shall include the total amount from advertising that is sold, and not be reduced by any operating expenses (e.g., "revenue offsets" and "contra expenses" and "administrative expenses" or similar expenses), or by fees, commissions, or other amounts paid to or retained by National Cable Communications or Comcast Spotlight or similarly affiliated advertising representations firms to Grantee or their successors involved with sales of advertising on the Cable System within the Franchise Area.

(B) "Gross Revenues" shall **not** include:

- Actual Cable Services bad debt write-offs, except any portion which is subsequently collected which shall be allocated on a *pro rata* basis using Cable Services revenue as a percentage of total Grantee revenues within the Franchise Area;
- Any taxes and/or fees on services furnished by Grantee imposed on Subscribers by any municipality, state or other governmental unit, provided that the Franchise fee, the FCC user fee and PEG fee shall not be regarded as such a tax or fee;
- Launch fees and marketing co-op fees; and,
- Revenues associated with the provision of managed network services provided under separate business contract.
- Unaffiliated third party advertising sales agency fees or commissions which are reflected as a deduction from revenues, except when Grantee acts as a principal as specified in paragraph (A) immediately above.

(C) To the extent revenues are derived by Grantee for the provision of a discounted bundle of services which includes Cable Services and non-Cable Services, Grantee shall calculate revenues to be included in Gross Revenues using a methodology that allocates revenue on a *pro rata* basis when comparing the bundled service price and its components to the sum of the published rate card prices for such components. Except as required by specific federal, state or local law, it is expressly understood that equipment may be subject to inclusion in the bundled price at full rate card value. This calculation shall be applied to every bundled service package containing Cable Service from which Grantee derives revenues in the Franchise Area. The Grantor reserves its right to review and to challenge Grantee's calculations.

Example: Prior to any bundle-related price reduction, if Cable Service is valued at 50% of the total of the services to be offered in a bundle, then Cable Service is to be valued and reported as being no less than fifty percent (50%) of the price of the bundled service total.

(D) Grantee reserves the right to change the allocation methodologies set forth in paragraph (C) above to meet standards mandated by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF") and/or the U.S. Securities and Exchange Commission ("SEC"). Grantor acknowledges and agrees that Grantee shall calculate Gross Revenues in a manner consistent with GAAP where applicable; however, the Grantor reserves its right to challenge Grantee's calculation of Gross Revenues, including Grantee's interpretation of GAAP and Grantee's interpretation of FASB, EITF and SEC directives. Grantee agrees to explain and document the source of any change it deems required by FASB, EITF and SEC concurrently with any Franchise-required document at the time of submittal, identifying each revised Section or line item.

(E) Grantor agrees and acknowledges that Grantee shall maintain its books and Records in accordance with GAAP.

1.25 **Headend** means Grantee's facility for Signal reception and dissemination on the Cable System, including cables, antennas, wires, satellite dishes, monitors, switches, modulators, processors, equipment for the Interconnection of the Cable System with adjacent Cable Systems or other separate communications network, and all other related equipment and facilities.

1.26 **Interconnect or Interconnection** means the provision by Grantee of technical, engineering, physical, financial and all other necessary components to provide and adequately maintain a physical linking of Grantee's Cable System with any other designated Cable System or any separate communications network, so that services of technically adequate quality may be sent to, and received from, such other systems to the extent required by this Agreement.

1.27 **Leased Access Channel** means any Channel commercially available for programming for a fee or charge by Grantee to members of the general public.

1.28 **Origination Point** means a location other than an Access Center, where Public, Educational, or Governmental use programming is delivered to the Grantee for Upstream transmission.

1.29 **Parent Corporation** means Comcast Communications, Inc. or successors and assigns and includes any other existing or future corporations with greater than fifty percent (50%) ownership or control over Grantee.

1.30 **Person** means any individual, sole proprietorship, partnership, association, corporation, or any other form of organization authorized to do business in the State of Oregon, and includes any natural person.

1.31 **Programmer** means any Person responsible for PEG Access Programming on the Cable System, including, without limitation, any Person who produces or otherwise provides PEG Access Programming for transmission on the Cable System.

1.32 **Programming** means television programs, audio, video or other patterns of Signals to be transmitted on the Cable System, and includes all programs or patterns of Signals transmitted, or capable of being transmitted, on the Cable System.

1.33 **Public Communications Network ("PCN")** means the separate communications institutional network provided by the Grantee under Section 12 of this Agreement designed principally for the provision of non-entertainment, interactive services to public Schools, public universities and colleges, Pacific University, public agencies, or the Virginia Garcia Health Centers (or successor agencies) for use in connection with the ongoing operations of such institutions. Services provided include data to PCN users on an individual application, private channel basis.

1.34 **Public Rights of Way** include, but are not limited to, Streets, bridges, sidewalks, trails, paths, public utility easements, and all other public ways, including the subsurface under and air space over these areas, excluding parks and parkways, but only to the extent of the Grantor's right, title, interest, or authority to grant a Franchise to occupy and use such Streets and easements for Cable System facilities. "Public Rights of Way" shall also include any easement granted to or owned by the Grantor and acquired, established, dedicated, or devoted for public utility purposes. Nothing in this Agreement shall preclude Grantee's use of private easements as set forth in 47 U.S.C. §541(a)(2).

1.35 **Record** means written or graphic materials, however produced or reproduced, or any other tangible permanent record, to the extent related to the enforcement or administration of this Agreement.

1.36 **Quarterly or Quarter** means the standard calendar periods of January 1 – March 31, April 1 – June 30, July 1 – September 30, and October 1 – December 31, unless otherwise specified in this Agreement.

1.37 **School** means any accredited educational institution, public or private, including, but not limited to, primary and secondary Schools.

1.38 **Section** means a provision of this Agreement, unless specified as part of another document.

1.39 **Signal** means any electrical or light impulses carried on the Cable System, whether one-way or bi-directional.

1.40 **Streets** means the surface of any public Street, road, alley or highway, within the Grantor, used or intended to be used by the general public for general transportation purposes to the extent the Grantor has the right to allow the Grantee to use them, and the space above and below.

1.41 **Subscriber** means any Person who is lawfully receiving, for any purpose or reason, any Cable Service provided by Grantee by means of, or in connection with, the Cable System.

1.42 **Upstream** means the transport of Signals to the Headend from remote points on the Cable System or from Interconnection points on the Cable System.

SECTION 2. GRANT OF FRANCHISE

2.1 Grant

(A) Grantor hereby grants to Grantee in the public interest a nonexclusive and revocable authorization to make lawful use of the Public Rights of Way within the Franchise Area to construct, operate, maintain, reconstruct, and repair a Cable System for the purpose of providing Cable Services and to provide a PCN for voice, video, and data, subject to the terms and conditions set forth in this Agreement.

(B) This Agreement is intended to convey limited rights and interests only as to those Public Rights of Way, in which the Grantor has an actual interest. It is not a warranty of title or interest in any Public Rights of Way, it does not provide the Grantee any interest in any particular location within the Public Rights of Way, and it does not confer rights other than as expressly provided in the grant hereof. This Agreement does not deprive the Grantor of any powers, rights, or privileges it now has, or may acquire in the future, to use, perform work on, or regulate the use and control of the Grantor's Public Rights of Way covered by this Agreement, including without limitation, the right to perform work on its Streets, or appurtenant public works facilities, including constructing, altering, paving, widening, grading, or excavating thereof.

(C) This Agreement authorizes Grantee to engage in providing Cable Service, as that term is defined in 47 U.S.C. Sec. 522(6) as amended, and to provide a related PCN as described in Section 12 of this Agreement. This Agreement shall not be interpreted to prevent the Grantor from imposing lawful additional conditions including additional compensation conditions for use of the Public Rights of Way should Grantee provide service other than Cable Service. Nothing herein shall be interpreted to prevent Grantee from challenging the lawfulness or enforceability of any provisions of applicable law.

(D) Grantee promises and guarantees as a condition of exercising the privileges granted by this Agreement, that any agent, Affiliate or joint venture or partner of the Grantee directly involved in the offering of Cable Service in the Franchise Area, or directly involved in the management or operation of the Cable System in the Franchise Area, will also comply with the terms and conditions of this Agreement.

2.2 Use of Public Rights of Way

Subject to Grantor's supervision and control and the terms of this Agreement, Grantee may erect, install, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the Public Rights of Way within the Franchise Area, such wires, cables, conductors, ducts, conduits, vaults, amplifiers, pedestals, attachments, and other property and equipment as are necessary and appurtenant to the operation of a Cable System for the provision of Cable Service within the Franchise Area. Grantee shall comply with all applicable construction codes, laws, ordinances, regulations and procedures now in effect or enacted hereafter, and must obtain any and all necessary permits from the appropriate agencies of Grantor prior to commencing any construction activities. Grantee, through this Agreement, is granted extensive and valuable rights to operate its Cable System for profit using Grantor's Public Rights of Way within the Franchise Area in compliance with all applicable Grantor construction codes and procedures. As trustee for the public, Grantor is entitled to fair compensation to be paid for these valuable rights throughout the term of this Agreement subject to federal law.

2.3 **Duration**

The term of this Agreement and all rights, privileges, obligations, and restrictions pertaining thereto shall be from the Effective Date of this Agreement through June 30, 2025, unless extended or terminated sooner as hereinafter provided.

2.4 **Effective Date**

The Effective Date of this Agreement shall be July 1, 2015 unless Grantee fails to file an unconditional written acceptance of this Agreement and post the security required hereunder by Section 5.4. Grantee shall accept this Agreement within forty-five (45) days of the Effective Date, unless the time for acceptance is extended by Grantor. In the event acceptance does not take place or the security is not posted as required hereunder, this Agreement shall be voidable at the reasonable discretion of Grantor, and any and all rights of Grantee to own or operate a Cable System within the Franchise Area under the express terms of this Agreement shall be of no force or effect.

2.5 **Franchise Nonexclusive**

This Agreement shall be nonexclusive, and is subject to all prior rights, interests, agreements, permits, easements or licenses granted by Grantor to any Person to use any Street, Public Rights of Way, easements not otherwise restricted, or property for any purpose whatsoever, including the right of Grantor to use same for any purpose it deems fit, including the same or similar purposes allowed Grantee hereunder. Grantor may, at any time, grant authorization to use the Public Rights of Way for any purpose not incompatible with Grantee's authority under this Agreement and for such additional Franchises for Cable Systems as Grantor deems appropriate subject to Section 2.6 below.

2.6 **Grant of Other Franchises**

(A) The Grantor reserves the right to grant additional Franchises or similar authorizations to provide video programming services via Cable Systems or similar wireline systems located in the Public Rights of Way. Grantor intends to treat wireline competitors in a nondiscriminatory manner in keeping with federal law. If the Grantor grants such an additional Franchise or authorization to use the Public Rights of Way to provide such services and Grantee believes the Grantor has done so on terms materially more favorable than the obligations under this Agreement, then the provisions of this Section 2.6 will apply.

(B) As part of this Agreement, the Grantor and Grantee have mutually agreed that the following material Franchise terms may be used to compare Grantee's Franchise to a wireline competitor: a 5% (five percent) Franchise fee, PEG funding, PEG Access Channels, customer service obligations, and complimentary services (hereinafter "Material Obligations"). Grantor and Grantee agree that these Material Obligations bear no relationship to the technology employed by the Grantee or a wireline competitor and as such can reasonably be expected to be applied fairly across all wireline competitors.

(C) Within one (1) year of the adoption of a wireline competitor's Franchise or similar authorization, Grantee must notify the Grantor in writing of the Material Obligations in this Agreement that exceed the Material Obligations of the wireline competitor's Franchise or similar authorization. The Grantor shall have one hundred twenty (120) days to agree to allow Grantee to adopt the same Material Obligations provided to the wireline competitor, or dispute that the Material Obligations are different. In the event the Grantor disputes the Material Obligations are different, Grantee may bring an action in federal or state court for a determination as to whether the Material Obligations are different and as to what Franchise amendments would be necessary to remedy the disparity. Alternatively, Grantee may notify the Grantor that it elects to immediately commence the renewal process under 47 USC § 546 and to have the remaining term of this Franchise shortened to not more than thirty (30) months.

(D) Nothing in this Section 2.6 is intended to alter the rights or obligations of either party under applicable federal or state law, and it shall only apply to the extent permitted under applicable law and FCC orders. In no event will the Grantor be required to refund or to offset against future amounts due the value of benefits already received.

(E) This provision does not apply if the Grantor is ordered or required to issue a Franchise on different terms and conditions, or it is legally unable to do so; and the relief is contingent on the new Cable Operator actually commencing provision of service in the market to its first customer. Should the new Cable Operator fail to continuously provide service for a period of six (6) months, the Grantor has the right to implement this Agreement with its original terms upon one hundred eighty (180) days' notice to Grantee.

(F) This Section shall apply separately in the individual member units of local government who are members of the Commission. Grantee may seek to invoke the provisions of this Section only in that individual jurisdiction, not in any jurisdiction where a competitor has not secured a competitive Franchise. This Section does not apply to open video systems, nor does it apply to common carrier systems exempted from Franchise requirements pursuant to 47 U.S.C. Section 571; or to systems that serve less than 5% (five per cent) of the geographic area of the Grantor; or to systems that only provide video services via the public Internet.

2.7 **Police Powers**

Grantee's rights hereunder are subject to the lawful police powers of Grantor to adopt and enforce ordinances necessary to the safety, health, and welfare of the general public. Nothing in this Agreement shall be deemed to waive the requirements of the other codes and ordinances of general applicability enacted, or hereafter enacted, by Grantor. Grantee agrees to comply with all applicable laws and ordinances enacted, or hereafter enacted, by Grantor or any other legally-constituted governmental unit having lawful jurisdiction over the subject matter hereof.

Nothing in this Section shall be deemed a waiver by Grantee or the Grantor of the rights of Grantee or the Grantor under applicable law.

2.8 Relations to Other Provisions of Law

This Agreement and all rights and privileges granted under it are subject to, and the Grantee must exercise all rights in accordance with, applicable law as amended over the Franchise term. This Agreement is a contract, subject to the Grantor's exercise of its police and other regulatory powers and such applicable law. This Agreement does not confer rights or immunities upon the Grantee other than as expressly provided herein. In cases of conflict between this Agreement and any ordinance of general application enacted pursuant to the Grantor's police power, the ordinance shall govern. Grantee reserves all rights it may have to challenge the lawfulness of any Grantor ordinance, whether arising in contract or at law. The Grantor reserves all of its rights and defenses to such challenges, whether arising in contract or at law. The Franchise issued, and the Franchise fee paid hereunder, are not in lieu of any other required permit, authorization, fee, charge, or tax, unless expressly stated herein.

2.9 Effect of Acceptance

By accepting the Franchise the Grantee: (1) acknowledges and accepts the Grantor's legal right to issue and enforce the Agreement; (2) agrees that it will not oppose the Grantor's intervening or other participation in any proceeding affecting the Cable System; (3) accepts and agrees to comply with each and every provision of this Agreement; and (4) agrees that the Franchise was granted pursuant to processes and procedures consistent with applicable law, and that it will not raise any claim to the contrary.

SECTION 3. FRANCHISE FEE AND FINANCIAL CONTROLS

3.1 Franchise Fees

(A) As compensation for the benefits and privileges granted under this Agreement, and in consideration of permission to use Public Rights of Way, Grantee shall pay as a Franchise fee to Grantor, throughout the duration of this Agreement, an amount equal to five percent (5%) of Grantee's Gross Revenues. Accrual of such Franchise fees shall commence as of the Effective Date of this Agreement. The Franchise fees are in addition to all other fees, assessments, taxes, or payments of general applicability that the Grantee may be required to pay under any federal, state, or local law to the extent not inconsistent with applicable law. This Agreement and the Franchise fees paid hereunder are not in lieu of any other generally applicable required permit, authorization, fee, charge, or tax.

(B) In the event any law or valid rule or regulation applicable to this Franchise limits Franchise fees below the five percent (5%) of Gross Revenues required herein, the Grantee agrees to and shall pay the maximum permissible amount and, if such law or valid rule or regulation is later repealed or amended to allow a higher permissible amount, then the Grantee shall pay the higher amount up to the maximum allowable by law, not to exceed five percent (5%) during all affected time periods.

3.2 **Payments**

Grantee's Franchise fee payments to Grantor shall be computed Quarterly. Each Quarterly payment shall be due and delivered to Grantor no later than forty-five (45) days after the last day of the preceding Quarter.

3.3 **Acceptance of Payment and Recomputation**

No acceptance of any payment shall be construed as an accord by Grantor that the amount paid is, in fact, the correct amount, nor shall any acceptance of payments be construed as a release of any claim Grantor may have for further or additional sums payable or for the performance of any other obligation of Grantee.

3.4 **Quarterly Franchise Fee Reports**

Each payment shall be accompanied by a written report to Grantor, verified by an authorized representative of the Grantee, containing an accurate statement in summarized form, as well as in detail, and in a form approved by Grantor, of Grantee's Gross Revenues and the computation of the payment amount.

3.5 **Annual Franchise Fee Reports**

Grantee shall, no later than one hundred twenty (120) days after the end of each calendar year, furnish to Grantor a statement verified by an authorized representative of the Grantee, stating the total amount of Gross Revenues and all payments, deductions, and computations for the period covered by the payments.

3.6 **Audit/Reviews**

No more frequently than every twenty-four (24) months, upon thirty (30) days prior written notice, Grantor shall have the right to conduct an independent audit or review of Grantee's Records reasonably related to the administration or enforcement of this Agreement. The Grantor may hire an independent third party to audit or review the Grantee's financial Records, in which case the Grantee shall provide all necessary Records to the third party. All such Records shall be made available in the local offices of the Grantee, or provided in electronic format fully compatible with Grantor's software. If the audit or review shows that Franchise fees have been underpaid by four percent (4%) or more, Grantee shall reimburse Grantor the reasonable cost of the audit or review up to fifteen thousand dollars ($15,000) within thirty (30) days of the Grantor's written demand for same. Records for audit/review purposes shall include without limitation:

(A) Source documents, which demonstrate the original or beginning amount, and the final amount shown on any report related to and/or included in the determination of Franchise fees, revenues or expenses related thereto.

(B) Source documents that completely explain any and all calculations related to any allocation of any amounts involving Franchise fees, revenues, or expenses related thereto.

(C) Any and all accounting schedules, statements, and any other form of representation, which relate to, account for, and/or support and/or correlate to any accounts involving Franchise fees, revenues or expenses related thereto.

3.7 **Interest on Late Payments**

Payments not received within forty-five (45) days from the Quarter ending date or are underpaid shall be assessed interest from the due date at a rate equal to the legal interest rate on judgments in the State of Oregon.

3.8 **Additional Commitments Not Franchise Fees**

No term or condition in this Agreement shall in any way modify or affect Grantee's obligation to pay Franchise fees related to Cable Services to Grantor in accordance with applicable law. Although the total sum of Franchise fee payments and additional commitments set forth elsewhere in this Agreement may total more than five percent (5%) of Grantee's Gross Revenues in any twelve (12) month period, Grantee agrees that the additional commitments herein are not Franchise fees as defined under federal law, to the extent not inconsistent with applicable federal law, nor are they to be offset or credited against any Franchise fee payments due to Grantor.

3.9 **Costs of Publication**

Grantee shall pay the reasonable cost of newspaper notices and publication pertaining to this Agreement, and any amendments thereto, including changes in control or transfers of ownership, as such notice or publication is reasonably required by Grantor or applicable law.

3.10 **Tax Liability**

Payment of the Franchise fees under this Agreement shall not exempt Grantee from the payment of any generally applicable license, permit fee or other generally applicable fee, tax or charge on the business, occupation, property or income of Grantee that may be imposed by Grantor.

3.11 **Payment on Termination**

If this Agreement terminates for any reason, the Grantee shall file with the Grantor within ninety (90) calendar days of the date of the termination, a financial statement, certified by an independent certified public accountant, showing the Gross Revenues received by the Grantee since the end of the previous fiscal year. The Grantor reserves the right to satisfy any remaining financial obligations of the Grantee to the Grantor by utilizing the funds available in a performance bond or other security provided by the Grantee.

SECTION 4. ADMINISTRATION AND REGULATION

4.1 **Authority**

Grantor is vested with the power and right to regulate the exercise of the privileges permitted by this Agreement in the public interest, or to delegate that power and right, or any part thereof, to the extent permitted under state and local law, to any agent, in its sole discretion. Grantor has vested the Commission with the administration of this Agreement and Grantee is expected to rely upon, look to, communicate with and comply with the decisions and orders of the Commissions, it agents and employees on all cable matters to which the Grantor has lawfully delegated the exercise of its authority under this Agreement to the Commission during such time that Grantor is a member of the Commission.

4.2 Rates and Charges

All of Grantee's rates and charges related to or regarding Cable Service shall be subject to regulation by Grantor to the full extent authorized by applicable federal, state and local laws.

4.3 Rate Discrimination

All of Grantee's rates and charges shall be published (in the form of a publicly available rate card), and shall be nondiscriminatory as to all Persons and organizations of similar classes, under similar circumstances and conditions. Grantee shall apply its rates in accordance with governing law, without regard to race, color, familial, ethnic or national origin, religion, age, sex, sexual orientation, marital, military status, or physical or mental disability, or geographic location in the Franchise Area to the extent required by applicable law.

4.4 Filing of Rates and Charges

Throughout the term of this Agreement, Grantee shall maintain on file with Grantor a complete schedule of applicable rates and charges for Cable Service provided under this Agreement.

4.5 Time Limits Strictly Construed

Whenever this Agreement sets forth a time for any act to be performed by Grantee, such time shall be deemed to be of the essence, and any failure of Grantee to perform within the allotted time may be considered a material violation of this Agreement and sufficient grounds for Grantor to invoke any relevant provision of this Agreement. However, in the event that Grantee is prevented or delayed in the performance of any of its obligations under this Agreement by reason of a force majeure occurrence, as defined in Section 4.7, Grantee's performance shall be excused during the force majeure occurrence and Grantee thereafter shall, under the circumstances, promptly perform the affected obligations under this Agreement or procure a substitute for performance which is satisfactory to Grantor. Grantee shall not be excused by mere economic hardship or by misfeasance or malfeasance of its directors, officers, employees, or duly authorized agents.

4.6 Mid-Term Performance Evaluation Session

(A) Grantor may hold a single performance evaluation session during the term of this Agreement. Grantor shall conduct such evaluation session.

(B) Evaluation session shall be open to the public and announced at least one week in advance in a newspaper of general circulation in the Franchise Area.

(C) Evaluation session shall deal with the Grantee's performance of the terms and conditions of this Agreement and compliance with state and federal laws and regulations.

(D) As part of the performance evaluation session, Grantee shall submit to the Grantor a plant survey, report, or map, in a format mutually acceptable to Grantor and Grantee, which includes a description of the portions of the Franchise Area that are cabled and have all Cable Services available. Such report shall also include the number of miles and location of overhead and underground cable plant. If the Grantor has reason to believe that a portion or all of the Cable System does not meet the applicable FCC technical standards, the Grantor, at its expense, reserves the right to appoint a qualified independent engineer to evaluate and verify the technical performance of the Cable System.

(E) During the evaluation under this Section, Grantee shall fully cooperate with Grantor and shall provide such information and documents as necessary and reasonable for Grantor to perform the evaluation subject to Section 7.2.

4.7 <u>Force Majeure</u>

For the purposes of interpreting the requirements in this Agreement, Force Majeure shall mean: an event or events reasonably beyond the ability of Grantee to anticipate and control. This includes, but is not limited to, severe weather conditions, strikes, labor disturbances, lockouts, war or act of war (whether an actual declaration of war is made or not), insurrection, riots, acts of public enemy, actions or inactions of any government instrumentality or public utility including condemnation, accidents for which Grantee is not primarily responsible, fire, flood, or other acts of God, or documented work delays caused by waiting for utility providers to service or monitor utility poles to which Grantee's facilities are attached, and documented unavailability of materials and/or qualified labor to perform the work necessary to the extent that such unavailability of materials or labor was reasonably beyond the control of Grantee to foresee or control.

SECTION 5. FINANCIAL AND INSURANCE REQUIREMENTS

5.1 <u>Insurance Requirements</u>

(A) General Requirement. Grantee must have adequate insurance during the entire term of this Agreement to protect against claims for injuries to Persons or damages to property which in any way relate to, arise from, or are connected with this Agreement or involve Grantee, its duly authorized agents, representatives, contractors, subcontractors and their employees.

(B) Initial Insurance Limits. Grantee must keep insurance in effect in accordance with the minimum insurance limits herein set forth by the Grantor. The Grantee shall obtain policies for the following initial minimum insurance limits:

(1) Commercial General Liability: Three million dollar ($3,000,000) combined single limit per occurrence for bodily injury, personal injury, and property damage, and for those policies with aggregate limits, a four million dollar ($4,000,000) aggregate limit; one million dollar ($1,000,000) limit for broadcasters liability.

(2) Automobile Liability: Two million dollar ($2,000,000) combined single limit per accident for bodily injury and property damage; and

(3) Employer's Liability: Two million dollar ($2,000,000) limit.

5.2 <u>Deductibles and Self-Insured Retentions</u>

If Grantee changes its policy to include a self-insured retention, the Grantee shall give notice of such change to the Grantor. Grantor's approval will be given if the self-insured retention is consistent with standard industry practices. Any deductible or self-insured retention of the policies shall not in any way limit Grantee's liability to the Grantor.

(A) Endorsements.

(1) All policies shall contain, or shall be endorsed so that:

(a) The Grantor, its officers, officials, employees, and duly authorized agents are to be covered as, and have the rights of, additional insureds with respect to liability arising out of activities performed by, or on behalf of, Grantee under this Agreement or applicable law, or in the construction, operation or repair, or ownership of its Cable System;

(b) The Grantee's insurance coverage shall be primary insurance with respect to the Grantor, its officers, officials, employees, and duly authorized agents. Any insurance or self-insurance maintained by the Grantor, its officers, officials, employees, and duly authorized agents shall be in excess of the Grantee's insurance and shall not contribute to it;

(c) Grantee's insurance shall apply separately to each insured against whom a claim is made or lawsuit is brought, except with respect to the limits of the insurer's liability; and

(d) The policy shall not be suspended, voided, canceled, or reduced in coverage or in limits, nor shall the intention not to renew be stated by the insurance company except after forty-five (45) days prior written notice, return receipt requested, has been given to the Grantor.

(B) Acceptability of Insurers. The insurance obtained by Grantee shall be placed with insurers with an A.M. Best's rating of no less than "A-".

(C) Verification of Coverage. The Grantee shall furnish the Grantor with certificates of insurance and endorsements or a copy of the page of the policy reflecting blanket additional insured status. The certificates and endorsements for each insurance policy are to be signed by a Person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy are to be on standard forms or such forms as are consistent with standard industry practices, and are to be received and approved by the Grantor prior to the commencement of activities associated with this Agreement. The Grantee hereby warrants that its insurance policies satisfy the requirements of this Agreement and Grantor's ordinances and laws.

5.3 Indemnification

(A) Scope of Indemnity. Grantee shall, at its sole cost and expense, indemnify, hold harmless, and defend the Grantor and its officers, boards, commissions, duly authorized agents, and employees against any and all claims, including, but not limited to, third party claims, suits, causes of action, proceedings, and judgments for damages or equitable relief, to the extent such liability arises out of or through the acts or omissions of the Grantee arising out of the construction, operation or repair of its Cable System regardless of whether the act or omission complained of is authorized, allowed, or prohibited by this Agreement, provided, however, the

Grantee will not be obligated to indemnify Grantor should Grantor intervene in any proceeding regarding the grant of this Agreement pursuant to Section 2.9 of this Agreement; and provided further Grantee will not be obligated to indemnify Grantor for damage or injury resulting from the negligence or willful negligence of Grantor. Without limiting in any way the Grantee's obligation to indemnify the Grantor and its officers, boards, commissions, duly authorized agents, and employees, as set forth above, this indemnity provision also includes damages and liabilities such as:

(1) To persons or property, to the extent such liability arises out of or through the acts or omissions of the Grantee, its contractors, subcontractors, and their officers, employees, or duly authorized agents, or to which the Grantee's negligence or fault shall in any way contribute;

(2) Arising out of any claim for invasion of the right of privacy; for defamation of any Person, firm or corporation; for the violation or infringement of any copyright, trademark, trade name, service mark, or patent; for a failure by the Grantee to secure consents from the owners or authorized distributors of programs to be delivered by the Cable System; or for violation of any other right of any Person, to the extent such liability arises out of or through the acts or omissions of the Grantee, provided, however, that Grantee will not be required to indemnify Grantor for any claims arising out of use of PEG Access Channels or use of PEG funds by Grantor and/or DAP;

(3) Arising out of Grantee's failure to comply with the provisions of any federal, state or local statute, ordinance, rule or regulation applicable to the Grantee with respect to any aspect of its business to which this Agreement applies, to the extent such liability arises out of or through the acts or omissions of the Grantee; and

(4) Arising from any third party suit, action or litigation, whether brought by a competitor to Grantee or by any other Person or entity, to the extent such liability arises out of or through the acts or omissions of the Grantee, whether such Person or entity does or does not have standing to bring such suit, action or litigation if such action (1) challenges the authority of the Grantor to issue this Agreement to Grantee; or (2) alleges that, in issuing this Agreement to Grantee, the Grantor has acted in a disparate or discriminatory manner.

(B) Duty to Give Notice and Tender Defense. The Grantor shall give the Grantee timely written notice of any claim or of the commencement of any action, suit or other proceeding covered by the indemnity obligation in this Section. In the event any such claim arises, the Grantor or any other indemnified party shall tender the defense thereof to the Grantee and the Grantee shall have the obligation and duty to defend, settle or compromise any claims arising thereunder, and the Grantor shall cooperate fully therein. Grantee shall accept or decline the tender within thirty (30) days. Grantee shall reimburse reasonable attorney fees and costs incurred by the Grantor during the thirty (30) day period in which the Grantee accepts or declines tender. In the event that the Grantee declines defense of the claim in violation of Section 5.3, the Grantor may defend such claim and seek recovery from Grantee its expenses for reasonable attorney fees and disbursements, including expert witness fees, incurred by Grantor for defense and in seeking such recovery.

5.4 **Performance Bond**

(A) In addition to any other generally applicable bond or security fund obligations required by local ordinance, upon the Effective Date of this Agreement, the Grantee shall furnish proof of the posting of a faithful performance bond running to the Grantors collectively with good and sufficient surety approved by the Commission, in the penal sum of Three Hundred Fifty Thousand Dollars ($350,000.00), conditioned that Grantee shall well and truly observe, fulfill and perform each term and condition of this Agreement. Such bond shall be issued by a bonding company licensed to do business in the state of Oregon and shall be maintained by the Grantee throughout the term of this Agreement.

(B) The bond shall contain a provision that it shall not be terminated or otherwise allowed to expire without thirty (30) days written notice first being given to the Grantor. The bond shall be subject to the approval of the Grantor or the Commission as to its adequacy under the requirements of this Section. During the term of the bond, Grantee shall file with the Grantor a duplicate copy of the bond along with written evidence of payment of the required premiums unless the bond otherwise provides that the bond shall not expire or be terminated without thirty (30) days prior written notice to the Grantor.

SECTION 6. CUSTOMER SERVICE

6.1 Customer service obligations are set forth herein as Attachment A and are hereby incorporated by this reference.

6.2 Emergency Broadcast. Grantee will comply with the Emergency Alert System (EAS) as provided under applicable FCC Regulations, the Oregon State EAS Plan and the local EAS plan, if any, that applies to Grantor.

6.3 ADA Accessible Equipment. Grantee shall comply with the Americans with Disabilities Act ("ADA"), any amendments thereto and any other applicable federal, state or local laws or regulations. Grantee shall notify Subscribers of the availability of ADA equipment and services and shall provide such equipment and services in accordance with federal and state laws.

6.4 Discriminatory Practices. Grantee shall not deny Cable Service, or otherwise discriminate against Subscribers, Programmers or any other Persons on the basis of race, color, religion, age, sex, national origin, sexual orientation or physical or mental disability. Grantee shall comply at all times with all other applicable federal, state or local laws, rules and regulations relating to non-discrimination.

SECTION 7. REPORTS AND RECORDS

7.1 **Open Records**

(A) Grantee shall manage all of its operations in accordance with a policy of keeping its documents and Records open and accessible to Grantor. Grantor shall have access to, and the right to inspect, any books and Records of Grantee, its Parent

Corporations and Affiliated entities that are reasonably related and necessary to the administration or enforcement of the terms of this Agreement. Grantee shall not deny Grantor access to any of Grantee's Records on the basis that Grantee's Records are under the control of any Parent Corporation, Affiliated entity or a third party. Grantor may, in writing, request copies of any such Records or books and Grantee shall provide such copies within ten (10) business days of the transmittal of such request. If the requested books and Records are too voluminous, or for security reasons cannot be copied or removed, then Grantee may request, in writing within ten (10) business days, that Grantor inspect them at one of Grantee's local area offices. If any books or Records of Grantee are not kept in a local office, Grantee will provide or otherwise make such documents available for inspection and review at the local office within ten (10) business days.

(B) Grantee shall provide Grantor with a sample Cable Services bill, on a monthly basis. Cable Services bills associated with complimentary services accounts provided under this Agreement shall satisfy this requirement.

(C) Grantee shall at all times maintain and allow Grantor, with reasonable notice, access and the right to review a full and complete set of plans, Records and "as built" maps showing the approximate location of all Cable System equipment installed or in use in the Franchise Area, exclusive of electronics, Subscriber drops and equipment provided in Subscribers' homes. These maps shall be maintained in a standard format and medium consistent with Grantee's regular business practices. Grantor's review of the plans, Records, and as-built maps, provided for herein, shall occur at the Grantee's local office.

(D) The ability for Grantor to obtain Records and information from Grantee is critical to the administration of this Agreement and the requirements herein. Therefore, Grantee's failure to comply with the requirements of this Section may result in fines as prescribed in Section 15.

7.2 **Confidentiality**

Subject to the limits of the Oregon Public Records Law, Grantor agrees to treat as confidential any books and Records that constitute proprietary or confidential information under federal or state law, to the extent Grantee makes Grantor aware of such confidentiality. Grantee shall be responsible for clearly and conspicuously stamping the word "Confidential" on each page that contains confidential or proprietary information, and shall provide a brief written explanation as to why such information is confidential under state or federal law. If Grantor believes it must release any such confidential books and Records in the course of enforcing this Agreement, or for any other reason, it shall advise Grantee in advance so that Grantee may take appropriate steps to protect its interests. If Grantor receives a demand from any Person for disclosure of any information designated by Grantee as confidential, Grantor shall, so far as consistent with applicable law, advise Grantee and provide Grantee with a copy of any written request by the party demanding access to such information within a reasonable time. Until otherwise ordered by a court or agency of competent jurisdiction, Grantor agrees that, to the extent permitted by state and federal law, it shall deny access to any of Grantee's books and Records marked confidential as set forth above to any Person.

7.3 **Copies of Federal and State Documents**

Upon thirty (30) days of a request by Grantor, Grantee shall submit to Grantor a list, or copies of actual documents, of all pleadings, applications, notifications, communications and documents of any kind, submitted by Grantee or its Parent Corporations or Affiliates to any federal, state or local courts; regulatory agencies or other government bodies if such documents specifically relate to the operations of Grantee's Cable System within the Franchise Area. To the extent allowed by law, any such confidential material determined to be exempt from public disclosure shall be retained in confidence by Grantor and its duly authorized agents and shall not be made available for public inspection.

7.4 **Complaint File and Reports**

(A) Grantee shall keep an accurate and comprehensive Record of any and all complaints regarding the operation and performance of the Cable System within the Franchise Area, in a manner consistent with the privacy rights of Subscribers, and Grantee's actions in response to those complaints. Those Records shall be retained for three (3) years, and remain available to Grantor during Normal Business Hours.

(1) Grantee shall provide an executive summary report Quarterly (within forty-five (45) days of the end of the preceding Quarter) to Grantor, which shall include the following information:

(a) Nature and type of customer complaints.

(b) Number, duration, general location and customer impact of unplanned service interruptions.

(c) Any significant construction activities which affect the quality or otherwise enhance the service of the Cable System.

(d) Subscriber reports indicating the total number of Subscribers by service categories in such format as Grantee commonly prepares such reports, including Total Subscribers, Equivalent Billing Unit ("EBU") Reporting Number, Basic Tier Subscribers, and "Pay" Subscribers.

(e) Total disconnections and major reasons for those disconnections.

(f) Total number of service calls.

(g) Video programming changes (additions/deletions).

(h) A Telephone Response activity report provided in a manner consistent with the requirements of Attachment A showing Total Calls Answered within thirty (30) seconds, Average Hold Time, Percent of Calls Answered within thirty (30) Seconds, Percent of Abandoned Calls, and the Percent of Lines Available. A sample of an acceptable report pursuant to this Section is attached to this Agreement as Attachment B.

(i) Such other information about special problems, activities, or achievements as Grantee may want to provide Grantor.

(2) Grantor shall also have the right to request such information as appropriate and reasonable to determine whether or not Grantee is in compliance with applicable Customer Service Standards, as referenced in Attachment A. Such information shall be provided to Grantor in such format as Grantee customarily prepares reports. Grantee shall fully cooperate with Grantor and shall provide such information and documents as necessary and reasonable for Grantor to evaluate compliance.

7.5 **Inspection of Facilities**

Grantor may inspect upon request any of Grantee's facilities and equipment to confirm performance under this Agreement at any time upon at least twenty-four (24) hours' notice, or, in case of an emergency, upon demand without prior notice.

7.6 **False Statements**

Any intentional false or misleading statement or representation in any report required by this Agreement may be deemed a violation of this Agreement and may subject Grantee to all remedies, legal or equitable, which are available to Grantor under this Agreement or otherwise. Grantor shall have the right to determine the severity of the violation based upon the report in question.

7.7 **Report Expense**

All reports and Records required under this or any other Section shall be furnished, without cost, to Grantor.

SECTION 8. PROGRAMMING

8.1 **Broad Programming Categories**

(A) Grantee's Cable System shall provide the widest diversity of Programming possible. Grantee shall provide at least the following broad categories of Programming to the extent such categories are reasonably available:

(1) Educational Programming.

(2) Sports.

(3) General entertainment (including movies).

(4) Children/family-oriented.

(5) Arts, culture and performing arts.

(6) Foreign language.

(7) Science/documentary.

(8) Weather information.

(9) Programming addressed to diverse ethnic and minority interests in the Franchise Area; and

(10) National, state, and local government affairs.

(B) Grantee shall not delete any broad category of Programming within its control.

8.2 **Parental Control Devices**

Upon request by any Subscriber, Grantee shall make available a parental control or lockout device, traps, or filters to enable a Subscriber to control access to both the audio and video portions of any or all Channels. Grantee shall inform its Subscribers of the availability of the lockout device at the time of their initial subscription and periodically thereafter.

8.3 **Leased Access Channels**

Grantee shall meet the requirements for Leased Access Channels imposed by federal law.

8.4 **Continuity of Service**

(A) It shall be the right of all Subscribers to continue to receive Cable Service from Grantee insofar as their financial and other obligations to Grantee are satisfied. Subject to the force majeure provisions of Section 4.7 of this Agreement, Grantee shall use its best efforts to ensure that all Subscribers receive continuous, uninterrupted Cable Service regardless of the circumstances.

(B) In the event of a change in ownership, or in the event a new Cable Operator acquires the Cable System in accordance with this Agreement, Grantee shall cooperate with Grantor and such new Cable Operator in maintaining continuity of service to all Subscribers.

SECTION 9. PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS

9.1 **Management and Control of Access Channels**

(A) Grantor may authorize a DAP to control and manage the use of any and all Access Centers provided by Grantee under this Agreement, including, without limitation, the operation of Access Channels. To the extent of such designation by Grantor, as between the DAP and Grantee, the DAP(s) shall have sole and exclusive responsibility for operating and managing such Access Centers. The Grantor or its designee may formulate rules for the operation of the Public Access Channel, consistent with this Agreement; such rules shall not be designed to control the content of Public Access Programming. Nothing herein shall prohibit the Grantor from authorizing itself to be a DAP.

(B) Grantee shall cooperate with Grantor and DAPs in the use of the Cable System and Access Centers for the provision of PEG Access.

(C) Except as provided in this Agreement, the Grantor shall allocate Access resources to DAPs only.

(D) The Grantee shall, at Grantee's expense, provide connection, including all necessary terminal equipment for the transmission, of all PEG Access Channels required in this Agreement to and from the Grantee's Headend and the DAP headend as of the Effective Date of this Agreement. If the Grantor designates new Access providers, or if a current DAP moves its site or location at its own instigation after the Effective Date of this Agreement, the direct costs to construct the Cable System from the new site or location to the nearest distribution point of the Cable System shall not be the responsibility of Grantee and may be funded from the PEG capital fee under Section 13 of this Agreement.

9.2 **Channel Capacity and Use**

(A) Upon the Effective Date of this Agreement, all Access Channels provided for herein are administered by the Grantor or a DAP.

(1) Existing Access Channels: Grantee shall provide five (5) standard definition ("SD") Downstream Channels for distribution on Grantee's Basic Service level of Public, Educational, and Governmental Access Programming. The Channel designations of those Channels as of the Effective Date of this Agreement shall be: Channel 11; Channel 21; Channel 23; Channel 28; and Channel 30. Grantee does not relinquish its ownership of or ultimate right of control over Cable System capacity or a Channel position by initially designating it for PEG Access use.

(2) Throughout the term of this Agreement, Grantee shall, at Grantee's expense and free of charge to the Grantor and any DAP, provide and maintain existing Fiber Upstream links to enable character generated, pre-recorded, and live cablecasts between the Origination Points provided pursuant in Section 9.8 and any DAP headend facility to enable the distribution of PEG Access Programming to Subscribers on PEG Channels.

9.3 **Standard Definition Channels**

Grantee shall carry all components of the SD Access Channel Signals provided by the DAP including, but not limited to, closed captioning, stereo audio and other elements associated with the Programming. The DAP shall be responsible for providing the Access Channel Signal in a SD format to the Demarcation point at the designated point of origination for the Access Channel. Grantee shall be responsible for costs associated with the transport and distribution of the SD Access Channel on its side of the Demarcation point.

9.4 **High Definition Channels**

(A) Within one hundred twenty (120) days of the Effective Date of this Agreement, or a later date mutually agreed upon by Grantee and Grantor, following written notice by the Grantor, Grantee shall activate one (1) of the existing Access Channels, as designated by the Grantor, in high definition ("HD") format and simultaneously carry that SD Access Channel Signal provided under Section 9.2.

(B) Grantee shall carry all components of the HD format Access Channel Signals provided by the DAP including, but not limited to, closed captioning, stereo audio and other elements associated with the Programming. The DAP shall be responsible for the costs associated with providing the Access Channel Signal in an HD format to the Demarcation point at the designated point of origination for the Access Channel. Grantee shall be responsible for actual costs associated with the transport and distribution of the HD Access Channel on its side of the Demarcation point, except that Grantee may offset its actual costs in an amount not to exceed Eight Thousand Dollars ($8,000) per PEG Channel against the PEG capital fee in Section 13 for the one-time purchase of network equipment associated with the provision of HD PEG Programming.

(C) Additional HD PEG Access Channels.

(1) No earlier than twelve (12) months after the Effective Date of this Agreement, and upon one hundred sixty (160) days written notice from Grantor, which notice may be sent prior to the twelfth (12^{th}) month after the Effective Date, Grantee shall provide and activate one (1) more of the existing SD Access Channels provided under Section 9.2, as designated by written notice of the Grantor, in an HD format, and simultaneously carry the SD Signal of that Channel for a total of two (2) HD format Access Channels.

(2) No earlier than four (4) years following the Effective Date of this Agreement, and upon one hundred sixty (160) days written notice from Grantor, Grantee shall provide and activate one (1) more of the existing SD Access Channels provided under Section 9.2, as designated by written notice of the Grantor, in an HD format, and simultaneously carry the SD Signal of that Channel for a total of three (3) HD format Access Channels (subject to the conditions in Section 9.4.C (3) below). The maximum number of PEG Access Channels to be provided under this Agreement after year four (4), whether in HD or SD, shall be eight (8).

(3) Activation of the third (3rd) HD Access Channel under Section 9.4.C (2) above shall be subject to the following conditions:

(a) At least eighty percent (80%) of the basic tier Channels (or its equivalent tier), excluding the Access Channels, are provided in HD;

(b) On the SD Access Channel identified by the Grantor to be simulcast as the third (3^{rd}) HD Channel, at least eighty percent (80%) of the Programming carried on that Access Channel is produced in HD format for the three (3) month time period prior to the notice provided under this Section; and

(c) On the SD Access Channel identified by the Grantor to be simulcast as the third (3^{rd}) HD Channel, not more than fifty percent (50%) of the Access Programming content carried on that SD Access Channels is character-generated only Programming for the three (3) month time period prior to the notice provided under this Section.

(D) Grantee shall have no more than one hundred twenty (120) days from the date of the written notices in this Section 9.4 to fully activate the Access Channels from the

DAP to Subscribers in the HD format. Grantee shall verify HD Channel Signal delivery to Subscribers with the DAP. Upon request, Grantor shall provide documentation to confirm that the criteria set forth above has been met.

(E) At such time as all other Basic Service Channels (or its equivalent tier) excluding Access Channels, are carried in HD, all remaining SD Access Channel Signals will also be carried by Grantee in HD, at which time the SD Channels will be discontinued and the maximum number of PEG Access Channels shall be five (5) HD Channels.

(F) The Grantor acknowledges that receipt of HD format Access Channels may require Subscribers to buy or lease special equipment, or pay additional HD charges applicable to HD services. Grantee shall not be obligated to provide complimentary HD receiving equipment to institutional or courtesy accounts as a result of the obligations set forth in this Section 9.4.

9.5 **Quality of SD and HD Access Channel Signals**.

The Grantee shall not unreasonably discriminate against SD and HD Access Channels with respect to accessibility, functionality and to the application of any applicable FCC Rules and Regulations, including without limitation Subpart K Channel Signal standards. With respect to Signal quality, Grantee shall not be required to carry an Access Channel in a higher quality format than that of the Channel Signal delivered to Grantee, but Grantee shall distribute the Access Channel Signal without degradation. There shall be no restriction on Grantee's technology used to deploy and deliver SD or HD Signals so long as the requirements of this Agreement are otherwise met. Grantee may implement HD carriage of PEG Access Channels in any manner (including selection of compression, utilization of IP, and other processing characteristics) that produces a Signal quality for the Subscriber that is reasonably comparable and functionally equivalent to similar commercial HD Channels carried on the Cable System. In the event the Grantor believes and provides evidence that Grantee fails to meet this standard, Grantor will notify Grantee of such concern, and Grantee will respond to any complaints in a timely manner. Disputes under this Section 9.5 shall be addressed through the Franchise enforcement procedures set forth in Section 15. Upon reasonable written request by a DAP, Grantee shall verify that Access Channel Signal delivery to Subscribers is consistent with the requirements of this Section 9.5.

9.6 **Relocation of Access Channels**

Grantee shall make reasonable efforts to coordinate the cablecasting of all Programming on the Cable System on the same Channel designations as such Programming is currently cablecast in the Franchise Area as set forth in Section 9.2 herein. If at any time during the duration of this Agreement, Grantee reassigns the location of an Access Channel on its Cable System, Grantee shall provide at least sixty (60) days advance notice to the Grantor and the DAP (s). Grantee shall make "best efforts" in the event of Channel relocation, to place the Access Channels within reasonable proximity from the Channel location for network affiliate. Grantee shall also make "best efforts" to assign the HD PEG Access Channel a number near the other HD local broadcast stations if such Channel positions are not already taken, or if that is not possible, near HD news/public affairs Programming Channels if such Channel positions are not already taken, or if not possible, as reasonably close as available Channel numbering will allow. Grantee shall ensure that Subscribers are notified of such reassignment in accordance with the notice requirements in Attachment A that include its customer messaging function, for at least fifteen (15) days prior to the change and fifteen (15) days after the change. In conjunction with any reassignment of any SD Access Channels, Grantee shall provide either (1) a reimbursement up to Five Thousand Dollars ($5,000) to the Grantors collectively or the Commission for actual costs associated with the change, or (2) Nine Thousand Dollars ($9,000) of in-kind airtime on advertiser supported Channels to the Grantors collectively or the Commission for the purpose of airing multiple thirty (30) second public service announcements produced by DAP. The Grantor shall cooperate with the DAP and Grantee for such airing. All reimbursement, whether in cash or in-kind, shall be paid or provided on a per-event basis, regardless of the number of Channels affected by the change.

9.7 **Access Interconnections**

The Grantee shall, at Grantee's expense and free of charge to the Grantor and any DAP, maintain for the duration of this Agreement any and all existing Interconnections of Access Channels with contiguous Cable Systems owned by the Grantee as of the Effective Date of this Agreement, in order to receive from and deliver to the DAP's headend, via the Grantee's Headend, all the Access Channels required by this Agreement and originating by the Grantor or its designee.

9.8 **Origination Points**

(A) The existing Origination Points listed in Attachment C I will remain available, at the expense of Grantee, for use by the DAP to enable the distribution of PEG Access Programming on the Cable System during the term of this Agreement.

(B) The additional permanent Origination Points required by the Grantor or DAP listed in Attachment C II shall be provided by Grantee within ninety (90) days following receipt of written notice from Grantor, at the expense of Grantee.

(C) The additional Origination Points that may be required by the Grantor or a DAP at the future public sites listed on Attachment CIII, shall be provided by Grantee within ninety (90) days following receipt of written notice from Grantor, at the expense of Grantee, up to a distance of one hundred twenty-five (125) feet from Grantee's existing outside plant facilities provided that Grantee can reach the Demarcation point using (1) existing conduit, (2) conduit provided by Grantor, or (3) an aerial connection. Grantor shall be responsible for any additional actual connection costs beyond the one hundred twenty-five (125) feet. Such additional costs may be paid for from the PEG capital fee in Section 13.

(D) Additional permanent Origination Points requested by the Grantor or DAP in writing shall be provided by Grantee as soon as reasonably possible at the expense of Grantor or DAP. Such costs may be paid for from the PEG capital fee in Section 13.

(E) There shall be no charge to the Grantor, to the Commission, to any other DAP, or to any other Person for the use of the Upstream Capacity from the program origination locations described in this Section, so long as the transmissions are designed for re-routing and distribution on any PEG Channel(s).

9.9 **Changes in Technology**

In the event Grantee makes any change in the Cable System and related equipment and facilities or in Grantee's Signal delivery technology, which directly or indirectly affects the Signal quality or transmission of Access services or Programming or requires Grantor to obtain new equipment in order to be compatible with such change for purposes of transport of and delivery of any Access Channels (SD or HD), Grantee shall, at its own expense and free of charge to Grantor and DAP, take necessary technical steps or provide necessary technical assistance, including the purchase or acquisition and maintenance of all necessary equipment, and training of Grantor's Access personnel to ensure that the capabilities of Access services are not diminished or adversely affected by such change.

9.10 **Technical Quality**

The Grantee shall maintain all Upstream and Downstream Access services, Programming and Interconnections at the same level of technical quality and reliability required by this Agreement and all other applicable laws, rules and regulations. Grantee shall provide routine maintenance and shall repair and replace all transmission equipment, including transmitters/receivers, associated cable and equipment in use upon the Effective Date of this Agreement, necessary to carry a quality Signal to and from Demarcation at Grantor's or DAP's facilities.

9.11 **PEG Access Program Listings On Cable System's Digital Channel Guide**

To the extent the configuration of the Cable System allows for detailed program listings to be included on the digital Channel guide, Grantee will allow Grantor or the DAP to make arrangements with the Channel guide vendor to make detailed Programming listings available on the guide. The Grantor or DAP will be solely responsible for providing the program information to the vendor in the format and timing required by the vendor and shall bear all costs of this guide service. The cost for this service may be funded by the PEG capital fee as set forth in Section 13.

SECTION 10. GENERAL STREET USE AND CONSTRUCTION

10.1 **Construction**

(A) Subject to applicable laws, regulations and ordinances of Grantor and the provisions of this Agreement, Grantee may perform all construction and maintenance necessary for the operation of its Cable System. All construction and maintenance of any and all facilities within the Public Rights of Way incident to Grantee's Cable System shall, regardless of who performs the construction, be and remain Grantee's responsibility. Except as permitted in Section 10.1(D), prior to performing any construction or maintenance in the Public Rights of Way, Grantee shall apply for, and obtain, all necessary permits. Grantee shall pay, prior to issuance, all applicable fees of the requisite construction permits and give appropriate notices to any other Cable Operators, licensees or permittees of the Grantor, or other units of government owning or maintaining pipes, wires, conduits or other facilities which may be affected by the proposed excavation.

(B) All construction shall be performed in compliance with this Agreement, all applicable Grantor ordinances and codes, and any permit issued by the Grantor. When obtaining a permit, Grantee shall inquire in writing about other construction currently in progress, planned or proposed, in order to investigate thoroughly all opportunities for joint trenching or boring. Whenever it is possible and reasonably practicable to joint trench or share bores or cuts, Grantee shall work with other providers, Cable Operators, and permittees so as to reduce as far as possible the number of Street cuts.

(C) Grantor shall have the right to inspect all construction or installation work performed within the Franchise Area as it shall find necessary to ensure compliance with the terms of this Agreement, other pertinent provisions of law, and any permit issued by the Grantor.

(D) In the event that emergency repairs are necessary, Grantee shall immediately notify the City of the need for such repairs. Grantee may initiate such emergency repairs, and shall apply for appropriate permits as soon as reasonably practicable but in no event later than forty-eight (48) hours after discovery of the emergency. Grantee shall comply with all applicable City regulations relating to such excavations or construction, including the payment of permit or license fees.

(E) Whenever possible, to avoid additional wear and tear on the Public Rights of Way, Grantee shall utilize existing poles and conduit. Grantee may charge for use of the conduit consistent with all applicable laws. Notwithstanding the foregoing, this Agreement does not grant, give or convey to the Grantee the right or privilege to install its facilities in any manner on specific utility poles or equipment of the Grantor or any other Person without their permission. Copies of agreements for use of poles, conduits or other utility facilities must be provided upon request by the Grantor upon demonstrated need and subject to protecting Grantee's proprietary information from disclosure to third parties.

10.2 <u>Location of Facilities</u>

Grantee shall comply with the requirements of Oregon Utility Notification Center ORS 757.542-757.562 and ORS 757.993 (2009) (penalty for violation of utility excavation notification provisions), and applicable rules and regulations promulgated thereunder in OAR Chapter 952 relating to Oregon Utility Notification Center.

10.3 <u>Relocation</u>

(A) Relocation for Grantor.

(1) Grantor shall have the right to require Grantee to change the location of any part of Grantee's Cable System within the Public Rights of Way when the public convenience requires such change, and the expense thereof shall be paid by Grantee (however payment by Grantee shall in no way limit Grantee's right, if any, to seek reimbursement for such costs from any third party). Should Grantee fail to remove or relocate any such facilities by the date established by Grantor, Grantor may effect such removal or relocation, and the expense thereof shall be paid by Grantee, including all costs and expenses incurred by Grantor due to Grantee's delay. If Grantor requires Grantee to relocate its facilities located within the Public Rights of Way, Grantor shall make a reasonable effort to provide Grantee with an alternate location within the Public Rights of Way.

(2) If public funds, which Grantor received, are available to any other user of the Public Rights of Way (except for Grantor) for the purpose of defraying the cost of relocating or removing facilities and Grantee relocates or removes its facilities as required by Grantor under this Agreement, the Grantor shall notify Grantee of such funding and will consider reimbursing Grantee for such costs to the extent permitted or allowed by the funding

source or applicable state law and to the extent other users of the Public Rights of Way are provided such funds.

(B) Relocation by Grantor. The Grantor may remove, replace, modify or disconnect Grantee's facilities and equipment located in the Public Right of Way or on any other property of the Grantor in the case of fire, disaster, or other emergency, provided that Grantor shall be responsible for any damage to Grantee's facilities as a result of Grantor's negligence or gross negligence in performing work under this Section. The Grantor shall attempt to provide notice to Grantee prior to taking such action and shall, when feasible, provide Grantee with the opportunity to perform such action.

(C) Movement for Other Franchise Holders. If any removal, replacement, modification or disconnection is required to accommodate the construction, operation or repair of the facilities or equipment of another Franchise holder, Grantee shall, after at least thirty (30) days' advance written notice, take action to effect the necessary changes requested by the responsible entity. Grantee and such other Franchise holder shall determine how costs associated with the removal or relocation required herein shall be allocated.

(D) Movement for Other Permittees. At the request of any Person holding a valid permit and upon reasonable advance notice, Grantee shall temporarily raise, lower or remove its wires as necessary to permit the moving of a building, vehicle, equipment or other item. The permit holder must pay the expense of such temporary changes, and Grantee may require the permit holder to pay the full amount in advance.

10.4 **Restoration of Public Rights of Way**

Whenever Grantee excavates, damages, or disturbs the surface of any Public Right of Way for any purpose, including but not limited to relocation or undergrounding as required in this Section, Grantee shall promptly restore the Public Right of Way to the satisfaction of the Grantor in accordance with applicable Grantor ordinances and codes and any permit issued by the Grantor. In the event there is no applicable ordinance, code or permit, Grantee shall promptly restore the Public Right of Way to at least its prior condition. Unless otherwise provided in any permit issued by Grantor, when any opening is made by Grantee in a hard surface pavement in any Public Right of Way, Grantee shall refill within twenty-four (24) hours. Grantee shall be responsible for restoration and maintenance of the Public Right of Way and its surface affected by the excavation in accordance with applicable regulations of the Grantor. Grantor may, after providing notice to Grantee, or without notice where the disturbance or damage may create a risk to public health or safety, refill or repave any opening made by Grantee in the Public Rights of Way, and the expense thereof shall be paid by Grantee. Grantor may, after providing notice to Grantee, remove and/or repair any work done by Grantee that, in the determination of Grantor, is inadequate. The cost thereof, including the costs of inspection and supervision, shall be paid by Grantee. Within thirty (30) days of receipt of an itemized list of those costs, including the costs of labor, materials and equipment, the Grantee shall pay the Grantor. All excavations made by Grantee in the Public Rights of Way shall be properly safeguarded for the prevention of accidents. All of Grantee's work under this Agreement, and this Section in particular, shall be done in strict compliance with all rules, regulations and ordinances of Grantor.

10.5 Maintenance and Workmanship

(A) Grantee's Cable System shall be constructed and maintained in such manner as not to interfere with sewers, water pipes, or any other property of Grantor, or with any other pipes, wires, conduits, pedestals, structures, equipment or other facilities that may have been laid in the Public Rights of Way by, or under, Grantor's authority.

(B) Grantee shall maintain and use any equipment necessary to control and carry Grantee's cable television Signals so as to prevent injury to Grantor's property or property belonging to any Person. Grantee, at its own expense, shall repair, change and improve its facilities to keep them in good repair, and safe and presentable condition.

10.6 Reservation of Grantor Public Rights of Way

Nothing in this Agreement shall prevent Grantor or utilities owned, maintained or operated by public entities other than Grantor, from constructing sewers; grading, paving, repairing or altering any Public Right of Way; repairing or removing water mains; or constructing or establishing any other public work or improvement. All such work shall be done, insofar as practicable, so as not to obstruct, injure or prevent the use and operation of Grantee's Cable System. However, if any of Grantee's Cable System interferes with the construction or repair of any Public Right of Way or public improvement, including construction, repair or removal of a sewer or water main or any other public work, Grantee's Cable System shall be removed or replaced in the manner Grantor shall direct, and Grantor shall in no event be liable for any damage to any portion of Grantee's Cable System. Any and all such removal or replacement shall be at the expense of Grantee. Should Grantee fail to remove, adjust or relocate its facilities by the date established by Grantor's written notice to Grantee, Grantor may effect such removal, adjustment or relocation, and the expense thereof shall be paid by Grantee, including all reasonable costs and expenses incurred by Grantor due to Grantee's delay.

10.7 Use of Conduits by Grantor

Grantor may install or affix and maintain wires and equipment owned by Grantor for governmental purposes in or upon any and all of Grantee's ducts, conduits or equipment in the Public Rights of Way and other public places without charge to Grantor, to the extent space therein or thereon is reasonably available and feasible without compromising the integrity of the Cable System or facility, and pursuant to all applicable ordinances and codes. For the purposes of this Section 10.7, "governmental purposes" includes, but is not limited to, the use of the structures and installations by Grantor for fire, police, traffic, water, telephone, or signal systems, but not for Cable System purposes or provision of services in competition with Grantee. Grantee shall not deduct the value of such use of its facilities from its Franchise fees payable to Grantor except as otherwise may be authorized by federal law.

10.8 Public Rights of Way Vacation

If any Public Right of Way or portion thereof used by Grantee is vacated by Grantor during the term of this Agreement, unless Grantor specifically reserves to Grantee the right to continue its installation in the vacated Public Right of Way, Grantee shall, without delay or expense to Grantor, remove its facilities from such Public Right of Way, and restore, repair or reconstruct the Public Right of Way where such removal has occurred, and place the Public Right of Way in such condition as may be required by Grantor. In the event of failure, neglect or refusal of Grantee, after thirty (30) days' notice by Grantor, to restore, repair or reconstruct such Public Right of Way, Grantor may do such work or cause it to be done, and the reasonable cost thereof, as found and declared by Grantor, shall be paid by Grantee within thirty (30) days of receipt of an invoice and documentation, and failure to make such payment shall be considered a material violation of this Agreement.

10.9 **Discontinuing Use of Facilities**

Whenever Grantee intends to discontinue using any facility within the Public Rights of Way, Grantee shall submit for Grantor's approval a complete description of the facility and the date on which Grantee intends to discontinue using the facility. Grantee may remove the facility or request that Grantor allow it to remain in place. Notwithstanding Grantee's request that any such facility remain in place, Grantor may require Grantee to remove the facility from the Public Rights of Way or modify the facility to protect the public health, welfare, safety, and convenience, or otherwise serve the public interest. Grantor may require Grantee to perform a combination of modification and removal of the facility. Grantee shall complete such removal or modification in accordance with a reasonable schedule set by Grantor. Until such time as Grantee removes or modifies the facility as directed by Grantor, or until the rights to and responsibility for the facility are accepted by another Person having authority to construct and maintain such facility, Grantee shall be responsible for all necessary repairs and relocations of the facility, as well as maintenance of the Public Rights of Way, in the same manner and degree as if the facility were in active use, and Grantee shall retain all liability for such facility.

10.10 **Hazardous Substances**

(A) Grantee shall comply with all applicable local, state and federal laws, statutes, regulations and orders concerning hazardous substances relating to Grantee's Cable System in the Public Rights of Way.

(B) Grantee shall maintain and inspect its Cable System located in the Public Rights of Way. Upon reasonable notice to Grantee, Grantor may inspect Grantee's facilities in the Public Rights of Way to determine if any release of hazardous substances has occurred, or may occur, from or related to Grantee's Cable System. In removing or modifying Grantee's facilities as provided in this Agreement, Grantee shall also remove all residue of hazardous substances related thereto.

(C) Grantee agrees to forever indemnify the Grantor, its officers, boards, commissions, duly authorized agents, and employees, from and against any claims, costs and expenses of any kind, pursuant to and in accordance with applicable State or federal laws, rules and regulations, for the removal or remediation of any leaks, spills, contamination or residues of hazardous substances attributable to Grantee's Cable System in the Public Rights of Way.

10.11 **Undergrounding of Cable**

(A) Where all utility lines are installed underground at the time of Cable System construction, or when such lines are subsequently placed underground, all Cable System lines or wiring and equipment shall also be placed underground on a nondiscriminatory basis with other utility lines at no additional expense to the Grantor or Subscribers, to the extent permitted by law and applicable safety codes. Cable must be installed underground where: (1) all existing utility lines are placed underground, (2) statute, ordinance, policy, or other regulation of an individual

Grantor or Commission requires utility lines to be placed underground, or (3) all overhead utility lines are placed underground.

(B) Related Cable System equipment such as pedestals must be placed in accordance with applicable code requirements and underground utility rules; provided, however, nothing in this Agreement shall be construed to require Grantee to construct, operate, or maintain underground any ground-mounted appurtenances such as customer taps, line extenders, system passive devices, amplifiers, pedestals, power supplies, or other related equipment. In areas where electric or telephone utility wiring is aerial, the Grantee may install aerial cable, except when a property owner or resident requests underground installation and agrees to bear the reasonable additional cost in excess of aerial installation.

(C) For purposes of this Section 10.11, "utility lines" and "utility wiring" does not include high voltage electric lines.

10.12 **Tree Trimming**

Subject to acquiring prior written permission of the Grantor, including any required permit, the Grantee shall have the authority to trim trees that overhang a Public Right of Way of the Grantor so as to prevent the branches of such trees from coming in contact with its Cable System, in accordance with applicable codes and regulations and current, accepted professional tree trimming practices.

10.13 **Construction, Building and Zoning Codes**

Grantee shall strictly adhere to all applicable construction, building and zoning codes currently or hereafter in effect. Grantee shall arrange its lines, cables and other appurtenances, on both public and private property, in such a manner as to not cause unreasonable interference with the use of said public or private property by any Person. In the event of such interference, Grantor may require the removal or relocation of Grantee's lines, cables, and other appurtenances, at Grantee's cost, from the property in question.

10.14 **Standards**

(A) All work authorized and required hereunder shall be done in a safe, thorough and workmanlike manner. The Grantee must comply with all safety requirements, rules, and practices and employ all necessary devices as required by applicable law during construction, operation and repair of its Cable System. By way of illustration and not limitation, the Grantee must comply with applicable provisions of the National Electrical Code, National Electrical Safety Code and Occupational Safety and Health Administration (OSHA) Standards.

(B) Grantee shall ensure that individual Cable System drops are properly bonded to the electrical power ground at the home at time of installation, and are consistent, in all respects, with applicable provisions of the National Electrical Code and the National Electrical Safety Code.

SECTION 11. SYSTEM DESIGN AND STANDARDS

11.1 Subscriber Network

(A) As of the Effective Date of this Agreement, the Cable System utilizes a Fiber to the node architecture serving no more than fifteen hundred (1,500) Subscribers per node. All active electronics are 750 MHz capable equipment, or equipment of higher bandwidth. Grantee agrees to maintain and improve upon this architecture as demand requires.

(B) Grantee's Subscriber network shall, at all times, meet or exceed the minimum system design and performance specifications required by the FCC.

11.2 Test and Compliance Procedures

(A) Upon request, Grantee shall advise Grantor of schedules and methods for testing the Cable System on a regular basis to determine compliance with the provisions of applicable FCC technical standards. Representatives of Grantor may witness tests, and written test reports may be made available to Grantor upon request.

(B) As required by FCC Rules, Grantee shall conduct proof of performance tests and cumulative leakage index tests designed to demonstrate compliance with FCC requirements. Grantee shall provide Grantor summary written reports of the results of such tests.

11.3 Standby Power

Grantee shall provide standby power generating capacity at the Cable System Headend capable of providing at least twelve (12) hours of emergency operation. Grantee shall maintain standby power system supplies, to the node, rated for at least two (2) hours duration. In addition, throughout the term of this Agreement, Grantee shall have a plan in place, along with all resources necessary for implementing such plan, for dealing with outages of more than two (2) hours.

SECTION 12. INSTITUTIONAL NETWORK SERVICES.

12.1 History

Grantee has constructed and provided managed network services through an institutional network known as the Public Communications Network ("PCN"). The PCN was provided by the Grantee to the Grantor and the Grantor-authorized Users of the PCN, including public agencies/Schools, public universities, Pacific University, and the Virginia Garcia Health Centers, or their successor agencies ("PCN Users"). Grantor and Grantee have agreed to transition the PCN Users to the managed services provided by Grantee's Metro-E network ("Managed Services").

12.2 Grantee Responsible for Providing Institutional Network Service

(A) Grantee or an Affiliate shall be fully responsible for and at all times shall operate, repair, maintain, manage and ensure provision of the Managed Services to all eligible PCN Users in accordance with the terms of the Master Services Agreement and all attachments and amendments, including the First Amendment and the Rate Card, copies of which are attached hereto as Attachment D (collectively the "MSA") and the provisions of this Section 12. The parties agree that regardless of whether Grantee or an Affiliate provides the Managed Services, these Managed Services comprise an institutional network required under this Agreement as authorized by Section 611 of the Cable Act, and Grantee is ultimately responsible for the provision, operation and management of the Managed Services pursuant to the MSA. During the term of this Agreement, Grantee shall not terminate nor legally challenge the requirement to provide the Managed Services as provided in the MSA.

(B) Should any designated Affiliate of the Grantee be unable or unwilling to provide the Managed Services described in this Section and the MSA, the parties agree that Grantee is fully and unconditionally responsible for continued provision of the Managed Services, including the assumption of responsibilities of PCN User contracts and the MSA.

12.3 **Master Services Agreement**

Subject to the transition plan set forth in Section 12.4 below, Grantee, or its Affiliate, shall at all times provide the Managed Services to PCN Users in accordance with an executed MSA. Grantee shall not offer, and shall not cause any Affiliate to offer, to any PCN User or eligible PCN User a Managed Services agreement other than the MSA. Where the MSA conflicts with any term or condition of this Agreement, the MSA shall prevail. If Grantor or any PCN User terminates in any manner the Managed Services provided under its MSA prior to the expiration date of this Agreement, such termination shall not affect any other rights or obligations under this Agreement or obligate Grantee to provide any other managed network or institutional network services to Grantor or any PCN User.

12.4 **Transition/Upgrade to Master Services Agreement**

(A) Prior to any transition of a PCN User to services under the MSA, Grantee shall continue providing PCN services to PCN Users as agreed to under its existing Grantor-approved PCN User contract. Grantee of its Affiliate shall transition PCN Users to Managed Services under the MSA within twenty four (24) months from the Effective Date of this Agreement, but shall implement rates consistent with the Rate Card no later than January 1, 2016. This will include an upgrade of current Grantee supplied equipment at PCN User sites at no cost to PCN Users that sign contracts with a term greater than one (1) year.

(B) Grantee shall develop a proposed transition plan that shall be provided to a current PCN User no later than three (3) months prior to the proposed transition date. The PCN User shall have thirty (30) days to review and comment on the proposed plan. Upon receipt of any comments from the PCN User on the proposed transition plan, Grantee shall confer with the PCN User and shall provide a mutually agreed upon transition plan to such User no later than thirty (30) days prior to the transition. If the PCN User does not comment on the proposed transition plan, the date of the transition shall be that set forth in the proposed plan.

(C) For network cutover and transition work that will result in service outages, Grantee shall schedule the work between the hours of 12:00 a.m. and 5:00 a.m., or at another time agreed to in writing by the affected PCN Users. Grantee shall provide shorter windows for those cutover activities that can be performed in less than two

(2) hours. When scheduled work has the potential to use the full five (5) hour window, Grantee will clearly communicate this to affected PCN Users.

12.5 **Breach of the Master Service Agreement**

The parties intend that day-to-day issues regarding the provision of Managed Services shall be addressed and resolved with reference solely to the MSA. If there is a sustained and ongoing material failure by the Grantee, or its Affiliate, to provide the Managed Services pursuant to the terms of the MSA, such failure may be deemed a breach of this Agreement and shall be subject to the fines and procedures set forth in Section 15 of this Agreement. All other breaches of the MSA shall be subject to the remedies set forth in the MSA.

12.6 **Grantor/User Meetings**

Grantee and any Affiliate providing the Managed Services agree to meet at least once annually with the members of the Broadband Users Group ("BUG") or its successor organization, to discuss planned improvements or changes to the Managed Services provided under a MSA , and to hear the comments and concerns of the BUG.

12.7 **Annual Report to Grantor**

Within forty-five (45) days of the end of each calendar year, Grantee shall provide Grantor with a report listing each PCN User site under the MSA, along with that site's address and the level of service provided at that site.

12.8 **Security**

Grantee agrees to abide by all privacy and security requirements in applicable state and federal laws and regulations with respect to Managed Services provided for in this Section 12 comply.

SECTION 13. PEG ACCESS AND PCN GRANT FUND

Grantee shall support the continued viability of Institutional Network and Public, Educational and Government (PEG) Programming, through the following funding:

13.1 **Fund Payments**

During the term of this Agreement, Grantee agrees to collect and pay Grantor Eighty Cents ($0.80) per Subscriber, per month to support the Capital equipment and facility needs of PEG Access and the Grantor institutional network (previously known as the PCN), which funds shall be used in accordance with applicable federal law. Nothing in this Section 13 shall be viewed as a waiver of Grantor's rights to use the funds provided to Grantor in this Section 13.1 for any lawful purpose permitted under applicable federal law. Grantee shall make such payments Quarterly, following the Effective Date of this Agreement, for the preceding quarter ending March 31, June 30, September 30, and December 31. Each payment shall be due and payable no later than forty-five (45) days after the end of each Quarter.

13.2 **Annual Grant Award Report**

(A) Grantor shall provide a report annually to the Grantee on the use of the funds provided by to the Grantor under this Section. Reports shall be submitted to the Grantee within one hundred twenty (120) days of the close of Grantor's fiscal year.

(B) Grantee may reasonably review Records of the Grantor (and of the DAP) related to the use of funds in such reports to confirm that funds are used in accordance with federal law and this Agreement. Grantee will notify the Grantor in writing at least thirty (30) days prior to the date of such a review and identify the relevant financial Records of Grantor (and the DAP) that Grantee wants to review. The time period of the review shall be for the fund payments received no more than thirty-six (36) months prior to the date the Grantee notifies Grantor of its intent to perform a review. The Grantor shall make such Records available for inspection and copying during normal business hours at the office of the Grantor (or the DAP).

13.3 **PEG Access Not Franchise Fees**

(A) Grantee agrees that financial support for the PEG Access and PCN Grant Fund, and all other Grantee PEG and PCN obligations set forth in this Agreement shall in no way modify or otherwise affect Grantee's obligations to pay Franchise fees to Grantor. Grantee agrees that although the sum of Franchise fee and the payments set forth in this Section may total more than five percent (5%) of Grantee's Gross Revenues in any twelve (12) month period, the additional commitments shall not be offset or otherwise credited in any way against any past, present or future Franchise fee payments under this Agreement so long as such fees are used in a manner consistent with this Agreement and federal law.

(B) Grantor recognizes Franchise fees and certain additional commitments are external costs as defined under the FCC rate regulations in force at the time of adoption of this Agreement and Grantee has the right and ability to include Franchise fees and certain other commitments on the bills of cable Subscribers (47 C.F.R. Section 76.922).

SECTION 14. SERVICE EXTENSION, CONSTRUCTION, AND INTERCONNECTION

14.1 **Equivalent Service**

It is Grantee's general policy that all residential dwelling units in the Franchise Area have equivalent availability to Cable Service from Grantee's Cable System under nondiscriminatory rates and reasonable terms and conditions, subject to federal law. Grantee shall not arbitrarily refuse to provide Cable Service to any Person within its Franchise Area.

14.2 **Service Availability**

(A) Service to New Subdivisions. Grantee shall provide Cable Service in new subdivisions upon the earlier of either of the following occurrences: 1) Within sixty (60) days of the time when foundations have been installed in fifty (50) percent of the dwelling units in any individual subdivision; or 2) Within thirty (30) days following a request from a resident. For purposes of this Section, a receipt shall be deemed to be made on the signing of a service agreement, receipt of funds by the Grantee, receipt of a written request by Grantee, or receipt by Grantee of a verified verbal request.

(B) Grantee shall provide such service:

(1) With no line extension charge except as specifically authorized elsewhere in this Agreement.

(2) At a nondiscriminatory installation charge for a standard installation, consisting of a drop no longer than one hundred twenty five (125) feet, with additional charges for non-standard installations computed according to a nondiscriminatory methodology for such installations, adopted by Grantee and provided in writing to Grantor; and at nondiscriminatory monthly rates for residential Subscribers, subject to federal law.

(C) Required Extensions of Service. Whenever the Grantee shall receive a request for service from at least ten (10) residences within 1320 cable-bearing strand feet (one-quarter cable mile) of its trunk or distribution cable, it shall extend its Cable System to such potential Subscribers at no cost to said Subscribers for Cable System extension, other than the usual connection fees for all Subscribers within ninety (90) days, provided that such extension is technically feasible, and if it will not adversely affect the operation of the Cable System.

(D) Customer Charges for Extensions of Service. No potential Subscriber shall be refused service arbitrarily. However, for unusual circumstances, such as a potential Subscriber's request to locate a cable drop underground, existence of more than one hundred twenty-five (125) feet of distance from distribution cable to connection of service to such Subscriber, or a density of less than ten (10) residences per one thousand three hundred twenty (1,320) cable-bearing strand feet of trunk or distribution cable, service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor, and easements. For the purpose of determining the amount of capital contribution in aid of construction to be borne by the Grantee and potential Subscribers in the area in which service may be expanded, the Grantee will contribute an amount equal to the construction and other costs per mile, multiplied by a fraction whose numerator equals the actual number of residences per one thousand three hundred twenty (1320) cable-bearing strand feet of its trunks or distribution cable and whose denominator equals ten (10) residences. Subscribers who request service hereunder will bear the remainder of the construction and other costs on a pro rata basis. The Grantee may require that the payment of the capital contribution in aid of construction borne by such potential Subscriber be paid in advance.

(E) Enforcement. Failure to meet these standards shall subject Grantee to enforcement actions on a per Subscriber basis in Section 15.

14.3 **<u>Connection of Public Facilities</u>**

As a voluntary initiative, Grantee shall, at no cost to Grantor, provide one (1) outlet of basic and digital economy tier (or its functional equivalent) Programming to public use buildings, as designated by the Grantor, and all libraries and Schools. Those portions of buildings housing prison/jail populations shall be excluded from this requirement. In addition, Grantee agrees to provide, at no cost, one (1) outlet of basic and digital economy tier (or its functional equivalent) Programming to all such future public buildings if the drop line to such building does not exceed one hundred and twenty five (125) cable feet or if Grantor or other agency agrees to pay the incremental cost of such drop line in excess of one hundred twenty five (125) feet, including the cost of such excess labor and materials. Outlets of basic and digital economy tier (or its functional equivalent) Programming provided in accordance with this subsection may be used to distribute Cable Service throughout such buildings, provided such distribution can be accomplished without causing Cable System disruption and general technical standards are maintained. Cost for any additional outlets shall be the responsibility of Grantor.

SECTION 15. FRANCHISE VIOLATIONS; REVOCATION OF FRANCHISE

15.1 Procedure for Remedying Franchise Violations

(A) If Grantor believes that Grantee has failed to perform any obligation under this Agreement or has failed to perform in a timely manner, Grantor shall notify Grantee in writing, stating with reasonable specificity the nature of the alleged violation.

(B) The Grantor must provide written notice of a violation. Upon receipt of notice, the Grantee will have a period of thirty (30) days to cure the violation or thirty (30) days to present to the Grantor a reasonable remedial plan. The Grantor shall, with Grantee's consent, decide whether to accept, reject, or modify the remedial plan presented by the Grantee. Fines shall be assessed only in the event that either a cure has not occurred within thirty (30) days or the Grantor rejects the remedial plan. The procedures provided in Section 15 shall be utilized to impose any fines. The date of violation will be the date of the event and not the date Grantee receives notice of the violation provided, however, that if Grantor has actual knowledge of the violation and fails to give the Grantee the notice called for herein, then the date of the violation shall be no earlier than ten (10) business days before the Grantor gives Grantee the notice of the violation. Grantee shall have thirty (30) calendar days from the date of receipt of such notice to:

(1) Respond to Grantor, contesting Grantor's assertion that a violation has occurred, and requesting a hearing in accordance with subsection (E) below, or;

(2) Cure the violation, or;

(3) Notify Grantor that Grantee cannot cure the violation within the thirty (30) days, and notify the Grantor in writing of what steps the Grantee shall take to cure the violation, including the Grantee's projected completion date for such cure. In such case, Grantor shall set a hearing date within thirty (30) days of receipt of such response in accordance with subsection (C) below.

(C) In the event that the Grantee notifies the Grantor that it cannot cure the violation within the thirty (30) day cure period, Grantor shall, within thirty (30) days of Grantor's receipt of such notice, set a hearing. At the hearing, Grantor shall review and determine whether the Grantee has taken reasonable steps to cure the violation and whether the Grantee's proposed plan and completion date for cure are reasonable. In the event such plan and completion date are determined by mutual consent to be reasonable, the same may be approved by the Grantor, who may waive all or part of the fines for such extended cure period in accordance with the criteria set forth in subsection (G) below.

(D) In the event that the Grantee fails to cure the violation within the thirty (30) day basic cure period, or within an extended cure period approved by the Grantor pursuant to subsection (C), the Grantor shall set a hearing to determine what fines, if any, shall be applied.

(E) In the event that the Grantee contests the Grantor's assertion that a violation has occurred, and requests a hearing in accordance with subsection (B)(1) above, the Grantor shall set a hearing within sixty (60) days of the Grantor's receipt of the hearing request to determine whether the violation has occurred, and if a violation is found, what fines shall be applied.

(F) In the case of any hearing pursuant to this Section, Grantor shall notify Grantee of the hearing in writing and at the hearing, Grantee shall be provided an opportunity to be heard, examine Grantor's witnesses, and to present evidence in its defense. The Grantor may also hear any other Person interested in the subject, and may provide additional hearing procedures as Grantor deems appropriate.

(G) The fines set forth in Section 15.2 of this Agreement may be reduced at the discretion of the Grantor, taking into consideration the nature, circumstances, extent and gravity of the violation as reflected by one or more of the following factors:

(1) Whether the violation was unintentional;

(2) The nature of the harm which resulted;

(3) Whether there is a history of prior violations of the same or other requirements;

(4) Whether there is a history of overall compliance, and/or;

(5) Whether the violation was voluntarily disclosed, admitted or cured.

(H) If, after the hearing, Grantor determines that a violation exists, Grantor may use one or more of the following remedies:

(1) Order Grantee to correct or remedy the violation within a reasonable time frame as Grantor shall determine;

(2) Establish the amount of fine set forth in Section 15.2, taking into consideration the criteria provided for in subsection (G) of this Section as appropriate in Grantor's discretion;

(3) Revoke this Agreement, and/or;

(4) Pursue any other legal or equitable remedy available under this Agreement or any applicable law.

(I) Fines shall not be imposed in an amount in excess of seventy-five thousand dollars ($75,000) for the Grantors collectively within any twelve (12) month consecutive period.

(J) The determination as to whether a violation of this Agreement has occurred shall be within the sole discretion of the Grantor or its designee, provided that any such final determination shall be subject to review by a court of competent jurisdiction under applicable law.

15.2 **Fines**

(A) Failure to comply with provisions of this Agreement may result in injury to Grantor. Grantor and Grantee recognize it will be difficult to accurately estimate the extent of such injury. Therefore, the financial penalty provisions of this Agreement are intended as a reasonable forecast of compensation to the Grantors collectively for the harm caused by violation of this Agreement, including but not limited to administrative expense, legal fees, publication of notices, and holding of a hearing or hearings as provided herein.

(1) For violating aggregate performance telephone answering standards for a Quarterly measurement period:

(a) $10,000 for the first such violation;

(b) $20,000 for the second such violation, unless the violation has been cured;

(c) $30,000 for any and all subsequent violations, unless the violation has been cured;

A cure is defined as meeting the Subscriber telephone answering standards for two (2) consecutive Quarterly measurement periods;

(2) For violation of applicable Subscriber service standards where violations are not measured in terms of aggregate performance standards: $250 per violation, per day;

(3) For all other violations of this Agreement, except as otherwise provided herein, (for example, but not limited to, Record submissions under Section 7): $250/day for each violation for each day the violation continues.

(B) The fines set forth in Section 15.2(A) may be reduced at the sole discretion of the Grantor, taking into consideration the nature, circumstances, extent and gravity of violation as reflected by one or more of the following factors:

(a) whether the violation was unintentional;

(b) the nature of the harm which resulted;

(c) whether there is a history of prior violations of the same or other requirements;

(d) whether there is a history of overall compliance, and/or;

(e) whether the violation was voluntarily disclosed, admitted or cured.

(C) Collection of Fines. The collection of fines by the Grantor shall in no respect affect:

(1) Compensation owed to Subscribers; or

(2) The Grantee's obligation to comply with all of the provisions of this Agreement or applicable law; or

(3) Other remedies available to the Grantors provided, however, that collection of fines shall be the exclusive remedy for the Grantors for the particular incident or for the particular time period for which it is imposed other than reasonable attorney fees and costs, if applicable. If the violation continues beyond the particular time period, Grantor shall have the right to pursue other remedies under this Agreement.

15.3 **Revocation**

(A) Should Grantor seek to revoke the Franchise after following the procedures set forth in Section 15.1, Grantor shall give written notice to Grantee of its intent. The notice shall set forth the exact nature of the noncompliance. Grantee shall have ninety (90) days from such notice to object in writing and to state its reasons for such objection. In the event Grantor has not received a satisfactory response from Grantee, it may then seek termination of the Franchise at a public hearing. Grantor shall cause to be served upon Grantee, at least thirty (30) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to revoke the Franchise.

(B) At the designated hearing, Grantee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce relevant evidence, to require the production of evidence, to compel the relevant testimony of the officials, agents, employees or consultants of Grantor, to compel the testimony of other persons as permitted by law, and to question and/or cross examine witnesses. A complete verbatim record and transcript shall be made of such hearing.

(C) Following the public hearing, Grantee shall be provided up to thirty (30) days to submit its proposed findings and conclusions in writing and thereafter Grantor shall determine (i) whether an event of default has occurred; (ii) whether such event of default is excusable; and (iii) whether such event of default has been cured or will be cured by Grantee. Grantor shall also determine whether to revoke the Franchise based on the information presented, or, where applicable, grant additional time to Grantee to effect any cure. If Grantor determines that the Franchise shall be revoked, Grantor shall promptly provide Grantee with a written decision setting forth its reasoning. Grantee may appeal such determination of Grantor to an appropriate court, which shall have the power to review the decision of Grantor. Grantee shall be entitled to such relief as the court finds appropriate. Such appeal must be taken within sixty (60) days of Grantee's receipt of the determination of the Grantor.

(D) Grantor may, at its sole discretion, take any lawful action which it deems appropriate to enforce Grantor's rights under the Agreement in lieu of revocation of the Franchise.

15.4 **Relationship of Remedies**

(A) Remedies are Non-exclusive. The remedies provided for in this Agreement are cumulative and not exclusive; the exercise of one remedy shall not prevent the exercise of another remedy, or the exercise of any rights of the Grantor at law or equity, provided that the cumulative remedies may not be disproportionate to the magnitude and severity for the breach for which they are imposed except as otherwise provided in Section 15.2. By way of example and not limitation, the collection of fines by Grantor shall in no respect affect:

(1) Refunds or credits owed to Subscribers; or

(2) Grantee's obligation to comply with the provisions of this Agreement or applicable law.

(B) No Election of Remedies. Without limitation, the withdrawal of amounts from the Grantee's performance bond, or the recovery of amounts under the insurance, indemnity or penalty provisions of this Agreement shall not be construed as any of the following: an election of remedies; a limit on the liability of Grantee under the Agreement for fines or otherwise, except as provided in Section 15.2; or an excuse of faithful performance by Grantee.

15.5 **Removal**

(A) In the event of termination, expiration or revocation of this Agreement, Grantor may order the removal of the above-ground Cable System facilities and such underground facilities as required by Grantor in order to achieve reasonable engineering or Public Rights of Way use purposes, from the Franchise Area at Grantee's sole expense within a reasonable period of time as determined by Grantor. In removing its plant, structures and equipment, Grantee shall refill, at its own expense, any excavation that is made by it and shall leave all Public Rights of Way, public places and private property in as good a condition as that prevailing prior to Grantee's removal of its equipment.

(B) If Grantee fails to complete any required removal to the satisfaction of Grantor, Grantor may cause the work to be done and Grantee shall reimburse Grantor for the reasonable costs incurred within thirty (30) days after receipt of an itemized list of the costs and Grantor may recover the costs through the Performance Bond provided by Grantee.

15.6 **Receivership and Foreclosure** Grantor and Grantee acknowledge that the following paragraphs may not be applicable or are subject to the jurisdiction of the bankruptcy court.

(A) At the option of Grantor, subject to applicable law, this Agreement may be revoked one-hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of Grantee whether in a receivership, reorganization, bankruptcy or other action or proceeding unless:

(1) The receivership or trusteeship is vacated within one hundred twenty (120) days of appointment, or;

(2) The receiver(s) or trustee(s) have, within one hundred twenty (120) days after their election or appointment, fully complied with all the terms and provisions of this Agreement and have remedied all violations under the Agreement. Additionally, the receiver(s) or trustee(s) shall have executed an agreement duly approved by the court having jurisdiction, by which the

receiver(s) or trustee(s) assume and agree to be bound by each and every term and provision of this Agreement.

(B) If there is a foreclosure or other involuntary sale of the whole or any part of the plant, property and equipment of Grantee, Grantor may serve notice of revocation on Grantee and to the purchaser at the sale, and the rights and privileges of Grantee under this Agreement shall be revoked thirty (30) days after service of such notice, unless:

(1) Grantor has approved the transfer of this Agreement, in accordance with the procedures set forth in this Agreement and as provided by law; and

(2) The purchaser has agreed with Grantor to assume and be bound by all of the terms and conditions of this Agreement.

15.7 **No Recourse Against Grantor**

Grantee shall not have any monetary recourse against Grantor or its officials, boards, commissions, agents or employees for any loss, costs, expenses or damages arising out of any provision or requirement of this Agreement or the enforcement thereof, in accordance with the provisions of applicable federal, state and local law. The rights of the Grantor under this Agreement are in addition to, and shall not be read to limit, any rights or immunities the Grantor may enjoy under federal, state or local law. However, under federal law, Grantee does have the right to seek injunctive and declaratory relief.

15.8 **Nonenforcement By Grantor**

Grantee is not relieved of its obligation to comply with any of the provisions of this Agreement by reason of any failure of Grantor to enforce prompt compliance. Grantor's forbearance or failure to enforce any provision of this Agreement shall not serve as a basis to stop any subsequent enforcement. The failure of the Grantor on one or more occasions to exercise a right or to require compliance or performance under this Agreement or any applicable law shall not be deemed to constitute a waiver of such right or a waiver of compliance or performance, unless such right has been specifically waived in writing. Any waiver of a violation is not a waiver of any other violation, whether similar or different from that waived.

SECTION 16. ABANDONMENT

16.1 **Effect of Abandonment**

If the Grantee abandons its System during the Franchise term, or fails to operate its Cable System in accordance with its duty to provide continuous service, the Grantor, at its option, may operate the Cable System; designate another entity to operate the Cable System temporarily until the Grantee restores service under conditions acceptable to the Grantor or until this Agreement is revoked and a new grantee is selected by the Grantor; or obtain an injunction requiring the Grantee to continue operations. If the Grantor is required to operate or designate another entity to operate the Cable System, the Grantee shall reimburse the Grantor or its designee for all reasonable costs, expenses and damages incurred.

16.2 **What Constitutes Abandonment**

(A) The Grantor shall be entitled to exercise its options and obtain any required injunctive relief if:

(1) The Grantee fails to provide Cable Service in accordance with this Agreement to the Franchise Area for ninety-six (96) consecutive hours, unless the Grantor authorizes a longer interruption of service, except if such failure to provide service is due to a force majeure occurrence, as described in Section 4.7; or

(2) The Grantee, for any period, willfully and without cause refuses to provide Cable Service in accordance with this Agreement.

SECTION 17. FRANCHISE RENEWAL AND TRANSFER

17.1 **Renewal**

(A) The Grantor and Grantee agree that any proceedings undertaken by the Grantor that relate to the renewal of Grantee's Agreement shall be governed by and comply with the provisions of the Cable Act (47 USC § 546), unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of federal or state law.

(B) In addition to the procedures set forth in the Cable Act, the Grantor agrees to notify Grantee of the completion of its assessments regarding the identification of future cable-related community needs and interests, as well as the past performance of Grantee under the then current Franchise term. Notwithstanding anything to the contrary set forth herein, Grantee and Grantor agree that at any time during the term of the then current Agreement, while affording the public adequate notice and opportunity for comment, the Grantor and Grantee may agree to undertake and finalize negotiations regarding renewal of the then current Agreement and the Grantor may grant a renewal thereof. Grantee and Grantor consider the terms set forth in this Section to be consistent with the express provisions of the Cable Act.

17.2 **Transfer of Ownership or Control**

(A) The Cable System and this Agreement shall not be sold, assigned, transferred, leased, or disposed of, either in whole or in part, either by involuntary sale or by voluntary sale, merger, consolidation, nor shall title thereto, either legal or equitable, or any right, interest, or property therein pass to or vest in any Person or entity, without the prior written consent of the Grantor, which consent shall not be unreasonably withheld.

(B) The Grantee shall promptly notify the Grantor of any actual or proposed change in, or transfer of, or acquisition by any other party of control of the Grantee. The word "control" as used herein is not limited to majority stockholders but includes actual working control in whatever manner exercised. A rebuttable presumption that a transfer of control has occurred shall arise on the acquisition or accumulation by any Person or group of Persons of ten percent (10%) of the shares or the general partnership interest in the Grantee, except that this sentence shall not apply in the case of a transfer to any Person or group already owning at least a ten percent

(10%) interest of the shares or the general partnership interest in the Grantee. Every change, transfer or acquisition of control of the Grantee shall make this Agreement subject to revocation unless and until the Grantor shall have consented thereto.

(C) The parties to the sale or transfer shall make a written request to the Grantor for its approval of a sale or transfer and furnish all information required by law and the Grantor.

(D) The Grantor shall render a final written decision on the request within one hundred twenty (120) days of the request, provided it has received all requested information. Subject to the foregoing, if the Grantor fails to render a final decision on the request within one hundred twenty (120) days, such request shall be deemed granted unless the requesting party and the Grantor agree to an extension of time.

(E) Within thirty (30) days of any transfer or sale, if approved or deemed granted by the Grantor, Grantee shall file with the Grantor a copy of the deed, agreement, lease or other written instrument evidencing such sale or transfer of ownership or control, certified and sworn to as correct by Grantee and the transferee.

(F) In reviewing a request for sale or transfer, the Grantor may inquire into the legal, technical and financial qualifications of the prospective controlling party or transferee, and Grantee shall assist the Grantor in so inquiring. The Grantor may condition said sale or transfer upon such terms and conditions as it deems reasonably appropriate, provided, however, any such terms and conditions so attached shall be related to the legal, technical, and financial qualifications of the prospective controlling party or transferee and to the resolution of outstanding and unresolved issues of noncompliance with the terms and conditions of this Agreement by Grantee.

(G) The consent or approval of the Grantor to any transfer by the Grantee shall not constitute a waiver or release of any rights of the Grantor, and any transfer shall, by its terms, be expressly subordinate to the terms and conditions of this Agreement.

(H) Notwithstanding anything to the contrary in this Section, the prior approval of the Grantor shall not be required for any sale, assignment or transfer of the Agreement or Cable System for cable television system usage to an entity controlling, controlled by or under the same common control as Grantee, provided that the proposed assignee or transferee must show financial responsibility as may be determined necessary by the Grantor and must agree in writing to comply with all provisions of the Agreement. No consent shall be required for a transfer in trust, by mortgage, by other hypothecation, by assignment of any rights, title, interest of Grantee in the Franchise or Cable System in order to secure indebtedness.

SECTION 18. SEVERABILITY

If any Section, subsection, paragraph, term, or provision of this Agreement or any ordinance, law, or document incorporated herein by reference is held by a court of competent jurisdiction to be invalid, unconstitutional, or unenforceable, such holding shall be confined in its operation to the Section, subsection, paragraph, term, or provision directly involved in the controversy in which such holding shall have been rendered, and shall not in any way affect the validity of any other Section, subsection, paragraph, term, or provision hereof. Under such a circumstance the Grantee shall, upon the Grantor's request, meet and confer with the Grantor to consider amendments to this Agreement. The purpose of the amendments shall be to place the parties, as nearly as possible, in the position that they were in prior to such determination, consistent with applicable law. In the event the parties are unable to agree to a modification of this Agreement within sixty (60) days, either party may (1) seek appropriate legal remedies to amend this Agreement, or (2) shorten this Agreement to thirty-six (36) months, at which point either party may invoke the renewal procedures under 47 U.S.C. § 546. Each party agrees to participate in up to sixteen (16) hours of negotiation during the sixty (60) day period.

SECTION 19. MISCELLANEOUS PROVISIONS

19.1 Preferential or Discriminatory Practices Prohibited

Grantee shall not discriminate in hiring, employment or promotion on the basis of race, color, creed, ethnic or national origin, religion, age, sex, sexual orientation, marital status, or physical or mental disability. Throughout the term of this Agreement, Grantee shall fully comply with all equal employment or nondiscrimination provisions and requirements of federal, state and local law and, in particular, FCC rules and regulations relating thereto.

19.2 Dispute Resolution

(A) The Grantor and Grantee agree that should a dispute arise between the parties concerning any aspect of this Agreement which is not resolved by mutual agreement of the parties, and unless either party believes in good faith that injunctive relief is warranted, the dispute will be submitted to mediated negotiation prior to any party commencing litigation. In such event, the Grantor and Grantee agree to participate in good faith in a non-binding mediation process. The mediator shall be selected by mutual agreement of the parties. In the absence of such mutual agreement, each party shall select a temporary mediator, and those mediators shall jointly select a permanent mediator.

(B) If the parties are unable to successfully conclude the mediation within forty-five (45) days from the date of the selection of the mediator, either party may terminate further mediation by sending written notice to the other. After written notice has been received by the other party, either party may pursue whatever legal remedies exist. All costs associated with mediation shall be borne, equally and separately, by the parties.

19.3 Notices

(A) Throughout the term of this Agreement, Grantee shall maintain and file with Grantor a designated legal or local address for the service of notices by mail. A copy of all notices from Grantor to Grantee shall be sent, postage prepaid, to such address and such notices shall be effective upon the date of mailing. At the Effective Date of this Agreement, such addresses shall be:

Comcast of Oregon, II, Inc.
Attn: Government Affairs
9605 SW Nimbus Ave
Beaverton, OR 97008

with copy to:

Attn : West Division/Government Affairs
15815 25th Ave West
Lynnwood, WA 98087

(B) All notices to be sent by Grantee to Grantor under this Agreement shall be sent, postage prepaid, and such notices shall be effective upon the date of mailing. At the Effective Date of this Agreement, such address shall be:

Metropolitan Area Communications Commission
15201 NW Greenbrier Parkway, C-1
Beaverton, OR 97006

19.4 **Binding Effect**

This Agreement shall be binding upon the parties hereto, their permitted successors and assigns.

19.5 **Authority to Amend**

This Agreement may be amended at any time by written agreement between the parties.

19.6 **Governing Law**

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

19.7 **Guarantee**

The performance of the Grantee shall be guaranteed in all respects by TCI West, LLC. A signed guarantee, in a form acceptable to the Grantor, shall be filed with the Grantor prior to the Effective Date hereof.

19.8 **Captions**

The captions and headings of this Agreement are for convenience and reference purposes only and shall not affect in any way the meaning or interpretation of any provisions of this Agreement.

19.9 **Entire Agreement**

This Agreement, together with all appendices and attachments, contains the entire agreement between the parties, supersedes all prior agreements or proposals except as specifically set forth herein, and cannot be changed orally but only by an instrument in writing executed by the parties.

19.10 **Construction of Agreement**

The provisions of this Agreement shall be liberally construed to promote the public interest.

Agreed to this ______day of __________________, 2015

COMCAST OF OREGON II, INC.

By: ______________________________

____
Division President

METROPOLITAN AREA
COMMUNICATIONS COMMISSION

By: ______________________________
Bruce Crest
Administrator

Attachment A
CUSTOMER SERVICE

These standards shall apply to Grantee to the extent it is providing Cable Services over the Cable System in the Franchise Area. This Attachment A sets forth the minimum customer service standards that the Grantee must satisfy.

1. **Definitions**

(A) Normal Business Hours mean those hours during which most similar businesses in the Franchise Area are open to serve customers. In all cases, "Normal Business Hours" must include some evening hours at least one night per week and/or some weekend hours.

(B) Normal Operating Conditions: Those service conditions that are within the control of the Grantee, as defined under 47 C.F.R. § 76.309(c)(4)(ii). Those conditions which are not within the control of the Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System.

(C) Respond: The start of Grantee's investigation of a Service Interruption by receiving a Subscriber call, and opening a trouble ticket, and begin working, if required.

(D) Service Call: The action taken by Grantee to correct a Service Interruption the effect of which is limited to an individual Subscriber.

(E) Service Interruption. The loss of picture or sound on one or more cable Channels.

(F) Significant Outage: A significant outage of the Cable Service shall mean any Service Interruption lasting at least four (4) continuous hours that affects at least ten percent (10%) of the Subscribers in the Service Area.

(G) Standard Installation: Installations where the Subscriber is within one hundred twenty five (125) feet of trunk or feeder lines.

2. **Telephone Availability**

(A) Grantee shall maintain a toll-free number to receive all calls and inquiries from Subscribers in the Franchise Area and/or residents regarding Cable Service. Grantee representatives trained and qualified to answer questions related to Cable Service in the Service Area must be available to receive reports of Service Interruptions twenty-four (24) hours a day, seven (7) days a week, and such representatives shall be available to receive all other inquiries at least forty-five (45) hours per week including at least one night per week and/or some weekend hours. Grantee representatives shall identify themselves by name when answering this number.

(B) Grantee's telephone numbers shall be listed, with appropriate description (e.g. administration, customer service, billing, repair, etc.), in the directory published by the local telephone company or companies serving the Service Area, beginning with the next publication cycle after acceptance of this Agreement by Grantee.

(C) Grantee may use an Automated Response Unit ("ARU") or a Voice Response Unit ("VRU") to distribute calls. If a foreign language routing option is provided, and the Subscriber does not enter an option, the menu will default to the first tier menu of English options.

After the first tier menu (not including a foreign language rollout) has run through three times, if Subscribers do not select any option, the ARU or VRU will forward the call to a queue for a live representative. Grantee may reasonably substitute this requirement with another method of handling calls from Subscribers who do not have touch-tone telephones.

(D) Under Normal Operating Conditions, calls received by the Grantee shall be answered within thirty (30) seconds during Normal Business Hours. The Grantee shall meet this standard for ninety percent (90%) of the calls it receives at call centers receiving calls from Franchise Area Subscribers, as measured on a cumulative Quarterly calendar basis. Measurement of this standard shall include all calls received by the Grantee at all call centers receiving calls from Subscribers, whether they are answered by a live representative, by an automated attendant, or abandoned after thirty (30) seconds of call waiting. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds.

(E) Under Normal Operating Conditions, callers to the Grantee shall receive a busy signal no more than three (3%) percent of the time during any calendar Quarter.

(F) Forty-five (45) days following the end of each Quarter, the Grantee shall report to Grantor, the following for all call centers receiving calls from Subscribers except for temporary telephone numbers set up for national promotions:

(1) Percentage of calls answered within thirty (30) seconds as set forth in subsection 2(D) of this Attachment A; and

(2) Percentage of time Subscribers received a busy signal when calling the Grantee's service center as set forth in Section 2(E) of this Attachment A.

(G) At the Grantee's option, the measurements and reporting above may be changed from calendar quarters to billing or accounting quarters one time during the term of this Agreement. Grantee shall notify Grantor of such a change not less than thirty (30) days in advance.

3. **Installations and Service Appointments**

(A) All installations will be in accordance with FCC rules, including but not limited to, appropriate grounding/bonding, connection of equipment to ensure reception of Cable Service, and the provision of required consumer information and literature to adequately inform the Subscriber in the utilization of Grantee-supplied equipment and Cable Service.

(B) The Standard Installation shall be performed within seven (7) business days of Subscriber request. Grantee shall meet this standard for ninety-five percent (95%)

of the Standard Installations it performs, as measured on a calendar quarter basis, excluding those requested by the Subscriber outside of the seven (7) day period.

(C) Grantee shall provide Grantor with a report forty-five (45) days following the end of the Quarter, noting the percentage of Standard Installations completed within the seven (7) day period, excluding those requested outside of the seven (7) day period by the Subscriber. Subject to consumer privacy requirements, underlying activity will be made available to Grantor for review upon reasonable request.

(D) At Grantee's option, the measurements and reporting above may be changed from calendar quarters to billing or accounting quarters one time during the term of this Agreement. Grantee shall notify Grantor of such a change not less than thirty (30) days in advance.

(E) Grantee will offer Subscribers "appointment window" alternatives for arrival to perform installations, Service Calls and other activities of a maximum four (4) hours scheduled time block during appropriate daylight available hours, usually beginning at 8:00 AM unless it is deemed appropriate to begin earlier by location exception. At Grantee's discretion, Grantee may offer Subscribers appointment arrival times other than these four (4) hour time blocks, if agreeable to the Subscriber.

(1) Grantee may not cancel an appointment window with a customer after the close of business on the business day prior to the scheduled appointment.

(2) If Grantee's representative is running late for an appointment with a Subscriber and will not be able to keep the appointment as scheduled, the Subscriber will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the Subscriber.

(F) Grantee must provide for the pick up or drop off of equipment free of charge in one of the following manners: (i) by having a Grantee representative go to the Subscriber's residence, (ii) by using a mailer, or (iii) by establishing a local business office within the Franchise Area. If requested by a mobility-limited Subscriber, the Grantee shall arrange for pickup and/or replacement of converters or other Grantee equipment at Subscriber's address or by a satisfactory equivalent.

4. Service Interruptions and Outages

(A) Grantee shall promptly notify Grantor of any Significant Outage of the Cable Service.

(B) Grantee shall exercise commercially reasonable efforts to limit any Significant Outage for the purpose of maintaining, repairing, or constructing the Cable System. Except in an emergency or other situation necessitating a more expedited or alternative notification procedure, Grantee may schedule a Significant Outage for a period of more than four (4) hours during any twenty-four (24) hour period only after Grantor and each affected Subscriber in the Service Area have been given fifteen (15) days prior notice of the proposed Significant Outage. Notwithstanding the foregoing, Grantee may perform modifications, repairs and upgrades to the System between 12:01 a.m. and 6 a.m., which may interrupt service, and this Section's notice obligations respecting such possible interruptions will be satisfied by notice provided to Subscribers upon installation and in the annual Subscriber notice.

(C) Grantee representatives who are capable of responding to Service Interruptions must be available to Respond twenty-four (24) hours a day, seven (7) days a week.

(D) Under Normal Operating Conditions, Grantee must Respond to a call from a Subscriber regarding a Service Interruption or other service problems within the following time frames:

(1) Within twenty-four (24) hours, including weekends, of receiving Subscriber calls about Service Interruptions in the Service Area.

(2) Grantee must begin actions to correct all other Cable Service problems the next business day after notification by the Subscriber or Grantor of a Cable Service problem.

(E) Under Normal Operating Conditions, Grantee shall complete Service Calls within seventy-two (72) hours of the time Grantee commences to Respond to the Service Interruption, not including weekends and situations where the Subscriber is not reasonably available for a Service Call to correct the Service Interruption within the seventy-two (72) hour period.

(F) Grantee shall meet the standard in Section 4(E) of this Attachment A for ninety percent (90%) of the Service Calls it completes, as measured on a Quarterly basis.

(G) Grantee shall provide Grantor with a report within forty-five (45) days following the end of each calendar quarter, noting the percentage of Service Calls completed within the seventy-two (72) hour period, not including Service Calls where the Subscriber was reasonably unavailable for a Service Call within the seventy-two (72) hour period as set forth in this Section 4.G. Subject to consumer privacy requirements, underlying activity will be made available to Grantor for review upon reasonable request. At the Grantee's option, the above measurements and reporting may be changed from calendar quarters to billing or accounting quarters one time during the term of this Agreement. The Grantee shall notify the Grantor of such a change at least thirty (30) days in advance.

(H) At Grantee's option, the above measurements may be changed for calendar quarters to billing or accounting quarters one time during the term of this Agreement. Grantee shall notify Grantor of such a change at least thirty (30) days in advance.

(I) Under Normal Operating Conditions, Grantee shall provide a credit upon Subscriber request when all Channels received by that Subscriber experience the loss of picture or sound for a period of four (4) consecutive hours or more. The credit shall equal, at a minimum, a proportionate amount of the affected Subscriber(s) current monthly bill. In order to qualify for the credit, the Subscriber must promptly report the problem and allow Grantee to verify the problem if requested by Grantee. If Subscriber availability is required for repair, a credit will not be provided for such time, if any, that the Subscriber is not reasonably available.

(J) Under Normal Operating Conditions, if a Significant Outage affects all Video Programming Cable Services for more than twenty-four (24) consecutive hours, Grantee shall issue a credit upon request to the affected Subscribers in the amount equal to their monthly recurring charges for the proportionate time the Cable Service was out, or a credit upon request to the affected Subscribers in the amount equal to the charge for the basic plus enhanced basic level of service for the proportionate time the Cable Service was out, whichever is technically feasible or, if both are technically feasible, as determined by Grantee, provided such determination is non-discriminatory. Such credit shall be reflected on Subscriber billing statements within the next available billing cycle following the outage.

5. **Subscriber Complaints Referred by Grantor**

Under Normal Operating Conditions, Grantee shall begin investigating Subscriber complaints referred by Grantor within twenty-four (24) hours. Grantee shall notify Grantor of those matters that require more than seventy-two (72) hours to resolve, but Grantee must make all necessary efforts to resolve those complaints within ten (10) business days of the initial complaint. Grantor may require Grantee to provide reasonable documentation to substantiate the request for additional time to resolve the problem. Grantee shall inform Grantor in writing, which may be by an electronic mail message, of how and when referred complaints have been resolved within a reasonable time after resolution. For purposes of this Section 5 of this Attachment A, "resolve" means that Grantee shall perform those actions, which, in the normal course of business, are necessary to investigate the Subscriber's complaint and advise the Subscriber of the results of that investigation.

6. **Billing**

(A) Subscriber bills must be itemized to describe Cable Services purchased by Subscribers and related equipment charges. Bills shall clearly delineate activity during the billing period, including optional charges, rebates, credits, and aggregate late charges. Grantee shall without limitation as to additional line items, be allowed to itemize as separate line items, Franchise fees, taxes, PEG capital fees, and/or other governmental-imposed fees. Grantee shall maintain records of the date and place of mailing of bills.

(B) Every Subscriber with a current account balance sending payment directly to Grantee shall be given at least twenty (20) days from the date statements are mailed to the Subscriber until the payment due date.

(C) A specific due date shall be listed on the bill of every Subscriber whose account is current. Delinquent accounts may receive a bill which lists the due date as upon receipt; however, the current portion of that bill shall not be considered past due except in accordance with Section 6(B) of this Attachment A.

(D) Any Subscriber who, in good faith, disputes all or part of any bill shall have the option of withholding the disputed amount without disconnect or late fee being assessed until the dispute is resolved, provided that:

(1) The Subscriber pays all undisputed charges;

(2) The Subscriber provides notification of the dispute to Grantee within five (5) days prior to the due date; and

(3) The Subscriber cooperates in determining the accuracy and/or appropriateness of the charges in dispute.

(4) It shall be within Grantee's sole discretion to determine when the dispute has been resolved.

(E) Under Normal Operating Conditions, Grantee shall initiate investigation and resolution of all billing complaints received from Subscribers within five (5) business days of receipt of the complaint. Final resolution shall not be unreasonably delayed.

(F) Grantee shall provide a telephone number and address clearly and prominently on the bill for Subscribers to contact Grantee.

(G) Grantee shall forward a copy of any rate-related or customer service-related billing inserts or other mailings related to Cable Service, but not promotional materials, sent to Subscribers, to Grantor.

(H) Grantee shall provide all Subscribers with the option of paying for Cable Service by check or an automatic payment option where the amount of the bill is automatically deducted from a checking account designated by the Subscriber. Grantee may in the future, at its discretion, permit payment by using a major credit card on a preauthorized basis. Based on credit history, at the option of Grantee, the payment alternative may be limited.

7. **Deposits, Refunds and Credits**

(A) Grantee may require refundable deposits from Subscribers 1) with a poor credit or poor payment history, 2) who refuse to provide credit history information to Grantee, or 3) who rent Subscriber equipment from Grantee, so long as such deposits are applied on a non-discriminatory basis. The deposit Grantee may charge Subscribers with poor credit or poor payment history or who refuse to provide credit information may not exceed an amount equal to an average Subscriber's monthly charge multiplied by six (6). The maximum deposit Grantee may charge for Subscriber equipment is the cost of the equipment which Grantee would need to purchase to replace the equipment rented to the Subscriber.

(B) Grantee shall refund or credit the Subscriber for the amount of the deposit collected for equipment, which is unrelated to poor credit or poor payment history, after one (1) year and provided the Subscriber has demonstrated good payment history during this period. Grantee shall pay interest on other deposits if required by law.

(C) Under Normal Operating Conditions, refund checks will be issued within the next available billing cycle following the resolution of the event giving rise to the refund, (e.g. equipment return and final bill payment).

(D) Credits for Cable Service will be issued no later than the Subscriber's next available billing cycle, following the determination that a credit is warranted, and the credit is approved and processed. Such approval and processing shall not be unreasonably delayed.

(E) Bills shall be considered paid when appropriate payment is received by Grantee or its authorized agent. Appropriate time considerations shall be included in Grantee's collection procedures to assure that payments due have been received before late notices or termination notices are sent.

8. **Rates, Fees and Charges**

(A) Grantee shall not, except to the extent expressly permitted by law, impose any fee or charge for Service Calls to a Subscriber's premises to perform any repair or maintenance work related to Grantee equipment necessary to receive Cable Service, except where such problem is caused by a negligent or wrongful act of the Subscriber (including, but not limited to a situation in which the Subscriber reconnects Grantee equipment incorrectly) or by the failure of the Subscriber to take reasonable precautions to protect Grantee's equipment (for example, a dog chew).

(B) Grantee shall provide reasonable notice to Subscribers of the possible assessment of a late fee on bills or by separate notice. Such late fees are subject to ORS 646.649.

(C) All of Grantee's rates and charges shall comply with applicable law. Grantee shall maintain a complete current schedule of rates and charges for Cable Services on file with the Grantor throughout the term of this Agreement.

9. **Disconnection/Denial of Service**

(A) Grantee shall not terminate Cable Service for nonpayment of a delinquent account unless Grantee mails a notice of the delinquency and impending termination prior to the proposed final termination. The notice shall be mailed to the Subscriber to whom the Cable Service is billed. The notice of delinquency and impending termination may be part of a billing statement.

(B) Cable Service terminated in error must be restored without charge within twenty-four (24) hours of notice. If a Subscriber was billed for the period during which Cable Service was terminated in error, a credit shall be issued to the Subscriber if the Cable Service Interruption was reported by the Subscriber.

(C) Nothing in these standards shall limit the right of Grantee to deny Cable Service for non-payment of previously provided Cable Services, refusal to pay any required deposit, theft of Cable Service, damage to Grantee's equipment, abusive and/or threatening behavior toward Grantee's employees or representatives, or refusal to provide credit history information or refusal to allow Grantee to validate the identity, credit history and credit worthiness via an external credit agency.

(D) Charges for Cable Service will be discontinued at the time of the requested termination of service by the Subscriber, except equipment charges may be applied until equipment has been returned. No period of notice prior to requested termination of service can be required of Subscribers by Grantee. No charge shall be imposed upon the Subscriber for or related to total disconnection of Cable Service or for any Cable Service delivered after the effective date of the disconnect request, unless there is a delay in returning Grantee equipment or early termination charges apply pursuant to the Subscriber's service contract. If the

Subscriber fails to specify an effective date for disconnection, the Subscriber shall not be responsible for Cable Services received after the day following the date the disconnect request is received by Grantee. For purposes of this subsection 9(D) of this Attachment A, the term "disconnect" shall include Subscribers who elect to cease receiving Cable Service from Grantee and to receive Cable Service or other multi-channel video service from another Person or entity.

10. **Communications with Subscribers**

(A) All Grantee personnel, contractors and subcontractors contacting Subscribers or potential Subscribers outside the office of Grantee shall wear a clearly visible identification card bearing their name and photograph. Grantee shall make reasonable efforts to account for all identification cards at all times. In addition, all Grantee representatives shall wear appropriate clothing while working at a Subscriber's premises. Every service vehicle of Grantee and its contractors or subcontractors shall be clearly identified as such to the public. Specifically, Grantee vehicles shall have Grantee's logo plainly visible. The vehicles of those contractors and subcontractors working for Grantee shall have the contractor's / subcontractor's name plus markings (such as a magnetic door sign) indicating they are under contract to Grantee.

(B) All contact with a Subscriber or potential Subscriber by a Person representing Grantee shall be conducted in a courteous manner.

(C) Grantee shall send annual notices to all Subscribers informing them that any complaints or inquiries not satisfactorily handled by Grantee may be referred to Grantor. A copy of the annual notice required under this subsection 6.10(C) of this Attachment A will be given to Grantor at least fifteen (15) days prior to distribution to Subscribers.

(D) Grantee shall provide the name, mailing address, and phone number of Grantor on all Cable Service bills in accordance with 47 C.F.R. §76.952(a).

(E) All notices identified in this Section 10 shall be by either:

(1) A separate document included with a billing statement or included on the portion of the monthly bill that is to be retained by the Subscriber; or

(2) A separate electronic notification.

(F) Grantee shall provide reasonable notice to Subscribers and Grantor of any pricing changes or additional changes (excluding sales discounts, new products or offers) and, subject to the forgoing, any changes in Cable Services, including Channel line-ups. Such notice must be given to Subscribers a minimum of thirty (30) days in advance of such changes if within the control of Grantee. If the change is not within Grantee's control, Grantee shall provide an explanation to Grantor of the reason and expected length of delay. Grantee shall provide a copy of the notice to Grantor including how and where the notice was given to Subscribers.

(G) Grantee shall provide information to all Subscribers about each of the following items at the time of installation of Cable Services, annually to all Subscribers, at any time upon request, and, subject to Section 10(E), at least thirty (30) days prior to making significant changes in the information required by this Section if within the control of Grantee:

(1) Products and Cable Service offered;

(2) Prices and options for Cable Services and condition of subscription to Cable Services. Prices shall include those for Cable Service options, equipment rentals, program guides, installation, downgrades, late fees and other fees charged by Grantee related to Cable Service;

(3) Installation and maintenance policies including, when applicable, information regarding the Subscriber's in-home wiring rights during the period Cable Service is being provided;

(4) Channel positions of Cable Services offered on the Cable System;

(5) Complaint procedures, including the name, address, and telephone number of Grantor, but with a notice advising the Subscriber to initially contact Grantee about all complaints and questions;

(6) Procedures for requesting Cable Service credit;

(7) The availability of a parental control device;

(8) Grantee practices and procedures for protecting against invasion of privacy; and

(9) The address and telephone number of Grantee's office to which complaints may be reported.

A copy of notices required in this Section 10(G) will be given to Grantor at least fifteen (15) days prior to distribution to Subscribers if the reason for notice is due to a change that is within the control of Grantee and as soon as possible if not with the control of Grantee.

(H) Notices of changes in rates shall indicate the Cable Service new rates and old rates, if applicable.

(I) Notices of changes of Cable Services and/or Channel locations shall include a description of the new Cable Service, the specific Channel location, and the hours of operation of the Cable Service if the Cable Service is only offered on a part-time basis. In addition, should the Channel location, hours of operation, or existence of other Cable Services be affected by the introduction of a new Cable Service, such information must be included in the notice.

(J) Every notice of termination of Cable Service shall include the following information:

(1) The name and address of the Subscriber whose account is delinquent;

(2) The amount of the delinquency for all services billed;

(3) The date by which payment is required in order to avoid termination of Cable Service; and

(4) The telephone number for Grantee where the Subscriber can receive additional information about their account and discuss the pending termination.

(K) Grantee will comply with privacy rights of Subscribers in accordance with federal, state, and local law, including 47 U.S.C. §551.

Attachment B
COMMISSION FRANCHISE STATISTICS - QUARTERLY REPORT
Due By: April 15, July 15, October 15 and January 15

To: ______________________ From: ______________________

TELEPHONE ANSWERING ACTIVITY	1st Qtr Total	2nd Qtr Total	3rd Qtr Total	4th Qtr Total
TOTAL CALLS ANS'D W/IN 30 SECS.				
AVERAGE HOLD TIME (measured in seconds)				
% ANS W/IN 30 SECS.				
% ABANDONED				
% LINES AVAILABLE				
SUBSCRIBERS				
TOTAL SUBSCRIBERS				
EBU REPORTING #				
HOMES PASSED				
DIGITAL (including EBUs)				
TOTAL TRAD. PAYS				
(HBO, Showtime, The Movie Channel, Cinemax)				
TOTAL DISCO's				
TECH DISCO's				
NON-PAY DISCO's				
CONSTRUCTION ACTIVITY				
NEW HOMES PASSED				
MARKETABLE PASSINGS				
TECHNICAL ACTIVITY				
SERVICE CALLS				
OUTAGES				
TOTAL TIME OUT FOR OUTAGES				
AVERAGE DURATION OF OUTAGES				

Equivalent Billing Unit: Commercial and bulk account revenues that may be adjusted below or above the standard (basic + expanded) cable rate are either counted as greater than a full subscriber or less than a full subscriber by dividing the actual revenues for bulk and commercial accounts by the standard cable rate. Example: If an apartment unit is being charged 50% off the standard rate and there are 500 customers, the EBU number is 250.

Confidential and Proprietary- Comcast
Information is confidential under Oregon Public Records Law as it is a compilation of information which is not patented, which is known only to certain individuals within the company and is used in the business it conducts, having actual or potential commercial value, and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it

COMPLAINT SUMMARY

20 — Q COMMISSION TOTALS

Indicator City	Create Date	Details	Customer Name	Customer Address	Serv Addr Postal Cd	Total
GRAND TOTAL						

All Information is property of Comcast Cable and deemed confidential and proprietary.
Complaints highlighted in yellow indicate non-video issues.

Comcast
TELEPHONE RESPONSE REPORT
Metropolitan Area Communications Commission (MACC) Quarterly Report
Q1 20__

	Calls handled							Abandons						Qty Handled <30							Service Level %					
	Spanish	Retention	Video Repair	Sales	Billing	IVR	Total	Same structure	Retention	Video Repair	Sales	Billing	Total	Spanish	Retention	Video Repair	Sales	Billing	IVR	Total	Spanish	Retention	Video Repair	Sales	Billing	Quarterly % <30
Q_ 20__																										

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Attachment C I
EXISTING LIVE ORIGINATION SITES

Beaverton City Hall
12725 SW Millikan Way
Beaverton, OR 97005

Beaverton Police/Courts Headquarters
4755 SW Griffith Drive
Beaverton, OR 97076

Washington County Public Services Bldg.
155 N. First Ave.
Hillsboro, OR 97123

Hillsboro Civic Center
150 E. Main St.
Hillsboro, OR 97123

Lake Oswego City Hall
380 "A" Ave
Lake Oswego, OR 97034

Tigard City Hall
13125 SW Hall Blvd
Tigard, OR 97223

Forest Grove Auditorium
1915 Main St.
Forest Grove, OR 97116

Pacific University
2043 College Way
Forest Grove, OR 97116

West Linn City Hall
22500 Salamo Road
West Linn, OR 97068

West Linn-Wilsonville School District 3JT
22210 SW Stafford Road
Tualatin, OR 97062

Clackamas Community College
19600 Molalla Avenue
Oregon City, OR 97045

- Attachment C II New Public Meeting Sites -

Cornelius City Hall
1310 N. Adair
Cornelius, OR 97113

PCC Rock Creek – Event Center
17705 NW Springville Rd.
Portland, OR 97229

Tualatin Hospital Auditorium
335 SE 8th Ave.
Hillsboro, OR 97123

Tualatin Valley Water District Board Room
1850 SW 170th Ave.
Beaverton, OR 97006

COH Brookwood Library Auditorium/Community Meeting Room
2850 Brookwood Parkway
Hillsboro, OR 97124

- New Community Event Sites -

COH Civic Center Courtyard
150 E. Main St.
Hillsboro, OR 97123

Attachment C III Future Public Sites –

Beaverton Performing Arts Center

Tualatin Council Building

Attachment D
MASTER SERVICE AGREEMENT AND ATTACHMENTS

Attachment D (I)

COMCAST ENTERPRISE SERVICES MASTER SERVICES AGREEMENT (MSA)

MSA ID#: OR-401816-ETorg	MSA Term:60 months	Account Name: MACC

CUSTOMER INFORMATION	
Primary Contact: Bruce Crest	Primary Contact Address Information
Title:	Address 1:
Phone: (503) 645-7365	Address 2:
Cell:	City:
Fax:	State:
Email: bruce.crest@maccor.org	Zip Code:

This Master Service Agreement ("Agreement") sets forth the terms and conditions under which Comcast Cable Communications Management, LLC and its operating affiliates ("Comcast") will provide communications and other services ("Services") to the above Customer. The Agreement consists of this fully executed Master Service Agreement Cover Page ("Cover Page"), the Enterprise Services General Terms and Conditions ("General Terms and Conditions"), any written amendments to the Agreement executed by both parties ("Amendments"), the Product-Specific Attachment for the applicable Services ("PSA(s)") and each Sales Order accepted hereunder ("Sales Orders"). In the event of any inconsistency among these documents, precedence will be as follows: (1) this Cover Page (2) General Terms and Conditions, (3) PSA(s), , and (4) Sales Orders. This Agreement shall be legally binding when signed by both parties and shall continue in effect until the expiration date of any Service Term specified in a Sales Order referencing the Agreement, unless terminated earlier in accordance with the Agreement.

The Customer referenced above may submit Sales Orders to Comcast during the Term of this Agreement ("MSA Term"). After the expiration of the initial MSA Term, Comcast may continue to accept Sales Orders from Customer under the Agreement, or require the parties to execute a new MSA.

The Agreement shall terminate in accordance with the General Terms and Conditions. The General Terms and Conditions and PSAs are located at http://business.comcast.com/enterprise-terms-of-service/index.aspx(or any successor URL).Use of the Services is also subject to the High-Speed Internet for Business Acceptable Use Policy ("AUP") located at http://business.comcast.com/customer-notifications/acceptable-use-policy (or any successor URL), and the High-Speed Internet for Business Privacy Policy (Privacy Policy") located at http://business.comcast.com/customer-notifications/customer-privacy-statement (or any successor URL). Comcast may update the General Terms and Conditions, PSAs, AUP and Privacy Policy from time to time upon posting to the Comcast website.

Services are only available to commercial customers in wired and serviceable areas in participating Comcast systems (and may not be transferred). Minimum Service Terms are required for most Services and early termination fees may apply. Service Terms are identified in each Sales Orders, and early termination fees are identified in the applicable Product Specific Attachments.

BY SIGNING BELOW, CUSTOMER AGREES TO THE TERMS AND CONDITIONS OF THIS AGREEMENT.

CUSTOMER SIGNATURE (by authorized representative)
Signature:
Name:
Title:
Date:

COMCAST USE ONLY (by authorized representative)	
Signature:	Sales Rep: Eric Torgeson
Name:	Sales Rep Email: eric_torgeson@cable.comcast.com
Title:	Region: Portland
Date:	Division: West

FIRST AMENDMENT
to
Comcast Enterprise Services Master Services Agreement No. OR-401816-ETorg

This First Amendment ("Amendment") is concurrently entered into on ___________ ("Effective Date") in conjunction with the Comcast Enterprise Services Master Services Agreement No. OR-401816-etorg ("Agreement") by and between Comcast Cable Communications Management, LLC ("Comcast") and ____________________ ("Customer"). In the event of an explicit conflict between this Amendment and the Agreement, the terms and conditions of this Amendment shall take precedence in the interpretation of the explicit matter in question. Unless otherwise set forth herein, all capitalized terms set forth herein shall have the same meaning as set forth in the Agreement.

Whereas, the Parties desire to amend the Agreement by this writing to reflect the amended or additional terms and conditions to which the Parties have agreed to;

Now, therefore, in consideration of the mutual covenants, promises, and consideration set forth in this Amendment, the Parties agree as follows:

1. The Definition for "Confidential Information" as set forth in the Enterprise Services General Terms and Conditions ("General Terms and Conditions") is hereby modified to read as follows:

   "Confidential Information: To the extent permitted by law, all information regarding either Party's business which has been marked or is otherwise communicated as being "proprietary" or "confidential" or which reasonably should be known by the receiving party to be proprietary or confidential information. Confidential Information shall not include, even if marked, the Agreement, rate information, discount information, network operation information (about outages and planned maintenance) and invoices, as well as the Parties' communications regarding such items."

2. Article 1 of the General Terms and Conditions is hereby modified to read as follows:

   "Comcast may change or modify its acceptable use policies and privacy policies from time to time ("Revisions") by posting such Revisions to the Comcast Website. The Revisions are effective upon posting to the Website. Customer will receive notice of the Revisions in the next applicable monthly invoice. Customer shall have sixty (60) calendar days from the invoice notice of such Revisions to provide Comcast with written notice that the Revisions adversely affect Customer's use of the Service(s). If after notice Comcast is unable to reasonably mitigate the Revision's impact on such Services, then Customer may terminate the impacted Service(s) without further obligation to Comcast beyond the termination date, including Termination Charges, if any. This shall be Customer's sole and exclusive remedy."

3. Article 9.1 of the General Terms and Conditions is hereby modified to read as follows:

   "Disclosure and Use. To the extent permitted by law, all Confidential Information disclosed by either Party shall be kept by the receiving party in strict confidence and shall not be disclosed to any third party without the disclosing party's express written consent. Notwithstanding the foregoing, such information may be disclosed (i) to the receiving party's employees, affiliates, and agents who have a need to know for the purpose of performing this Agreement, using the Services, rendering the Services, and marketing related products and services (provided that in all cases the receiving party shall take appropriate measures prior to disclosure to its employees, affiliates, and agents to assure against unauthorized use or disclosure); or (ii) as otherwise authorized by this Agreement. Each Party agrees to treat all Confidential Information of the other in the same manner as it treats its own proprietary information, but in no case using a degree of care less than a reasonable degree of care. Notwithstanding anything to the contrary in this Agreement, all of Customer's obligations under this Agreement are subject to the Oregon Public Records Laws, ORS 192.410-192.505. Customer may disclose Confidential Information to the extent disclosure is required by Oregon Public Records Laws, court order or government order."

4. Article 9.3 of the General Terms and Conditions is hereby modified to reads as follows:

   "**Publicity**. The Agreement provides no right to use any Party's or its affiliates' trademarks, service marks, or trade names, or to otherwise refer to the other Party in any marketing, promotional, or advertising materials or activities. Neither Party shall issue any publication or press release relating to the terms and conditions of any contractual relationship between Comcast and Customer, except as permitted by the Agreement or otherwise consented to in writing by the other Party."

5. Article 11.15 is hereby added to the General Terms and Conditions to read as follows:

   "Non-Appropriation of Funds. In the event Customer is unable to secure funds or if funds are not appropriated by the applicable local or state agency for performance during any fiscal period of the term of a Sales Order, such Sales Order may be terminated ("Termination") by the Customer upon written notification to Comcast, to include a copy of the non-appropriation of funds notification, as of the beginning of the fiscal year for which funds are not appropriated or otherwise secured. In the event Customer terminates a Sales Order under this "Non-Appropriation of Funds" provision, neither Party shall have any further obligation to the other Party, including any applicable Termination Charges (whether in the PSA(s) or Sales Orders) excepting Customer shall be responsible for the payment of any and all unpaid charges for Services rendered and for Comcast equipment, and, any and all unpaid construction charges accounted for in the applicable Sales Order, all of which are to be paid by Customer to Company within thirty (30) days from the Company provided invoice date. Customer hereby agrees to notify Comcast in writing as soon as it has knowledge that funds are not available for the continuation of the performance as set forth in the Sales Order, for any fiscal period under the applicable Sales Order Term."

6. The "Service Level Agreement (SLA)" provision set forth in Schedule A-2 of the Comcast Enterprise Services Product-Specific Attachment for Ethernet Transport Services ("ETS PSA") is hereby modified to read as follows:

   "Company's liability for any Service Interruption (individually or collectively, "Liability"), shall be limited to the amounts set forth in the Tables below. For the purposes of calculating credit for any such Liability, the Liability period begins when the Customer reports to Company an interruption in the portion of the Service, provided that the Liability is reported by Customer during the duration of the Liability, and, a trouble ticket is opened; the Liability shall be deemed resolved upon closing of the same trouble ticket or the termination of the interruption, if sooner, less any time Company is awaiting additional information or premises testing from the Customer. In no event shall the total amount of credit issued to Customer's account on a per-month basis exceed 50% of the total monthly recurring charge ("MRC") associated with the impacted portion of the Service set forth in the Sales Order. Service Interruptions will not be aggregated for purposes of determining credit allowances. To qualify, Customer must request the Credit from Comcast within thirty (30) days of the interruption. Customer will not be entitled to any additional credits for Service Interruptions. Comcast shall not be liable for any Liability caused by force majeure events, Planned Service Interruptions or Customer actions, omission or equipment. The foregoing notwithstanding, in accordance with this SLA provision, upon Customer opening a trouble ticket, Comcast will provide credits for any verifiable degradation in Services, (to include non-performance against transit delay, jitter, or packet loss)."

7. Paragraph 2b of the SLA is hereby modified to read as follows:

   "b. Maintenance. Comcast's standard maintenance window for On-Net Services is Sunday to Saturday from 12:00am to 6:00am local time. Scheduled maintenance for On-Net Services is performed during the maintenance window and will be coordinated between Comcast and the Customer. Comcast provides a minimum forty eight (48) hour notice for non-service impacting maintenance. Comcast provides a minimum of seven (7) days' notice for On-Net Service impacting planned maintenance. Emergency maintenance is performed as needed without advance notice to Customer. Maintenance for Off-Net Services shall be performed in accordance with the applicable third party service provider rules. Therefore, Off-Net Service may be performed without advance notice to Customer."

8. The following provision is hereby added and incorporated into the ETS PSA to read as follows:

   "Customer may elect to reduce the contracted bandwidth at up to 5% of the total Service Location(s), or, terminate Services at up to three (3) total Service Location(s), whichever is greater, without incurring any Termination Charges, penalties or price modifications."

9. The rates set forth in Exhibit A to this First Amendment shall apply to this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment as of the day and year written below and the persons signing covenant and warrant that they are duly authorized to sign for and on behalf of the respective Parties. Except as otherwise modified by this Amendment, all other terms and conditions set forth in the Agreement shall remain in full force and effect.

		Comcast Cable Communications Management, LLC	
Signature:		Signature:	
Printed Name:		Printed Name:	
Title:		Title:	
Date:		Date:	

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Ethernet Network Services - Port and Bandwidth						
	1 Year		3 Year		5 Year	
Bandwidth	Monthly	Install	Monthly	Install	Monthly	Install
10Mbps	$300.00	$1,500.00	$300.00	$0.00	$300.00	$0.00
100Mbps	$621.60	$1,500.00	$480.00	$0.00	$360.00	$0.00
200Mbps	$884.10	$1,500.00	$684.00	$0.00	$513.00	$0.00
300Mbps	$957.95	$1,500.00	$741.00	$0.00	$555.75	$0.00
400Mbps	$1,027.95	$1,500.00	$795.00	$0.00	$596.25	$0.00
500Mbps	$1,101.80	$1,500.00	$852.00	$0.00	$639.00	$0.00
600Mbps	$1,171.80	$1,500.00	$906.00	$0.00	$679.50	$0.00
700Mbps	$1,245.65	$1,500.00	$963.00	$0.00	$722.25	$0.00
800Mbps	$1,315.65	$1,500.00	$1,017.00	$0.00	$762.75	$0.00
900Mbps	$1,389.85	$1,500.00	$1,074.00	$0.00	$805.50	$0.00
1Gbps	$1,459.85	$1,500.00	$1,128.00	$0.00	$846.00	$0.00
2Gbps	$2,067.10	$1,500.00	$1,587.00	$0.00	$1,190.25	$0.00
3Gbps	$2,374.05	$1,500.00	$1,824.00	$0.00	$1,368.00	$0.00
4Gbps	$2,755.20	$1,500.00	$2,118.00	$0.00	$1,588.50	$0.00
5Gbps	$3,021.90	$1,500.00	$2,331.00	$0.00	$1,748.25	$0.00
6Gbps	$3,225.95	$1,500.00	$2,481.00	$0.00	$1,860.75	$0.00
7Gbps	$3,749.20	$1,500.00	$2,892.00	$0.00	$2,169.00	$0.00
8Gbps	$4,647.30	$1,500.00	$3,585.00	$0.00	$2,693.75	$0.00
9Gbps	$5,763.45	$1,500.00	$4,446.00	$0.00	$3,334.50	$0.00
10Gbps	$7,935.20	$1,500.00	$6,114.00	$0.00	$4,585.50	$0.00

All Pricing Stated Will Include Premium Service Levels For All Circuits

Ethernet Virtual Private Line - Spoke - Port and Bandwidth						
	1 Year		3 Year		5 Year	
Bandwidth	Monthly	Install	Monthly	Install	Monthly	Install
10Mbps	$300.00	$1,500.00	$300.00	$0.00	$300.00	$0.00
100Mbps	$621.60	$1,500.00	$480.00	$0.00	$360.00	$0.00
200Mbps	$884.10	$1,500.00	$684.00	$0.00	$513.00	$0.00
300Mbps	$957.95	$1,500.00	$741.00	$0.00	$555.75	$0.00
400Mbps	$1,027.95	$1,500.00	$795.00	$0.00	$596.25	$0.00
500Mbps	$1,101.80	$1,500.00	$852.00	$0.00	$639.00	$0.00
600Mbps	$1,171.80	$1,500.00	$906.00	$0.00	$679.50	$0.00
700Mbps	$1,245.65	$1,500.00	$963.00	$0.00	$722.25	$0.00
800Mbps	$1,315.65	$1,500.00	$1,017.00	$0.00	$762.75	$0.00
900Mbps	$1,389.85	$1,500.00	$1,074.00	$0.00	$805.50	$0.00
1Gbps	$1,459.85	$1,500.00	$1,128.00	$0.00	$846.00	$0.00
2Gbps	$2,067.10	$1,500.00	$1,587.00	$0.00	$1,190.25	$0.00
3Gbps	$2,374.05	$1,500.00	$1,824.00	$0.00	$1,368.00	$0.00
4Gbps	$2,755.20	$1,500.00	$2,118.00	$0.00	$1,588.50	$0.00
5Gbps	$3,021.90	$1,500.00	$2,331.00	$0.00	$1,748.25	$0.00
6Gbps	$3,225.95	$1,500.00	$2,481.00	$0.00	$1,860.75	$0.00
7Gbps	$3,749.20	$1,500.00	$2,892.00	$0.00	$2,169.00	$0.00
8Gbps	$4,647.30	$1,500.00	$3,585.00	$0.00	$2,693.75	$0.00
9Gbps	$5,763.45	$1,500.00	$4,446.00	$0.00	$3,334.50	$0.00
10Gbps	$7,935.20	$1,500.00	$6,114.00	$0.00	$4,585.50	$0.00

Ethernet Virtual Private Line - Hub Site - Port only						
	1 Year		3 Year		5 Year	
Port Speed	Monthly	Install	Monthly	Install	Monthly	Install
10/100Mbps	$100.00	$1,500.00	$75.00	$0.00	$50.00	$0.00
1Gbps	$250.25	$1,500.00	$195.00	$0.00	$146.25	$0.00
10Gbps	$787.50	$1,500.00	$600.00	$0.00	$450.00	$0.00

Ethernet Private Line - 2 Ports and Bandwidth			
	1 Year	3 Year	5 Year

Bandwidth	Monthly	Install	Monthly	Install	Monthly	Install
10Mbps	$400.00	$1,500.00	$350.00	$0.00	$300.00	$0.00
100Mbps	$625.10	$1,500.00	$483.00	$0.00	$362.25	$0.00
200Mbps	$1,052.80	$1,500.00	$816.00	$0.00	$612.00	$0.00
300Mbps	$1,095.50	$1,500.00	$849.00	$0.00	$636.75	$0.00
400Mbps	$1,138.20	$1,500.00	$882.00	$0.00	$661.50	$0.00
500Mbps	$1,180.90	$1,500.00	$915.00	$0.00	$686.25	$0.00
600Mbps	$1,223.95	$1,500.00	$948.00	$0.00	$711.00	$0.00
700Mbps	$1,266.65	$1,500.00	$981.00	$0.00	$735.75	$0.00
800Mbps	$1,309.35	$1,500.00	$1,014.00	$0.00	$760.50	$0.00
900Mbps	$1,352.05	$1,500.00	$1,047.00	$0.00	$785.25	$0.00
1Gbps	$1,398.95	$1,500.00	$1,083.00	$0.00	$812.25	$0.00
2Gbps	$2,819.60	$1,500.00	$2,160.00	$0.00	$1,620.00	$0.00
3Gbps	$3,192.70	$1,500.00	$2,448.00	$0.00	$1,836.00	$0.00
4Gbps	$3,675.00	$1,500.00	$2,820.00	$0.00	$2,115.00	$0.00
5Gbps	$4,347.70	$1,500.00	$3,339.00	$0.00	$2,504.25	$0.00
6Gbps	$5,288.85	$1,500.00	$4,065.00	$0.00	$3,048.75	$0.00
7Gbps	$6,218.45	$1,500.00	$4,782.00	$0.00	$3,336.50	$0.00
8Gbps	$7,194.60	$1,500.00	$5,535.00	$0.00	$4,151.25	$0.00
9Gbps	$8,205.40	$1,500.00	$6,315.00	$0.00	$4,736.25	$0.00
10Gbps	$9,135.00	$1,500.00	$7,032.00	$0.00	$5,274.00	$0.00
Ethernet Private Line - 2 Ports and Bandwidth via EoHFC (Coax)						
4Mbs	$293.30	$1,000.00	$266.00	$500.00	$239.40	$0.00
6Mbps	$363.60	$1,000.00	$329.00	$500.00	$296.10	$0.00
8Mbps	$400.00	$1,000.00	$350.00	$500.00	$300.00	$0.00

All Pricing Stated Will Include Premium Service Levels For All Circuits

NOTES:

- No charge for installation and construction for current PCN lit sites as of 3/1/15 if 3 or 5 year terms are selected for all sites per contract.
- Installation charge required for current PCN sites as of 3/1/15 with selection of 1 year term
- For new sites not identified in current PCN invoicing, the following installation charges apply:
  - 10 to 500 Mb –
    - Installation charges will be on an Individual Case Basis
  - 500 Mb to 1000 Mb –
    - no charge for construction costs for under 500 ft.
    - 50% of construction costs charged for 500-1000 ft.
    - 100% of construction costs for 1000 ft or more.
  - 1000 Mb or greater bandwidth –
    - no construction costs for under 1000 ft.
    - 50 % of construction costs charged for greater than 1000 ft.
- All Ethernet Network Interfaces included in the pricing tables are commensurate with subscribed bandwidth. (e.g. 1000M EVC w/ 1000M ENI)
- By MEF design, an Ethernet Virtual Private Line's service multiplexed hub bandwidth equals the aggregate of its remote sites
- Selection of an upgraded Ethernet Network Interface adds the Monthly Rate listed below to the MRC for any given interface

Default Physical Interface	Upgraded Physical Interface	Additional Monthly Rate		
		1 year	3 year	5 year
100BaseTX	1000BaseT 1000BaseSX 1000BaseLX	$192.50	$150.00	$112.50
1000BaseT 1000BaseSX 1000BaseLX	10GBaseSR 10GBaseLR	$537.25	$405.00	$303.75

- Pricing as proposed above requires purchase of all sites and does not include any local, state or federal taxes, fees or other charges. Individual sites may be purchased separately but will require a new pricing proposal. Tax exemption certificates
- Taxes, Surcharges, and Other Similar Charges (Miscellaneous)
- Description: Taxes, surcharges, and other similar charges refer generally to additional fees that are a necessary component of the cost of a product or service.
- Eligibility: Federal taxes, state taxes, and other similar, reasonable charges incurred in obtaining eligible Telecommunications Services, Internet Access, and Internal Connections are eligible. Such eligible charges include reasonable administrative recovery by a service provider for participation in the Universal Service Support mechanism. Administrative cost added by parties other than the service provider, are not eligible.

COMCAST ENTERPRISE SERVICES
GENERAL TERMS AND CONDITIONS

VERSION: 1.2

DEFINITIONS

Affiliate: Any entity that controls, is controlled by or is under common control with Comcast.

Agreement, Enterprise Services Master Services Agreement or MSA: Consists of the Enterprise Master Services Agreement Cover Page executed by the Customer and accepted by Comcast, these Enterprise Services General Terms and Conditions ("General Terms and Conditions"), the then current Product-Specific Attachment for each ordered Service ("PSA"), any written amendments to the Agreement executed by both Parties including any supplemental terms and conditions ("Amendment(s)"), and each Sales Order accepted by Comcast under the Agreement.

Amendment(s): Any written amendment to the Agreement, executed by both Parties, including any supplemental terms and conditions.

Comcast: The operating company affiliate or subsidiary of Comcast Cable Communications Management, LLC that provides the Services under the Enterprise Services Master Service Agreement. References to Comcast in the Limitation of Liability, Disclaimer of Warranties and Indemnification Articles shall also include its directors, officers, employees, agents, Affiliates, suppliers, licensors, successors, and assigns, as the case may be.

Comcast Website or Website: The Comcast website where the General Terms and Conditions, PSAs and other Comcast security and privacy policies applicable to the Agreement will be posted. The current URL for the Website is http://business.comcast.com/enterprise-terms-of-service. Comcast may update the Website documents and/or URL from time to time.

Comcast Equipment: Any and all facilities, equipment or devices provided by Comcast or its authorized contractors at the Service Location(s) that are used to deliver any of the Services including, but not limited to, all terminals, wires, modems, lines, circuits, ports, routers, gateways, switches, channel service units, data service units, cabinets, and racks. Notwithstanding the above, inside telephone wiring within the Service Location, whether or not installed by Comcast, shall not be considered Comcast Equipment.

Confidential Information: All information regarding either Party's business which has been marked or is otherwise communicated as being "proprietary" or "confidential." or which reasonably should be known by the receiving party to be proprietary or confidential information. Without limiting the generality of the foregoing, Confidential Information shall include, even if not marked, the Agreement, all Licensed Software, promotional materials, proposals, quotes, rate information, discount information, subscriber information, network upgrade information and schedules, network operation information (including without limitation information about outages and planned maintenance) and invoices, as well as the Parties' communications regarding such items.

Customer: The company, corporation, or other entity named on the Enterprise Services Master Service Agreement Cover Page and a Sales Order.

Customer-Provided Equipment (CE): Any and all facilities, equipment or devices supplied by Customer for use in connection with the Services.

Demarcation Point: The point of interconnection between the Network and Customer's provided equipment located at a Service Location. In some cases the Demarcation Point shall be the User to Network Interface (UNI) port on Comcast Equipment at a Service Location.

General Terms and Conditions: These Enterprise Services General Terms and Conditions.

Licensed Software: Computer software or code provided by Comcast or required to use the Services, including without limitation, associated documentation, and all updates thereto.

Network: Consists of the Comcast Equipment, facilities, fiber optic cable associated with electronics and other equipment used to provide the Services.

Party: A reference to Comcast or the Customer; and in the plural, a reference to both companies.

Product Specific Attachment(s) (PSA): The additional terms and conditions applicable to Services ordered by Customer under the Agreement.

Revenue Commitment: A commitment by Customer to purchase a minimum volume of Service during an agreed term, as set forth in a Sales Order.

Sales Order: A request for Comcast to provide the Services to a Service Location(s) submitted by Customer to Comcast (a) on a then-current Comcast form designated for that purpose or (b) if available, through a Comcast electronic order processing system designated for that purpose.

Service(s): A service provided by Comcast pursuant to a Sales Order. All Services provided under the Agreement are for commercial use only. Services available under this Agreement are identified on the Website.

Service Commencement Date: The date(s) on which Comcast first makes Service available for use by Customer. A single Sales Order containing multiple Service Locations or Services may have multiple Service Commencement Dates.

Service Location(s): The Customer location(s) where Comcast provides the Services, to the extent the Customer owns, leases, or otherwise controls such location(s).

Service Term: The duration of time (commencing on the Service Commencement Date) for which Services are ordered, as specified in a Sales Order.

Tariff: A federal or state Comcast tariff and the successor documents of general applicability that replace such tariff in the event of detariffing.

Termination Charges: Charges that may be imposed by Comcast if, prior to the end of the applicable Service Term (a) Comcast terminates Services for cause or (b) Customer terminates Services without cause. Termination Charges are as set forth in each PSA, and are in addition to any other rights and remedies under the Agreement.

ARTICLE 1. CHANGES TO THE AGREEMENT TERMS

Comcast may change or modify the Agreement, and any related policies from time to time ("Revisions") by posting such Revisions to the Comcast Website. The Revisions are effective upon posting to the Website. Customer will receive notice of the Revisions in the next applicable monthly invoice. Customer shall have thirty (30) calendar days from the invoice notice of such Revisions to provide Comcast with written notice that the Revisions adversely affect Customer's use of the Service(s). If after notice Comcast is able to verify such adverse affect but is unable to reasonably mitigate the Revision's impact on such Services, then Customer may terminate the impacted Service(s) without further obligation to Comcast beyond the termination date, including Termination Charges, if any. This shall be Customer's sole and exclusive remedy.

ARTICLE 2. DELIVERY OF SERVICE

2.1 Orders. Customer shall submit to Comcast a properly completed Sales Order to initiate Service to a Service Location(s). A Sales Order shall become binding on the Parties when (i) it is specifically accepted by Comcast either electronically or in writing, (ii) Comcast begins providing the Service described in the Sales Order or (iii) Comcast begins Custom Installation (as defined in Article 2.7) for delivery of the Services described in the Sales Order, whichever is earlier. When a Sales Order becomes effective it shall be deemed part of, and shall be subject to, the Agreement.

2.2 Access. In order to deliver certain Services to Customer, Comcast may require access, right-of-way, conduit, and/or common room space ("Access"), both within and/or outside each Service Location. Customer shall provide an adequate environmentally controlled space and such electricity as may be required for installation, operation, and maintenance of the Comcast Equipment used to provide the Services within the Service Location(s). Customer shall be responsible for securing, and maintaining on an initial and ongoing basis during the applicable Service Term and/or Renewal Term, such Access within each Service Location unless Comcast has secured such access prior to this Agreement. In the event that Customer, fails to secure or maintain such Access within a particular Service Location, Comcast may cancel or terminate Service at such particular Service Location, without further liability, upon written notice to Customer. In such event, if Comcast has incurred any costs or expense in installing or preparing to install the Service that it otherwise would not have incurred, a charge equal to those costs and expenses shall apply to Customer's final invoice for that particular Service Location. If Comcast is unable to secure or maintain Access outside a particular Service Location, which Access is needed to provide Services to such Service Location, Customer or Comcast may cancel or terminate Service at such particular Service Location, without further liability beyond the termination date, upon a minimum thirty (30) days' prior written notice to the other party. In such event, if Comcast has incurred any costs or expense in installing or preparing to install the Service that it otherwise would not have incurred, Comcast shall be responsible for such costs or expenses. Any other failure on the part of Customer to be ready to receive Service, or any refusal on the part of Customer to receive Service, shall not relieve Customer of its obligation to pay charges for any Service that is otherwise available for use.

2.3 Hazardous Materials. If the presence of asbestos or other hazardous materials exists or is detected at a Service Location or within the building where the Service Location is located, Comcast may immediately stop providing Services until such a time as such materials are removed. Alternatively Customer may notify Comcast to install the applicable portion of the Service in areas of any such Service Location not containing such hazardous material. Any additional expense incurred by Comcast as a result of encountering hazardous materials, including but not limited to, any additional equipment shall be borne by Customer. Customer shall use reasonable efforts to maintain its property and Service Locations in a manner that preserves the integrity of the Services.

2.4 Comcast Equipment. At any time Comcast may remove or change Comcast Equipment in its sole discretion in connection with providing the Services. Customer shall not move, rearrange, disconnect, remove, attempt to repair, or otherwise tamper with any Comcast Equipment or permit others to do so, and shall not use the Comcast Equipment for any purpose other than that authorized by the Agreement. Comcast shall maintain Comcast Equipment in good operating condition during the term of this Agreement; provided, however, that such maintenance shall be at Comcast's expense only to the extent that it is related to and/or resulting from the ordinary and proper use of the Comcast Equipment. Customer is responsible for damage to, or loss of, Comcast Equipment caused by its acts or omissions, and its noncompliance with this Article, or by fire, theft or other casualty at the Service Location(s), unless caused by the gross negligence or willful misconduct of Comcast.

2.5 Ownership, Impairment and Removal of Network. The Network is and shall remain the property of Comcast regardless of whether installed within or upon the Service Location(s) and whether installed overhead, above, or underground and shall not be considered a fixture or an addition to the land or the Service Location(s) located thereon. Customer agrees that it shall take no action that directly or indirectly impairs Comcast's title to the Network, or any portion thereof, or exposes Comcast to any claim, lien, encumbrance, or legal process, except as otherwise agreed in writing by the Parties. Nothing in this Agreement shall preclude Comcast from using the Network for services provided to other Comcast customers. For a period of twelve (12) months following Comcast's discontinuance of Service to the Service Location(s), Comcast retains the right to remove the Network including, but not limited to, that portion of the Network that is located in the Service Location. To the extent Comcast removes such portion of the Network it shall be responsible for returning the Service Location(s) to its prior condition, reasonable wear and tear excepted.

2.6 Customer-Provided Equipment ("CE"). Comcast shall have no obligation to install, operate, or maintain CE. Customer shall have sole responsibility for providing maintenance, repair, operation and replacement of all CE, inside telephone wiring and other Customer equipment and facilities on the Customer's side of the Demarcation Point. Neither Comcast nor its employees, Affiliates, agents or contractors will be liable for any damage, loss, or destruction to CE, unless caused by the gross negligence or willful misconduct of Comcast. CE shall at all times be compatible with the Network as determined by Comcast in its sole discretion. In addition to any other service charges that may be imposed from time to time, Customer shall be responsible for the payment of service charges for visits by Comcast's employees or agents to a Service Location when the service difficulty or trouble report results from the use of CE or facilities provided by any party other than Comcast.

2.7 Engineering Review. Each Sales Order submitted by Customer may be subject to an engineering review. The engineering review will determine whether and to what extent the Network must be extended, built or upgraded ("Custom Installation") in order to provide the ordered Services at the requested Service Location(s). Comcast will provide Customer written notification in the event Service installation at any Service Location will require an additional non-recurring installation fee ("Custom Installation Fee"). Custom Installation Fees may also be referred to as Construction Charges on a Sales Order or Invoice. Customer will have five (5) days from receipt of such notice to reject the Custom Installation Fee and terminate, without further liability, the Sales Order with respect to the affected Service Location(s). For certain Services, the Engineering Review will be conducted prior to Sales Order submission. In such case, Customer will have accepted the designated Custom Installation Fee upon submission of the applicable Sales Order.

2.8 Service Acceptance. Except as may otherwise be identified in the applicable PSA, the Service Commencement Date shall be the date Comcast completes installation and connection of the necessary facilities and equipment to provide the Service at a Service Location.

2.9 Administrative Website. Comcast may furnish Customer with one or more user identifications and/or passwords for use on the Administrative Website. Customer shall be responsible for the confidentiality and use of such user identifications and/or passwords and shall immediately notify Comcast if there has been an unauthorized release, use or other compromise of any user identification or password. In addition, Customer agrees that its authorized users shall keep confidential and not distribute any information or other materials made available by the Administrative Website. Customer shall be solely responsible for all use of the Administrative Website, and Comcast shall be entitled to rely on all Customer uses of and submissions to the Administrative Website as authorized by Customer. Comcast shall not be liable for any loss, cost, expense or other liability arising out of any Customer use of the Administrative Website or any information on the Administrative Website. Comcast may change or discontinue the Administrative Website, or Customer's right to use the Administrative Website, at any time. Additional terms and policies may apply to Customer's use of the Administrative Website. These terms and policies will be posted on the site.

ARTICLE 3. BILLING AND PAYMENT

3.1 Charges. Except as otherwise provided in the applicable PSA, Customer shall pay Comcast one hundred percent (100%) of the Custom Installation Fee prior to the installation of Service. Customer further agrees to pay all charges associated with the Services, as set forth or referenced in the applicable PSA, Sales Order(s) or invoice from Comcast. These charges may include, but are not limited to standard and custom non-recurring installation charges, monthly recurring service charges, usage charges including without limitation charges for the use of Comcast Equipment, per-call charges, pay-per-view charges, charges for service calls, maintenance and repair charges, and applicable federal, state, and local taxes, fees, surcharges and recoupments (however designated). Some Services such as measured and per-call charges, pay-per-view movies or events, and interactive television (as explained in the applicable PSA) may be invoiced after the Service has been provided to Customer. Except as otherwise indicated herein or in the applicable PSA(s) monthly recurring charges for Ethernet, Video and Internet Services that are identified on a Sales Order shall not increase during the Service Term. Except as otherwise indicated herein or in the Sales Order(s), Voice Service pricing, charges and fees can be found in the applicable PSA.

3.2 Third-Party Charges. Customer may incur charges from third party service providers that are separate and apart from, or based on the amounts charged by Comcast. These may include, without limitation, charges resulting from wireless services including roaming charges, accessing on-line services, calls to parties who charge for their telephone based services, purchasing or subscribing to other offerings via the Internet or interactive options on certain Video services, or otherwise. Customer agrees that all such charges, including all applicable taxes, are Customer's sole responsibility. In addition, Customer is solely responsible for protecting the security of credit card information provided to others in connection with such transactions.

3.3 Payment of Bills. Except as otherwise indicated herein or in a PSA, Comcast will invoice Customer in advance on a monthly basis for all monthly recurring charges and fees arising under the Agreement. All other charges will be billed monthly in arrears, including without limitation certain usage based charges and third party pass through fees. Payment is due upon presentation of an invoice. Payment will be considered timely made to Comcast if received within thirty (30) days after the invoice date. Any charges not paid to Comcast within such period will be considered past due. If a Service Commencement Date is not the first day of a billing period, Customer's first monthly invoice shall include any pro-rated charges for the Services, from the date of installation to the start of the next billing period. In certain cases, Comcast may agree to provide billing services on behalf of third parties, as the agent of the third party. Any such third-party charges shall be payable pursuant to any contract or other arrangement between the third party and Customer and/or Comcast. Comcast shall not be responsible for any dispute regarding these charges between Customer and such third party. Customer must address all such disputes directly with the third party.

3.4 Partial Payment. Partial payment of any bill will be applied to the Customer's outstanding charges in amounts and proportions solely determined by Comcast. No acceptance of partial payment(s) by Comcast shall constitute a waiver of any rights to collect the full balance owed under the Agreement.

3.5 Credit Approval and Deposits. Initial and ongoing delivery of Services may be subject to credit approval. Customer shall provide Comcast with credit information requested by Comcast. Customer authorizes Comcast to make inquiries and to receive information about Customer's credit history from others and to enter this information in Customer's records. Customer represents and warrants that all credit information that it provides to Comcast will be true and correct. Comcast, in its sole discretion, may deny the Services based upon an unsatisfactory credit history. Additionally, subject to applicable regulations, Comcast may require Customer to make a deposit (in an amount not to exceed an estimated two months charge for the Services) as a condition to Comcast's provision of the Services, or as a condition to Comcast's continuation of the Services. The deposit will not, unless explicitly required by law, bear interest and shall be held by Comcast as security for payment of Customer's charges. Comcast may apply the deposit to any delinquent Customer charges upon written notice to Customer. If Comcast uses any or all of the deposit to pay an account delinquency, Customer will replenish the deposit by that amount within five (5) days of its receipt of written notice from Comcast. If the provision of Service to Customer is terminated, or if Comcast determines in its sole discretion that such deposit is no longer necessary, then the amount of the deposit (plus any required deposit interest) will be credited to Customer's account or will be refunded to Customer, as determined by Comcast.

3.6 Taxes and Fees. Except to the extent Customer provides a valid tax exemption certificate prior to the delivery of Service, Customer shall be responsible for the payment of any and all applicable local, state, and federal taxes or fees (however designated). Customer also will be responsible to pay any Service fees, payment obligations and taxes that become applicable retroactively.

3.7 Other Government-Related Costs and Fees. Comcast reserves the right to invoice Customer for any fees or payment obligations in connection with the Services imposed by governmental or quasi-governmental bodies in connection with the sale, installation, use, or provision of the Services, including, without limitation, applicable franchise fees, right of way fees and Universal Service Fund charges (if any), regardless of whether Comcast or its Affiliates pay the fees directly or are required by an order, rule, or regulation of a taxing jurisdiction to collect them from Customer. Taxes and other government-related fees and surcharges may be changed with or without notice, In the event that any newly adopted law, rule, regulation or judgment increases Comcast's costs of providing Services, Customer shall pay Comcast's additional costs of providing Services under the new law, rule, regulation or judgment.

3.8 Disputed Invoice. If Customer disputes any portion of an invoice by the due date, Customer must pay fifty percent (50%) of the disputed charges, in addition to the undisputed portion of the invoice and submit a written claim, including all documentation substantiating Customer's claim, to Comcast for the disputed amount of the invoice by the invoice due date. The Parties shall negotiate in good faith to resolve any billing dispute. Comcast will refund/credit all valid disputes resolved in Customer's favor as of the date the disputed charges first appeared on the Customer's invoice.

3.9 Past-Due Amounts. Any payment not made when due will be subject to a late charge of 1.5% per month or the highest rate allowed by law on the unpaid invoice, whichever is lower. If Customer's account is delinquent, Comcast may refer the account to a collection agency or attorney that may pursue collection of the past due amount and/or any Comcast Equipment which Customer fails to return in accordance with the Agreement. If Comcast is required to use a collection agency or attorney to collect any amount owed by Customer or any unreturned Comcast Equipment, Customer agrees to pay all reasonable costs of collection or other action. The remedies set forth herein are in addition to and not in limitation of any other rights and remedies available to Comcast under the Agreement or at law or in equity.

3.10 Rejected Payments. Except to the extent otherwise prohibited by law, Customer will be assessed a service charge up to the full amount permitted under applicable law for any check or other instrument used to pay for the Services that has been rejected by the bank or other financial institution.

3.11 **Fraudulent Use of Services.** Customer is responsible for all charges attributable to Customer with respect to the Service(s), even if incurred as the result of fraudulent or unauthorized use of the Service. Comcast may, but is not obligated to, detect or report unauthorized or fraudulent use of Services to Customer. Comcast reserves the right to restrict, suspend or discontinue providing any Service in the event of fraudulent use of Customer's Service.

ARTICLE 4. TERM; REVENUE COMMITMENT

4.1 **Agreement Term.** Upon execution of the Agreement, Customer shall be allowed to submit Sales Orders to Comcast during the term referenced on the Master Service Agreement Cover Page ("MSA Term"). After the expiration of the initial MSA Term, Comcast may continue to accept Sales Orders from Customer under the Agreement, or require the Parties to execute a new agreement. This Agreement shall continue in effect until the expiration or termination date of the last Sales Order entered under the Agreement, unless terminated earlier in accordance with the Agreement.

4.2 **Sales Order Term/Revenue Commitment.** The applicable Service Term and Revenue Commitment (if any) shall be set forth in the Sales Order. Unless otherwise stated in these terms and conditions or the applicable PSA, if a Sales Order does not specify a term of service, the Service Term shall be one (1) year from the Service Commencement Date. In the event Customer fails to satisfy a Revenue Commitment, Customer will be billed a shortfall charge pursuant to the terms of the applicable PSA.

4.3 **Sales Order Renewal.** Upon the expiration of the Service Term, and unless otherwise agreed to by the Parties in the Sales Order, each Sales Order shall automatically renew for successive periods of one (1) year each ("Renewal Term(s)"), unless otherwise stated in these terms and conditions or prior notice of non-renewal is delivered by either Party to the other at least thirty (30) days before the expiration of the Service Term or the then current Renewal Term. Effective at any time after the end of the Service Term and from time to time thereafter, Comcast may, modify the charges for Ethernet, Internet and/or Video Services subject to thirty (30) days prior written notice to Customer. Customer will have thirty (30) days from receipt of such notice to cancel the applicable Service without further liability. Should Customer fail to cancel within this timeframe, Customer will be deemed to have accepted the modified Service pricing.

ARTICLE 5. TERMINATION WITHOUT FAULT; DEFAULT

5.1 **Termination for Convenience.** Notwithstanding any other term or provision in this Agreement, Customer shall have the right, in its sole discretion, to terminate any or all Sales Order(s) at any time during the Service Term(s), upon thirty (30) days prior written notice to Comcast and subject to payment to Comcast of all outstanding amounts due for the Services, any and all applicable Termination Charges, and the return of all applicable Comcast Equipment. Comcast may terminate the Agreement if Customer does not take any Service under a Sales Order for twelve (12) consecutive months or longer.

5.2 **Termination for Cause.** If either Party breaches any material term of the Agreement, other than a payment term, and the breach continues un-remedied for thirty (30) days after written notice of default, the other Party may terminate for cause any Sales Order materially affected by the breach. If Customer is in breach of a payment obligation (including failure to pay a required deposit) and fails to make payment in full within ten (10) days after receipt of written notice of default, Comcast may, at its option, terminate the Agreement, terminate the affected Sales Orders, suspend Service under the affected Sales Orders, and/or require a deposit, advance payment, or other satisfactory assurances in connection with any or all Sales Orders as a condition of continuing to provide Service; except that Comcast will not take any such action as a result of Customer's non-payment of a charge subject to a timely billing dispute, unless Comcast has reviewed the dispute and determined in good faith that the charge is correct. A Sales Order may be terminated by either Party immediately upon written notice if the other Party has become insolvent or involved in liquidation or termination of its business, or adjudicated bankrupt, or been involved in an assignment for the benefit of its creditors. Termination by either Party of a Sales Order does not waive any other rights or remedies that it may have under this Agreement. The non-defaulting Party shall be entitled to all available legal and equitable remedies for such breach.

5.3 **Effect of Expiration/Termination of a Sales Order.**

Upon the expiration or termination of a Sales Order for any reason:

A. Comcast shall disconnect the applicable Service;

B. Comcast may delete all applicable data, files, electronic messages, or other information stored on Comcast's servers or systems;

C. If Customer has terminated the Sales Order prior to the expiration of the Service Term for convenience, or if Comcast has terminated the Sales Order prior to the expiration of the Service Term as a result of material breach by Customer, Comcast may assess and collect from Customer applicable Termination Charges (if any);

D. Customer shall, permit Comcast to retrieve from the applicable Service Location any and all Comcast Equipment. If Customer fails to permit such retrieval or if the retrieved Comcast Equipment has been damaged and/or destroyed other than by Comcast or its agents, normal wear and tear excepted, Comcast may invoice Customer for the manufacturer's list price of the relevant Comcast Equipment, or in the event of minor damage to the retrieved Comcast Equipment, the cost of repair, which amounts shall be immediately due and payable; and

E. Customer's right to use applicable Licensed Software shall automatically terminate, and Customer shall be obligated to return all Licensed Software to Comcast.

5.4 **Resumption of Service**. If a Service has been discontinued by Comcast for cause and Customer requests that the Service be restored, Comcast shall have the sole and absolute discretion to restore such Service. At Comcast's option, deposits, advanced payments, nonrecurring charges, and/or an extended Service Term may apply to restoration of Service.

5.5 **Regulatory and Legal Changes**. The Parties acknowledge that the respective rights and obligations of each Party as set forth in this Agreement upon its execution are based on applicable law and regulations as they exist on the date of execution of this Agreement. The Parties agree that in the event of any subsequent decision by a legislative, regulatory or judicial body, including any regulatory or judicial order, rule, regulation, decision in any arbitration or other dispute resolution or other legal or regulatory action that materially affects the provisions or ability to provide Services on economic terms of the Agreement, Comcast may, by providing written notice to the Customer, require that the affected provisions of the Agreement be renegotiated in good faith. If Customer refuses to enter such renegotiations, or the Parties can't reach resolution on new Agreement terms, Comcast may, in its sole discretion, terminate this Agreement, in whole or in part, upon sixty (60) days written notice to Customer.

ARTICLE 6. LIMITATION OF LIABILITY; DISCLAIMER OF WARRANTIES; WARNINGS

6.1 **Limitation of Liability.**

A, THE AGGREGATE LIABILITY OF COMCAST FOR ANY AND ALL LOSSES, DAMAGES AND CAUSES ARISING OUT OF THE AGREEMENT, INCLUDING, BUT NOT LIMITED TO, THE PERFORMANCE OF SERVICE, AND NOT OTHERWISE LIMITED HEREUNDER, WHETHER IN CONTRACT, TORT, OR OTHERWISE, SHALL NOT EXCEED DIRECT DAMAGES EQUAL TO THE SUM TOTAL OF PAYMENTS MADE BY CUSTOMER TO COMCAST DURING THE THREE (3) MONTHS IMMEDIATELY PRECEDING THE EVENT FOR WHICH DAMAGES ARE CLAIMED. THIS LIMITATION SHALL NOT APPLY TO COMCAST'S INDEMNIFICATION OBLIGATIONS AND CLAIMS FOR DAMAGE TO PROPERTY AND/OR PERSONAL INJURIES (INCLUDING DEATH) ARISING OUT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF COMCAST WHILE ON THE CUSTOMER SERVICE LOCATION.

B. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, INDIRECT, SPECIAL, COVER, PUNITIVE OR CONSEQUENTIAL DAMAGES, WHETHER OR NOT FORESEEABLE, OF ANY KIND INCLUDING BUT NOT LIMITED TO ANY LOSS REVENUE, LOSS OF USE, LOSS OF BUSINESS, OR LOSS OF PROFIT WHETHER SUCH ALLEGED LIABILITY ARISES IN CONTRACT OR TORT HOWEVER, THAT NOTHING HEREIN IS INTENDED TO LIMIT CUSTOMER'S LIABILITY FOR AMOUNTS OWED FOR THE SERVICES, FOR ANY EQUIPMENT OR SOFTWARE PROVIDED BY COMCAST OR FOR TERMINATION CHARGES.

6.2 **Disclaimer of Warranties.**

A. Services shall be provided pursuant to the terms and conditions in the applicable PSA and Service Level Agreement, and are in lieu of all other warranties, express, implied or statutory, including, but not limited to, the implied warranties of merchantability, fitness for a particular purpose, title, and non-infringement. **TO THE MAXIMUM EXTENT ALLOWED BY LAW, COMCAST EXPRESSLY DISCLAIMS ALL SUCH EXPRESS, IMPLIED AND STATUTORY WARRANTIES.**

B. Without limiting the generality of the foregoing, and except as otherwise identified in a PSA or Service Level Agreement, Comcast does not warrant that the Services, Comcast Equipment, or Licensed Software will be uninterrupted, error-free, or free of latency or delay, or that the Services, Comcast Equipment, or Licensed Software will meet customer's requirements, or that the Services, Comcast Equipment, or Licensed Software will prevent unauthorized access by third parties.

C. In no event shall Comcast, be liable for any loss, damage or claim arising out of or related to: (i) stored, transmitted, or recorded data, files, or software; (ii) any act or omission of Customer, its users or third parties; (iii) interoperability, interaction or interconnection of the Services with applications, equipment, services or networks provided by Customer or third parties; or (iv) loss or destruction of any Customer hardware, software, files or data resulting from any virus or other harmful feature or from any attempt to remove it. Customer is advised to back up all data, files and software prior to the installation of Service and at regular intervals thereafter.

6.3 **Disruption of Service**. Notwithstanding the performance standards identified in a PSA, the Services are not fail-safe and are not designed or intended for use in situations requiring fail-safe performance or in which an error or interruption in the Services could lead to severe injury to business, persons, property or environment ("High Risk Activities"). These High Risk Activities may include, without limitation, vital business or personal communications, or activities where absolutely accurate data or information is required.

6.4 Customer's sole and exclusive remedies are expressly set forth in the Agreement. Certain of the above exclusions may not apply if the state in which a Service is provided does not allow the exclusion or limitation of implied warranties or does not allow the limitation or exclusion of incidental or consequential damages. In those states, the liability of Comcast is limited to the maximum extent permitted by law.

ARTICLE 7. INDEMNIFICATION

7.1 Comcast's Indemnification Obligations. Comcast shall indemnify defend, and hold harmless Customer and its parent company, affiliates, employees, directors, officers, and agents from and against all claims, demands, actions, causes of actions, damages, liabilities, losses, and expenses (including reasonable attorneys' fees) ("Claims") incurred as a result of: infringement of U.S. patent or copyright relating to the Comcast Equipment or Comcast Licensed Software hereunder; damage to tangible personal property or real property, and personal injuries (including death) arising out of the gross negligence or willful misconduct of Comcast while working on the Customer Service Location.

7.2 Customer's Indemnification Obligations. Customer shall indemnify, defend, and hold harmless Comcast from any and all Claims arising on account of or in connection with Customer's use or sharing of the Service provided under the Agreement, including with respect to: libel, slander, infringement of copyright, or unauthorized use of trademark, trade name, or service mark arising out of communications via the Service; for patent infringement arising from Customer's combining or connection of CE to use the Service; for damage arising out of the gross negligence or willful misconduct of Customer with respect to users of the Service.

7.3 Indemnification Procedures. The Indemnifying Party agrees to defend the Indemnified Party for any loss, injury, liability, claim or demand ("Actions") that is the subject of this Article 7. The Indemnified Party agrees to notify the Indemnifying Party promptly, in writing, of any Actions, threatened or actual, and to cooperate in every reasonable way to facilitate the defense or settlement of such Actions. The Indemnifying Party shall assume the defense of any Action with counsel reasonably satisfactory to the Indemnified Party. The Indemnified Party may employ its own counsel in any such case, and shall pay such counsel's fees and expenses. The Indemnifying Party shall have the right to settle any claim for which indemnification is available; provided, however, that to the extent that such settlement requires the Indemnified Party to take or refrain from taking any action or purports to obligate the Indemnified Party, then the Indemnifying Party shall not settle such claim without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, conditioned or delayed.

ARTICLE 8. SOFTWARE & SERVICES

8.1 License. If and to the extent that Customer requires the use of Licensed Software in order to use the Service supplied under any Sales Order, Customer shall have a personal, nonexclusive, nontransferable, and limited license to use such Licensed Software in object code only and solely to the extent necessary to use the applicable Service during the corresponding Service Term. All Licensed Software provided to Customer, and each revised version thereof, is licensed (not sold) to Customer by Comcast only for use in conjunction with the Service. Customer may not claim title to, or an ownership interest in, any Licensed Software (or any derivations or improvements thereto), and Customer shall execute any documentation reasonably required by Comcast, including, without limitation, end-user license agreements for the Licensed Software. Comcast and its suppliers shall retain ownership of the Licensed Software, and no rights are granted to Customer other than a license to use the Licensed Software under the terms expressly set forth in this Agreement.

8.2 Restrictions. Customer agrees that it shall not: (i) copy the Licensed Software (or any upgrades thereto or related written materials) except for emergency back-up purposes or as permitted by the express written consent of Comcast; (ii) reverse engineer, decompile, or disassemble the Licensed Software; (iii) sell, lease, license, or sublicense the Licensed Software; or (iv) create, write, or develop any derivative software or any other software program based on the Licensed Software.

8.3 Updates. Customer acknowledges that the use of Service may periodically require updates and/or changes to certain Licensed Software resident in the Comcast Equipment or CE. If Comcast has agreed to provide updates and changes, such updates and changes may be performed remotely or on-site by Comcast, at Comcast's sole option. Customer hereby consents to, and shall provide free access for, such updates deemed reasonably necessary by Comcast. If Customer fails to agree to such updates, Comcast will be excused from the applicable Service Level Agreement and other performance credits, and any and all liability and indemnification obligations regarding the applicable Service.

8.4 Export Law and Regulation. Customer acknowledges that any products, software, and technical information (including, but not limited to, services and training) provided pursuant to the Agreement may be subject to U.S. export laws and regulations. Customer agrees that it will not use distribute, transfer, or transmit the products, software, or technical information (even if incorporated into other products) except in compliance with U.S. export regulations. If requested by Comcast, Customer also agrees to sign written assurances and other export-related documents as may be required for Comcast to comply with U.S. export regulations.

8.5 Ownership of Telephone Numbers and Addresses. Customer acknowledges that use of certain Services does not give it any ownership or other rights in any telephone number or Internet/on-line addresses provided, including but not limited to Internet Protocol ("IP") addresses, e-mail addresses and web addresses.

8.6 Intellectual Property Rights in the Services. Title and intellectual property rights to the Services are owned by Comcast, its agents, suppliers or affiliates or their licensors or otherwise by the owners of such material. The copying, redistribution, bundling or publication of the Services, in whole or in part, without express prior written consent from Comcast or other owner of such material, is prohibited.

ARTICLE 9. CONFIDENTIAL INFORMATION AND PRIVACY

9.1 Disclosure and Use. All Confidential Information disclosed by either Party shall be kept by the receiving party in strict confidence and shall not be disclosed to any third party without the disclosing party's express written consent. Notwithstanding the foregoing, such information may be disclosed (i) to the receiving party's employees, affiliates, and agents who have a need to know for the purpose of performing this Agreement, using the Services, rendering the Services, and marketing related products and services (provided that in all cases the receiving party shall take appropriate measures prior to disclosure to its employees, affiliates, and agents to assure against unauthorized use or disclosure); or (ii) as otherwise authorized by this Agreement. Each Party agrees to treat all Confidential Information of the other in the same manner as it treats its own proprietary information, but in no case using a degree of care less than a reasonable degree of care.

9.2 **Exceptions**. Notwithstanding the foregoing, each Party's confidentiality obligations hereunder shall not apply to information that: (i) is already known to the receiving party without a pre-existing restriction as to disclosure; (ii) is or becomes publicly available without fault of the receiving party; (iii) is rightfully obtained by the receiving party from a third party without restriction as to disclosure, or is approved for release by written authorization of the disclosing party; (iv) is developed independently by the receiving party without use of the disclosing party's Confidential Information; or (v) is required to be disclosed by law or regulation.

9.3 **Publicity**. The Agreement provides no right to use any Party's or its affiliates' trademarks, service marks, or trade names, or to otherwise refer to the other Party in any marketing, promotional, or advertising materials or activities. Neither Party shall issue any publication or press release relating to, or otherwise disclose the existence of, the terms and conditions of any contractual relationship between Comcast and Customer, except as permitted by the Agreement or otherwise consented to in writing by the other Party.

9.4 **Passwords**. Comcast may furnish Customer with user identifications and passwords for use in conjunction with certain Services, including, without limitation, for access to certain non-public Comcast website materials. Customer understands and agrees that such information shall be subject to Comcast's access policies and procedures located on Comcast's Web Site.

9.5 **Remedies**. Notwithstanding any other Article of this Agreement, the non-breaching Party shall be entitled to seek equitable relief to protect its interests pursuant to this Article 9, including, but not limited to, injunctive relief.

9.6 **Monitoring of Services**. Except as otherwise expressly set forth in a PSA, Comcast assumes no obligation to pre-screen or monitor Customer's use of the Service, including without limitation postings and/or transmission. However, Customer acknowledges and agrees that Comcast and its agents shall have the right to pre-screen and monitor such use from time to time and to use and disclose such results to the extent necessary to operate the Service properly, to ensure compliance with applicable use policies, to protect the rights and/or property of Comcast, or in emergencies when physical safety is at issue, and that Comcast may disclose the same to the extent necessary to satisfy any law, regulation, or governmental request. Comcast shall have no liability or responsibility for content received or distributed by Customer or its users through the Service, and Customer shall indemnify, defend, and hold Comcast and its directors, officers, employees, agents, subsidiaries, affiliates, successors, and assigns harmless from any and all claims, damages, and expenses whatsoever (including reasonable attorneys' fees) arising from such content attributable to Customer or its users. For the avoidance of doubt, the monitoring of data described in this Section 9.6 refers to aggregate data and types of traffic (protocol, upstream/downstream utilization, etc.). Comcast does not have access to the content of encrypted data transmitted across Comcast networks.

9.7 **Survival of Confidentiality Obligations**. The obligations of confidentiality and limitation of use described in this Article 9 shall survive the expiration and termination of the Agreement for a period of two (2) years (or such longer period as may be required by law).

ARTICLE 10. USE OF SERVICE; USE AND PRIVACY POLICIES

10.1 **Prohibited Uses and Comcast Use Policies**. Customer is prohibited from using, or permitting the use of, any Service (i) for any purpose in violation of any law, rule, regulation, or policy of any government authority; (ii) in violation of any Use Policy (as defined below); (iii) for any use as to which Customer has not obtained all required government approvals, authorizations, licenses, consents, and permits; or (iv) to interfere unreasonably with the use of Comcast service by others or the operation of the Network. Customer is responsible for assuring that any and all of its users comply with the provisions of the Agreement. Comcast reserves the right to act immediately and without notice to terminate or suspend the Services and/or to remove from the Services any information transmitted by or to Customer or users, if Comcast determines that such use is prohibited as identified herein, or information does not conform with the requirements set or Comcast reasonably believes that such use or information may violate any laws, regulations, or written and electronic instructions for use. Furthermore, to the extent applicable, Services shall be subject to Comcast's acceptable use policies ("Use Policies") that may limit use. The Use Policies and other security policies concerning the Services are posted on the Website, and are incorporated into this Agreement by reference. Comcast may update the Use Policies from time to time, and such updates shall be deemed effective immediately upon posting, with or without actual notice to Customer. Comcast's action or inaction in enforcing acceptable use shall not constitute review or approval of Customer's or any other users' use or information.

10.2 **Privacy Policy**. In addition to the provisions of Article 9, Comcast's commercial privacy policy applies to Comcast's handling of Customer confidential information. Comcast's privacy policy is available on the Website.

10.3 Privacy Note Regarding Information Provided to Third Parties. Comcast is not responsible for any information provided by Customer to third parties. Such information is not subject to the privacy provisions of this Agreement. Customer assumes all privacy and other risks associated with providing personally identifiable information to third parties via the Services.

10.4 Prohibition on Resale. Customer may not sell, resell, sublease, assign, license, sublicense, share, provide, or otherwise utilize in conjunction with a third party (including, without limitation, in any joint venture or as part of any outsourcing activity) the Services or any component thereof.

10.5 Violation. Any breach of this Article 10 shall be deemed a material breach of this Agreement. In the event of such material breach, Comcast shall have the right to restrict, suspend, or terminate immediately any or all Sales Orders, without liability on the part of Comcast, and then to notify Customer of the action that Comcast has taken and the reason for such action, in addition to any and all other rights and remedies under this Agreement.

ARTICLE 11. MISCELLANEOUS TERMS

11.1 Force Majeure. Neither Party (and in the case of Comcast, Comcast affiliates and subsidiaries) shall be liable to the other Party for any delay, failure in performance, loss, or damage to the extent caused by force majeure conditions such as acts of God, fire, explosion, power blackout, cable cut, acts of regulatory or governmental agencies, unavailability of right-of-way or materials, or other causes beyond the Party's reasonable control, except that Customer's obligation to pay for Services provided under the Agreement shall not be excused. Changes in economic, business or competitive condition shall not be considered force majeure events.

11.2 Assignment or Transfer. Customer shall not assign any right, obligation or duty, in whole or in part, nor of any other interest hereunder, without the prior written consent of Comcast, which shall not be unreasonably withheld. All obligations and duties of either Party under this Agreement shall be binding on all successors in interest and assigns of such Party. Nothing herein is intended to limit Comcast's use of third-party consultants and contractors to perform Services under a Sales Order.

11.3 Notices. Any notice sent pursuant to the Agreement shall be deemed given and effective when sent by facsimile (confirmed by first-class mail), or when delivered by overnight express or other express delivery service, in each case as follows: (i) with respect to Customer, to the address set forth on any Sales Order; or (ii) with respect to Comcast, to: Vice President/Enterprise Sales, One Comcast Center, 1701 JFK Blvd., Philadelphia, PA 19103, with a copy to Cable Law Department, One Comcast Center, 50th Floor, 1701 JFK Blvd., Philadelphia, PA 19103. Each Party shall notify the other Party in writing of any changes in its address listed on any Sales Order.

11.4 Entire Understanding. The Agreement, together with any applicable Tariffs, constitutes the entire understanding of the Parties related to the subject matter hereof. The Agreement supersedes all prior agreements, proposals, representations, statements, or understandings, whether written or oral, concerning the Services or the Parties' rights or obligations relating to Services. Any prior représentations, promises, inducements, or statements of intent regarding the Services that are not embodied in the Agreement are of no effect. No subsequent agreement among the Parties concerning Service shall be effective or binding unless it is made in writing by authorized representatives of the Parties. Terms or conditions contained in any Sales Order, or restrictive endorsements or other statements on any form of payment, shall be void and of no force or effect.

11.5 Tariffs. Notwithstanding anything to the contrary in the Agreement, Comcast may elect or be required to file with regulatory agencies tariffs for certain Services. In such event, the terms set forth in the Agreement may, under applicable law, be superseded by the terms and conditions of the Tariffs. Without limiting the generality of the foregoing, in the event of any inconsistency with respect to rates, the rates and other terms set forth in the applicable Sales Order shall be treated as individual case based arrangements to the maximum extent permitted by law, and Comcast shall take such steps as are required by law to make the rates and other terms enforceable. If Comcast voluntarily or involuntarily cancels or withdraws a Tariff under which a Service is provided to Customer, the Service will thereafter be provided pursuant to the Agreement and the terms and conditions contained in the Tariff immediately prior to its cancellation or withdrawal. In the event that Comcast is required by a governmental authority to modify a Tariff under which Service is provided to Customer in a manner that is material and adverse to either Party, the affected Party may terminate the applicable Sales Order upon a minimum thirty (30) days' prior written notice to the other Party, without further liability

11.6 Construction. In the event that any portion of the Agreement is held to be invalid or unenforceable, the Parties shall replace the invalid or unenforceable portion with another provision that, as nearly as possible, reflects the original intention of the Parties, and the remainder of the Agreement shall remain in full force and effect.

11.7 Survival. The rights and obligations of either Party that by their nature would continue beyond the termination or expiration of a Sales Order shall survive termination or expiration of the Sales Order.

11.8 Choice of Law. The domestic law of the state in which the Service is provided shall govern the construction, interpretation, and performance of this Agreement, except to the extent superseded by federal law.

11.9 No Third Party Beneficiaries. This Agreement does not expressly or implicitly provide any third party (including users) with any remedy, claim, liability, reimbursement, cause of action, or other right or privilege.

11.10 **Parties' Authority to Contract**. The persons whose signatures appear below are duly authorized to enter into the Agreement on behalf of the Parties name therein.

11.11 **No Waiver; Etc**. No failure by either Party to enforce any right(s) hereunder shall constitute a waiver of such right(s). This Agreement may be executed in counterpart copies.

11.12 **Independent Contractors.** The Parties to this Agreement are independent contractors. Neither Party is an agent, representative, or partner of the other Party. Neither Party shall have any right, power, or authority to enter into any agreement for, or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other Party. This Agreement shall not be interpreted or construed to create an association, agency, joint venture, or partnership between the Parties or to impose any liability attributable to such a relationship upon either Party.

11.13 **Article Headings**. The article headings used herein are for reference only and shall not limit or control any term or provision of this Agreement or the interpretation or construction thereof.

11.14 **Compliance with Laws**. Each of the Parties agrees to comply with all applicable local, state and federal laws and regulations and ordinances in the performance of its respective obligations under this Agreement.

COMCAST ENTERPRISE SERVICES
PRODUCT-SPECIFIC ATTACHMENT
ETHERNET TRANSPORT SERVICES

ATTACHMENT IDENTIFIER: Ethernet Transport, Version 1.5

The following additional terms and conditions are applicable to Sales Orders for Comcast's Ethernet Transport Services:

DEFINITIONS

Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the General Terms and Conditions.

"Estimated Availability Date" means the target date for delivery of Service.

"Interconnection Facilities" means transmission capacity provided by Comcast, Customer or a third-party supplier to extend the Comcast Equipment from a Comcast terminal to any other location (e.g., a local loop provided by a local exchange company or other communications company).

"Off-Net" means geographical locations that are outside of Comcast's service area and/or geographical locations that are within Comcast's service area generally, but are not readily accessible by Comcast Network facilities. All Off-Net Services are provided by third-party service providers.

"On-Net" means geographical locations where Comcast currently provides Services through its Comcast Network. On-Net Services may be provisioned over a fiber optic network, or via a hybrid fiber coax network ("On-Net HFC"), as available through Comcast.

"Services" means Ethernet Transport Services.

ARTICLE 1. SERVICES

This attachment shall apply to Ethernet Transport Services. A further description of these Services is set forth in Schedule A-1 hereto which is incorporated herein by reference.

ARTICLE 2. PROVIDER

On-Net Service shall be provided by Comcast Business Communications, LLC.

On-Net Service provided over the On-Net HFC and Off-Net Services are available in a number of Comcast markets. For information on service availability, call 866-429-0152.

ARTICLE 3. REGULATORY APPROVAL; TRAFFIC MIX

Comcast's pricing for Service may be subject to FCC, public service commission or other regulatory approval. Further, Customer represents that its use of Service hereunder will be jurisdictionally interstate. Customer agrees to indemnify and hold Comcast harmless from any claims by third parties resulting from or arising out of Customer's failure to properly represent or certify the jurisdictional nature of its use of Service.

ARTICLE 4. CUSTOM INSTALLATION FEE

Once Comcast accepts a Sales Order for Service, Comcast will invoice Customer for all Custom Installation Fee(s). Customer will pay the Custom Installation Fee(s) within thirty (30) days of the invoice date unless a payment schedule is specified in the applicable Service Order.

ARTICLE 5. PROVISIONING INTERVAL

Following its acceptance of a Sales Order, Comcast shall notify Customer of the Estimated Availability Date applicable to that Sales Order. Comcast shall use commercially reasonable efforts to provision the Service on or before the Estimated Availability Date; provided, however, that Comcast's failure to provision by said date shall not constitute a breach of the Agreement.

ARTICLE 6. SERVICE COMMENCEMENT DATE

Comcast shall inform Customer when Service is available and performing in accordance with the "Performance Standards" set forth in Schedule A-1 hereto ("Availability Notification"). Charges for Service shall begin to accrue as of the Service Commencement Date. The Service Commencement Date shall be earliest of: (A) the date on which Customer confirms receipt of and concurrence with the Availability Notification; (B) five (5) business days following the date of the Availability Notification, if Customer fails to notify Comcast that the Service does not comply materially with the specifications set forth in Schedule A-1 hereto; or (C) the date on which Customer first uses the Service.

ARTICLE 7. TERMINATION CHARGES; PORTABILITY; UPGRADES

7.1 The charges set forth or referenced in each Sales Order have been extended to Customer in reliance on the Service Term set forth therein. To the extent that a Service Term has not been expressly set forth in a Sales Order, the minimum Service Term for Services is twelve (12) months.

7.2 Termination Charges for On-Net Services.

A. In the event On-Net Service is terminated following Comcast's acceptance of the applicable Sales Order but prior to the Service Commencement Date, Customer shall pay Termination Charges equal to the costs and expenses incurred by Comcast in installing or preparing to install the On-Net Service plus twenty percent (20%).

B. In the event that On-Net Service is terminated on or following the Service Commencement Date but prior to the end of the applicable Service Term, Customer shall pay Termination Charges equal to a percentage of the monthly recurring charges remaining for the unexpired portion of the then-current Service Term, calculated as follows:

i. 100% of the monthly recurring charges with respect to months 1-12 of the Service Term; plus
ii. 80% of the monthly recurring charges with respect to months 13-24 of the Service Term; plus
iii. 65% of the monthly recurring charges with respect to months 25 through the end of the Service Term; plus
iv. 100% of any remaining, unpaid Custom Installation Fees.

Termination Charges shall be immediately due and payable upon cancellation or termination and shall be in addition to any and all accrued and unpaid charges for the Service rendered by Comcast through the date of cancellation or termination.

C. **Termination Charges for Off-Net Services.** In the event Customer terminates Off-Net Service following Comcast's acceptance of the applicable Sales Order but prior to the end of the applicable Service Term, Customer shall pay Termination Charges equal to 100% of the monthly recurring charges remaining through the end of the Service Term plus 100% of any remaining, unpaid Custom Installation Fees. Customer shall, pursuant to Article 3.2 of the General Terms and Conditions, also pay any third-party charges, incurred by Comcast as a result of the early termination of service by the Customer.

7.3 Exclusions. Termination Charges shall not apply to Service terminated by Customer (a) as a result of Comcast's failure to provision Service within the intervals specified in Article 5 of this attachment or (b) as a result of Comcast's material and uncured breach in accordance with Article 5.2 of the General Terms and Conditions.

7.4 Portability. Customer may terminate an existing On-Net Service (an "Existing Service") and turn up a replacement On-Net Service (i.e., having different termination points on Comcast's network) (a "Replacement Service") without incurring Termination Charges with respect to the Existing Service, provided that (a) the Replacement Service must have a Service Term equal to or greater than the remaining Service Term of the Existing Service; (b) the Replacement Service must have monthly recurring charges equal to or greater than the monthly recurring charges for the Existing Service; (c) Customer submits a Sales Order to Comcast for the Replacement Service within ninety (90) days after termination of the Existing Service and that order is accepted by Comcast; (d) Customer reimburses Comcast for any and all installation charges that were waived with respect to the Existing Service; and (e) Customer pays the actual costs incurred by Comcast in installing and provisioning the Replacement Service.

7.5 Upgrades. Customer may upgrade the speed or capacity of an Existing Service without incurring Termination Charges, provided that (A) the upgraded Service (the "Upgraded Service") must assume the remaining Service Term of the Existing Service; (B) the Upgraded Service must have the same points of termination on Comcast's network as the Existing Service; (C) Customer submits a Sales Order to Comcast for the Upgraded Service and that order is accepted by Comcast; (D) Customer pays Comcast's applicable nonrecurring charges for the upgrade; and (E) Customer agrees to pay the applicable monthly recurring charges for the Upgraded Service commencing with the upgrade. Upgrades to Off-Net Services are subject to the applicable third party service provider rules and availability. Comcast has no obligation to upgrade Customer's Off-Net Service.

ARTICLE 8. ADDITIONAL INFORMATION

As necessary for the interconnection of the Service with services provided by others, Comcast may request (as applicable), and Customer will provide to Comcast, circuit facility assignment information, firm order commitment information, and design layout records necessary to enable Comcast to make the necessary cross-connection between the Service and Customer's other service provider(s). Comcast may charge Customer nonrecurring and monthly recurring cross-connect charges to make such connections.

ARTICLE 9. TECHNICAL SPECIFICATIONS AND PERFORMANCE STANDARDS; SERVICE LEVEL AGREEMENT

The technical specifications and performance standards applicable to the Service are set forth in Schedule A-1 hereto. The service level agreement applicable to the Service is set forth in a Schedule A-2 hereto.

COMCAST ENTERPRISE SERVICES
PRODUCT-SPECIFIC ATTACHMENT
ETHERNET TRANSPORT SERVICES

SCHEDULE A-1
SERVICE DESCRIPTIONS, TECHNICAL SPECIFICATIONS AND PERFORMANCE STANDARDS
COMCAST ETHERNET TRANSPORT SERVICES

Ethernet Transport Version 1.5

Comcast's Ethernet Transport Services ("Service(s)") will be provided in accordance with the service descriptions, technical specifications and performance standards set forth below:

Definitions

1. Latency. Latency, also known as Frame Delay, is defined as the maximum delay measured for a portion of successfully delivered service frames over a 30 day period.
2. Jitter. Jitter, also known as Frame Delay Variation, is defined as the short-term variations measured for a portion of successfully delivered service frames over a 30 day period.
3. Packet Loss. Packet Loss, also known as Frame Loss, is the difference between the number of service frames transmitted at the ingress UNI and the total number of service frames received at the egress UNI over a 30 day period.

Service Descriptions

1. **Ethernet Network Service (ENS).** ENS enables customers to connect physically distributed locations across a Metropolitan Area Network (MAN) or Wide Area Network (WAN) as if they are on the same Local Area Network (LAN). The service provides VLAN transparency enabling customers to implement their own VLANs without any coordination with Comcast. ENS offers three Classes of Service (CoS), as described below. The service is offered with 10/100Mbps, 1Gbps or 10Gbps Ethernet User-to-Network Interfaces (UNI) and is available in increments starting at 1Mbps. The ENS Service is not available over On-Net HFC.

2. **Ethernet Private Line (EPL).** EPL service enables customers to connect their Customer Premises Equipment (CPE) using an Ethernet interface. EPL service enables customers to use any VLANs or Ethernet control protocol across the service without coordination with Comcast. EPL service provides one Ethernet Virtual Connection (EVC) between two customer locations. EPL offers three Classes of Service (CoS), as described below. EPL service is offered with 10/100Mbps, 1Gbps, or 10 Gbps Ethernet User-to-Network Interfaces (UNI) and is available in speed increments starting at 1Mbps.

3. **Ethernet Virtual Private Line (EVPL).** EVPL service provides an Ethernet Virtual Connection (EVC) between two customer locations similar to Ethernet Private Line service but supports the added flexibility to multiplex multiple services (EVCs) on a single UNI at a customer's hub or aggregation site. The service multiplexing capability is not available at sites served by the Comcast On-Net HFC. EVPL offers three Classes of Service (CoS) , as described below. CoS options enable customers to select the CoS that best meets their applications' performance requirements. The service is offered with 10/100Mbps, 1Gbps, or 10 Gbps Ethernet User-to-Network Interfaces (UNI) and is available in speed increments starting at 1Mbps.

4. **Off-Net Service Limitations.** The above categories of Service are available as Off-Net Services, with the following limitations:

- Only available with Basic CoS;
- 10Gbps Ethernet UNIs are not available with Off-Net Services;
- Service multiplexing capability is not available on Off-Net EVPL UNIs;
- When ordering 10/100Mbps Off-Net Ethernet UNIs, speed increments may only be ordered in increments of 10 Mbps, up to a maximum size of of 90Mbps; when ordering 1 Gbps Off-Net Ethernet UNIs, speed increments may only be ordered in increments of 100Mbps, up to a maximum size of 900Mbps

Ethernet Virtual Circuit (EVC) Area Types

Comcast Ethernet Transport Services are available both within and between certain major metropolitan areas throughout the United States. Each EVC is assigned an EVC Area Type based upon the locations of respective A and Z locations.

a. Metro. EVC enables connectivity between customer locations within a Comcast defined Metro.

b. Regional. EVC enables connectivity between customer locations that are in different Comcast defined Metro's, but within Comcast defined geographic Regions.

c. Continental. EVC enables connectivity between customer locations that are in different Comcast defined geographic Regions.

Technical Specifications and Performance Standards for Services

1. **User-to-Network Interface.** The Services provides the bidirectional, full duplex transmission of Ethernet frames using a standard IEEE 802.3 Ethernet interface. Figure 1 provides a list of available UNI physical interfaces and their available Committed Information Rate (CIR) bandwidth increments and Committed Burst Sizes (CBS). CIR increments of less than 10 Mbps are not available in conjunction with Off-Net Services.

UNI Speed	UNI Physical Interface
10 Mbps	10BaseT
100 Mbps	100BaseT
1 Gbps	1000BaseT or 1000BaseSX
10 Gbps	10GBase-SR or 10GBase-LR

CIR Increments	CBS (bytes)
1 Mbps	25,000
10 Mbps	250,000
100 Mbps	2,500,000
1000 Mbps	25,000,000

Figure 1: Available UNI interface types and CBS values for different CIR Increments

2. **Class of Service (CoS) Options.** As set forth in Figure 2, Comcast Ethernet Transport Services are available with three different classes of service. The CoS options allow for differentiated service performance levels for different types of network traffic. CoS is used to prioritize customer mission-critical traffic from lesser priority traffic in the network. The customer must specify a CIR for each CoS to indicate how much bandwidth should be assigned to each CoS. The performance metrics associated with each CoS are set forth in Attachment A-1.1 to the Product-Specific Attachment for Ethernet Service.

EVC Area Type	On-Net Fiber	On-Net HFC	Off-Net
Metro	Basic, Priority & Premium	Basic & Priority	Basic
Regional	Basic, Priority & Premium	Basic	Basic
Continental	Basic, Priority & Premium	Basic	Basic

Figure 2: Available CoS options by Access Type and EVC Area Type

3. **CoS Identification and Marking.** If a customer only implements a single CoS solution, they are not required to mark their packets using 802.1p CoS values. All packets, tagged or untagged, will be mapped into the subscribed CoS. If a customer implements a multi-CoS solution or for EVPL ports with service multiplexing, they must mark all packets using C-tag 802.1p CoS values as specified in Figure 3 to ensure the service will provide the intended CoS performance objectives specified in Figure 2. For multi-CoS solutions, untagged packets will be treated as if they are marked with a 0. Packets with other 802.1p values are mapped to the lowest subscribed CoS. In this case, C-tag VLAN ID values are not relevant as long as they are tagged with a VLAN ID in the range 1 to 4094. For EVPL ports with service multiplexing, untagged packets will be discarded and C-tag VLAN ID values are used to map traffic to applicable EVC's.

CoS	802.1p
Premium	5
Priority	2-3
Basic	0-1

Figure 3: CoS Marking

4. **Traffic Management.** Comcast's network traffic-policing policies restrict traffic flows to the subscribed CIR for each service class. If the customer-transmitted bandwidth rate for any CoS exceeds the subscription rate (CIR) and burst size (CBS), Comcast will discard the non-conformant packets. For packets marked with a non-conformant CoS marking, the service will transmit them using the Basic service class without altering the customer's CoS markings. Traffic management policies associated with Off-Net Services will conform to the policies enforced by the third-party service provider.

5. **Maximum Frame Size.** Services delivered On-Net support a Maximum Transmission Unit (MTU) packet size of 1600 bytes to support untagged or 802.1Q tagged packet sizes. Jumbo Frame sizes can be supported on an Individual Case Basis (ICB). For Services delivered On-Net HFC, frame sizes may not exceed 1518 MTU size (1522 with a single VLAN tag). All frames that exceed specifications shall be dropped. For Off-Net Services, MTU may vary by third-party provider.

6. **Customer Traffic Transparency.** All fields within customers Ethernet frames (unicast, multicast and broadcast, except L2CP) from the first bit of payload are preserved and transparently transported over UNI to UNI, as long as they are mapped into the EVC.

7. **Ethernet Service Frame Disposition.** Different types of Ethernet frames are processed differently by the Service. Frames may pass unconditionally through the network or may be limited as in the case of broadcast, unknown unicast and multicast frames to ensure acceptable service performance. Refer to Figure 7 for Comcast's service frame disposition for each service frame type.

Service Frame Type	EPL Frame Delivery	EVPL Frame Delivery	ENS Frame Delivery
Unicast	All frames delivered unconditionally	Frames delivered conditionally	All frames delivered unconditionally
Multicast	All frames delivered unconditionally	Frames delivered conditionally	Frames delivered conditionally
Broadcast	All frames delivered	Frames delivered	Frames delivered

	unconditionally	conditionally	conditionally

Figure 7: Service Frame Delivery Disposition

COMCAST ENTERPRISE SERVICES
PRODUCT-SPECIFIC ATTACHMENT
ETHERNET TRANSPORT SERVICES

SCHEDULE A-2
SERVICE LEVEL AGREEMENT

Ethernet Transport Version 1.5

Comcast's Ethernet Transport Services is backed by the following Service Level Agreement ("SLA"):

Definitions:

Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Ethernet Transport Services PSA or the General Terms and Conditions.

"Planned Service Interruption" means any Service Interruption caused by planned work such as scheduled maintenance or planned enhancements or upgrades to the network.

"Service Interruption" means a complete loss of signal that renders the Service unusable.

Service Level Agreement (SLA)

Company's liability for any Service Interruption (individually or collectively, "Liability"), shall be limited to the amounts set forth in the Tables below. For the purposes of calculating credit for any such Liability, the Liability period begins when the Customer reports to Company an interruption in the portion of the Service, provided that the Liability is reported by Customer during the duration of the Liability, and, a trouble ticket is opened; the Liability shall be deemed resolved upon closing of the same trouble ticket or the termination of the interruption, if sooner, less any time Company is awaiting additional information or premises testing from the Customer. In no event shall the total amount of credit issued to Customer's account on a per-month basis exceed 50% of the total monthly recurring charge ("MRC") associated with the impacted portion of the Service set forth in the Sales Order. Service Interruptions will not be aggregated for purposes of determining credit allowances. To qualify, Customer must request the Credit from Comcast within thirty (30) days of the interruption. Customer will not be entitled to any additional credits for Service Interruptions. Comcast shall not be liable for any Liability caused by force majeure events, Planned Service Interruptions or Customer actions, omission or equipment.

TABLE 1: SLA for On-Net Services provided over a fiber optic network (99.99% Availability)

Attachment D (IV)

Length of Service Interruption:	Amount of Credit:
Less than 4 minutes	None
At least 4 minutes but less than 4 hours	5% of Total MRC
At least 4 hours but less than 8 hours	10% of Total MRC
At least 8 hours but less than 12 hours	20% of Total MRC
At least 12 hours but less than 16 hours	30% of Total MRC
At least 16 hours but less than 24 hours	40% of Total MRC
At least 24 hours or greater	50% of Total MRC

TABLE 2: SLA for On-Net Services provided over On-Net HFC (99.9% Availability)

Length of Service Interruption:	Amount of Credit:
Less than 40 minutes	None
At least 40 minutes but less than 4 hours	5% of Total MRC
At least 4 hours but less than 8 hours	10% of Total MRC
At least 8 hours but less than 12 hours	20% of Total MRC
At least 12 hours but less than 16 hours	30% of Total MRC
At least 16 hours but less than 24 hours	40% of Total MRC
At least 24 hours or greater	50% of Total MRC

TABLE 3: SLA for Off-Net Services (99.95% Availability)

Length of Service Interruption:	Amount of Credit:
Less than 20 minutes	None
At least 20 minutes but less than 4 hours	5% of Total MRC
At least 4 hours but less than 8 hours	10% of Total MRC
At least 8 hours but less than 12 hours	20% of Total MRC
At least 12 hours but less than 16 hours	30% of Total MRC
At least 16 hours but less than 24 hours	40% of Total MRC
At least 24 hours or greater	50% of Total MRC

THE TOTAL CREDIT ALLOWANCES PER MONTH IS CAPPED AT 50% of THAT MONTH'S MRC FOR THE INTERRUPTED PORTIONS OF SERVICE. SEPARATELY OCCURING SERVICE INTERRUPTIONS ARE NOT AGGREGATED FOR THE PURPOSES OF DETERMINING CREDIT ALLOWANCES.

On-Net Service Monitoring, Technical Support and Maintenance

1. **Network Monitoring**. Comcast monitors On-Net Services on a 24x7x365 basis.

2. **Technical Support**. Comcast provides a toll-free trouble reporting telephone number to the Enterprise Technical Support (ETS) center that operates on a 24x7x365 basis. Comcast provides technical support for service related inquiries. Technical support will not offer consulting or advice on issues relating to CPE or other equipment not provided by Comcast.

a. Escalation. Reported troubles are escalated within the Comcast Business Services Network Operations Center (BNOC) to meet the response/restoration interval described below (Response and Restoration Standards). Service issues are escalated within the Comcast BNOC as follows: to a Supervisor at the end of the applicable time interval plus one (1) hour; to a Manager at the end of the applicable time interval plus two (2) hours, and to a Director at the end of the applicable time interval plus four (4) hours.

b. Maintenance. Comcast's standard maintenance window for On-Net Services is Sunday to Saturday from 12:00am to 6:00am local time. Scheduled maintenance for On-Net Services is performed during the maintenance window and will be coordinated between Comcast and the Customer. Comcast provides a minimum forty eight (48) hour notice for non-service impacting maintenance. Comcast provides a minimum of seven (7) days' notice for On-Net Service impacting planned maintenance. Emergency maintenance is performed as needed without advance notice to Customer. Maintenance for Off-Net Services shall be performed in accordance with the applicable third party service provider rules. Therefore, Off-Net Service may be performed without advance notice to Customer.

3. Comcast provides certain Comcast Equipment for provisioning its services and the delivery of the UNI, which will reside on the Customer-side of the Demarcation Point. Comcast will retain ownership and management responsibility for this Comcast Equipment. This Comcast Equipment must only be used for delivering Services. Customers are required to shape their egress traffic to the Committed Information Rate ("CIR") identified in the Sales Order. Comcast will be excused from paying SLA credits if the Service Interruption is the result of Customer's failure to shape their traffic to the contracted CIR or utilizing Comcast Equipment for non-Comcast provided services.

Performance Standards

"Performance Standards" are set forth in Schedule A-1 to the Product-Specific Attachment for Ethernet Service.

Response and Restoration Standards

Comcast has the following response and restoration objectives:

CATEGORY	TIME INTERVAL	MEASUREMENT	REMEDIES
Mean Time to Respond Telephonically to Call	15 minutes	Averaged Over A Month	Escalation (see above)
Mean Time to Restore On-Net Comcast Equipment	4 hours	Averaged Over A Month	Escalation (see above)
Mean Time to Restore Off-Net Equipment	6 hours	Averaged Over A Month	Escalation (see above)
Mean Time to Restore On-Net Services	6 hours	Averaged Over A Month	Escalation (see above)
Mean Time to Restore Off-Net Services	9 hours	Averaged Over A Month	Escalation (see above)

Customer shall bear any expense incurred, e.g., dispatch/labor costs, where a Service Interruption is found to be the fault of Customer, its end users, agents, representatives or third-party suppliers.

Emergency Blocking

The parties agree that if either party hereto, in its reasonable sole discretion, determines that an emergency action is necessary to protect its own network, the party may, after engaging in reasonable and good faith efforts to notify the other party of the need to block, block any transmission path over its network by the other party where transmissions do not meet material standard industry requirements. The parties further agree that none of their respective obligations to one another under the Agreement will be affected by any such blockage except that the party affected by such blockage will be relieved of all obligations to make payments for charges relating to the circuit(s) which is so blocked and that no party will have any obligation to the other party for any claim, judgment or liability resulting from such blockage.

Remedy Processes

All claims and rights arising under this Service Level Agreement must be exercised by Customer in writing within thirty (30) days of the event that gave rise to the claim or right. The Customer must submit the following information to the Customer's Comcast account representative with any and all claims for credit allowances: (a) Organization name; (b) Customer account number; and (c) basis of credit allowance claim (including date and time, if applicable). Comcast will acknowledge and review all claims promptly and will inform the Customer by electronic mail or other correspondence whether a credit allowance will be issued or the claim rejected, with the reasons specified for the rejection.

Exceptions to Credit Allowances

A Service Interruption shall not qualify for the remedies set forth herein if such Service Interruption is related to, associated with, or caused by: scheduled maintenance events; Customer actions or inactions; Customer-provided power or equipment; any third party not contracted through Comcast, including, without limitation, Customer's users, third-party network providers, any power, equipment or services provided by third parties; or an event of force majeure as defined in the Agreement.

Other Limitations

The remedies set forth in this Service Level Agreement shall be Customer's sole and exclusive remedies for any Service Interruption, outage, unavailability, delay, or other degradation, or any Comcast failure to meet the service objectives.

COMCAST ENTERPRISE SERVICES
PRODUCT-SPECIFIC ATTACHMENT
ETHERNET TRANSPORT SERVICES

Attachment A-1.1
PERFORMANCE OBJECTIVES
COMCAST ETHERNET TRANSPORT SERVICES

Ethernet Transport Version 1.5

Comcast Ethernet Transport Services are available both within and between major metropolitan areas throughout the United States. The performance objectives associated with traffic flows between any two customer sites are dependent upon the locations of respective A and Z sites.

__Access Types__

1. __**On-Net Access**__. If On-Net A and Z sites reside within the same Market, Performance Tier 1 objectives will apply. If the sites are in different markets, another Performance Tier will apply. Applicable Performance Tier will appear on/with respective Comcast Sales Order Form.

2. __**Off-Net Access**__. In addition to On-Net Access, Comcast enables Off-Net Access to Ethernet Transport Services via multiple third party providers. The Performance Tier for Off-Net Access is based upon the location of the Off-Net site, the location of the Network to Network Interface (NNI) between Comcast and the third party provider and the performance commitment from the third party provider. Comcast will specify applicable Performance Tier on the Comcast Sales Order Form for applicable Off-Net site. Standard Off-Net Access will have an assigned home market and will include the same performance metrics associated with On-Net connectivity within the respective market and between markets. Extended Off-Net Access provides customer with network connectivity, but at a higher performance Tier. Applicable Performance Tier will appear on/with respective Comcast Sales Order Form.

__Performance Tiers__

1. Performance Measurement

Comcast collects continuous in-band performance measurements for its Ethernet Transport Services. All latency, Jitter and Packet Loss Performance Metrics are based upon sample one-way measurements taken during a calendar month.

2. Performance Tier 1 (PT1) Objectives – Within Market

Performance Metric	Class of Service (CoS)		
	Basic	Priority	Premium
Latency (Network Delay)	45ms	23ms	12ms
Jitter (Network Delay Variation)	20ms	10ms	2ms
Packet Loss	<1%	<0.01%	<0.001%

3. **Performance Tier 2 (PT2) Objectives**

Performance Metric	Class of Service (CoS)		
	Basic	Priority	Premium
Latency (Network Delay)	80ms	45ms	23ms
Jitter (Network Delay Variation)	25ms	15ms	5ms
Packet Loss	<1%	<.02%	<.01%

4. **Performance Tier 3 (PT3) Objectives**

Performance Metric	Class of Service (CoS)		
	Basic	Priority	Premium
Latency (Network Delay)	100ms	80ms	45ms
Jitter (Network Delay Variation)	30ms	20ms	10ms
Packet Loss	<1%	<.04%	<.02%

5. **Performance Tier 4 (PT4) Objectives**

Performance Metric	Class of Service (CoS)		
	Basic	Priority	Premium
Latency (Network Delay)	120ms	100ms	80ms
Jitter (Network Delay Variation)	35ms	25ms	15ms
Packet Loss	<1%	<.05%	<.04%

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forest grove

July 13, 2015

REPORT ON RESOLUTIONS APPOINTING CITY MANAGER FOR THE CITY OF FOREST GROVE; ESTABLISHING EMPLOYMENT AGREEMENT BETWEEN THE CITY OF FOREST GROVE AND CITY MANAGER; AND ESTABLISHING COMPENSATION FOR THE CITY MANAGER FOR FISCAL YEAR 2015-16

Project Team: **Brenda Camilli, Human Resources Manager**
Paul Downey, Director of Administrative Services

ISSUE STATEMENT: The City Council intends to appoint Jesse VanderZanden to the position of City Manager for the City of Forest Grove. Staff has prepared the attached resolutions for Council approval to appoint the City Manager, obtain Council approval of the proposed contract, and set compensation for the City Manager for FY 2015-16.

DISCUSSION: Staff has prepared the resolutions after negotiations with Jesse VanderZanden. The start date for the new City Manager will be August 31, 2015.

The proposed contract includes various provisions including: 1) appointed for an indefinite term with compensation set annually by resolution; 2) termination provisions with the potential for up to 3 months of severance pay depending on if it is a voluntary or involuntary termination and whether the termination is for cause or not; 3) option of providing a vehicle allowance or a City-provided vehicle; 4) an initial leave bank of 80 hours in both sick leave and vacation; and 5) reimbursement of two-thirds of the moving expenses not to exceed $22,000.

The resolution setting compensation in the package does not have the compensation listed as the compensation is still being discussed. Staff will have the completed resolution at the Council meeting. The resolution does include a car allowance of $350 per month.

FISCAL IMPACT: The costs of the compensation and the moving expenses are within the Legislative and Executive Department's FY 2015-16 Budget since the new city manager did not commence employment as of July 1, 2015, as anticipated during the budget process.

RECOMMENDATION: Staff recommends that the City Council should adopt the attached resolutions to complete the appointment process for the City Manager.

CITY OF FOREST GROVE • P.O. Box 326 • Forest Grove, OR 97116-0326 • www.forestgrove-or.gov • PHONE 503-992-3200 • FAX 503-992-3207

7.

RESOLUTION NO. 2015-54

RESOLUTION APPOINTING CITY MANAGER
FOR THE CITY OF FOREST GROVE

WHEREAS, the position of City Manager of the City of Forest Grove became vacant on December 31, 2014; and

WHEREAS, the City Council, by Resolution No. 2014-90, adopted December 8, 2014, gave its notice of intention to appoint a City Manager; and

WHEREAS, Chapter VIII, Section 33 (b), of the Charter of the City of Forest Grove, gives the City Council the power to appoint a City Manager.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF FOREST GROVE AS FOLLOWS:

Section 1. That Michael "Jesse" VanderZanden is hereby appointed as City Manager of the City of Forest Grove, to be effective August 31, 2015.

Section 2. This resolution is effective immediately upon its enactment by the City Council.

PRESENTED AND PASSED this 13th day of July, 2015.

____
Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 13th day of July, 2015.

____
Peter B. Truax, Mayor

8.

RESOLUTION NO. 2015-55

RESOLUTION ESTABLISHING EMPLOYMENT AGREEMENT WITH THE CITY MANAGER AND AUTHORIZING MAYOR TO EXECUTE THE EMPLOYMENT AGREEMENT BETWEEN THE CITY OF FOREST GROVE AND CITY MANAGER

WHEREAS, the City of Forest Grove (hereby referred to as "City") is a municipal corporation of the State of Oregon and, as such, is subject to the provisions of the Forest Grove City Charter;

WHEREAS, Section 33 (d) of the Charter authorizes the City Council to appoint a City Manager for an indefinite term and remove them at the pleasure of the Council;

WHEREAS, City desires to employ Michael "Jesse" VanderZanden (hereby referred to as "Employee") as City Manager of City;

WHEREAS, Employee desires to accept employment as City Manager of City; and

WHEREAS, City desires to provide Employee with certain benefits, establish conditions of employment, and determine working conditions of Employee.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF FOREST GROVE AS FOLLOWS:

Section 1. That the Employment Agreement between City and Employee attached as Exhibit A is mutually agreed upon.

Section 2. That the Mayor is hereby authorized to execute said Employment Agreement.

Section 3. This resolution is effective immediately upon its enactment by the City Council.

PRESENTED AND PASSED this 13th day of July, 2015.

____
Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 13th day of July, 2015.

____
Peter B. Truax, Mayor

EXHIBIT A

EMPLOYMENT AGREEMENT

DATE: July 13, 2015

PARTIES: CITY OF FOREST GROVE, OREGON (City) and

MICHAEL "JESSE" VANDERZANDEN (Employee).

RECITALS:

A.) City is a municipal corporation of the State of Oregon and, as such, is subject to the provisions of the Forest Grove City Charter. Section 33(d) of the Charter authorizes the City Council to appoint a City Manager for an indefinite term and remove them at the pleasure of the Council.

B.) City desires to employ Employee as City Manager of City.

C.) Employee desires to accept employment as City Manager of City.

D.) City desires to provide Employee with certain benefits, establish conditions of employment, and determine working conditions of Employee.

THE PARTIES AGREE:

SECTION ONE

APPOINTMENT, REMOVAL, AND SUPERVISION

The City Council has the sole authority to appoint, remove, and supervise Employee. Employee serves at the pleasure of the City Council and may be removed at any time without cause.

SECTION TWO

DUTIES

Employee is employed as City Manager to perform the functions and duties specified in Section 33 (e) of the City Charter and to perform such other legally permissible duties and functions as may be assigned by the City Council.

SECTION THREE

TERM OF EMPLOYMENT

Employee is appointed for an indefinite term and may be removed at the pleasure of the City Council as provided for in Section 33 (d) of the City Charter. Employee shall have the right to voluntarily resign the position.

SECTION FOUR

TERMINATION/SEVERANCE PAY

4.1 Termination without Cause. This Agreement may be terminated by either the City or Employee for any reason whatsoever upon giving thirty (30) days calendar days' written notice to the other party.

4.2 Termination for Cause. In the event of a For-Cause termination, this Agreement shall not be deemed to construe any waiver of statutory or constitutional rights or remedies otherwise available to the Employee. Employee's employment with the City may be terminated immediately in the sole discretion of the City (acting by and through its City Council) upon the occurrence of any of the following events:

A. Employee fails or refuses to comply with the written policies, standards and regulations of the City that are now in existence or that may, from time to time be established;

B. The City has reasonable cause to believe Employee has committed fraud, misappropriated City funds, goods or services to either his own or some other private third party's benefit and/or other act(s) of misconduct which the City Council believes is/are detrimental to the City and/or its interests; or

C. Employee fails to perform faithfully or diligently his duties as City Manager.

4.3 Not For Cause Termination. In the event Employee is involuntarily terminated by the City (albeit Employee is willing and able to perform those duties) for reasons other than those set out above in subsection 4.2, then in that event, Employee shall be entitled to and City agrees to pay a severance payment equal to the value of one (1) month's salary for each year or portion of a year of completed service with the City beginning August 31, 2015, up to a maximum payment equal to three (3) month's salary.

4.4 If the City reduces the salary or other financial benefits of Employee in greater percentage than an applicable across the board reduction for all unclassified employees of the City, or if Employee resigns at the request of the City Council (for reasons other than those set out in subsection 4.2), then Employee may deem this Agreement to be involuntarily terminated without cause and shall then be entitled to severance pay consistent with subsection 4.3 of this section. Termination or resignation in good standing shall entitle Employee to a lump sum payment equivalent to all accrued vacation and other entitlement benefits, consistent with the benefits accorded other unrepresented employees.

4.5 If Employee voluntarily resigns his position with the City, then Employee shall give the City at least thirty calendar days' written notice in advance, excluding accrued vacation, and Employee shall be available to serve during this period. The City Council, however, shall have the discretion to decide whether Employee shall continue in his position during the notice period.

SECTION FIVE

COMPENSATION

City shall pay Employee an annual base salary established for the position by Resolution of the City Council. This salary shall be payable in installments on specified paydays as established by the City. The City Council may adjust Employee's salary annually by Resolution, based upon evaluation of Employee's performance as provided in Section 6.

SECTION SIX

PERFORMANCE EVALUATION

The City Council shall evaluate the City Manager's performance at least once a year, and establish criteria for evaluation in accordance with the State's open meetings law. Upon conclusion of evaluation, the City Council may make an adjustment to the annual base salary, as established in Section 5.

SECTION SEVEN

HOURS OF WORK

It is recognized that the Employee must devote time outside normal office hours to the business of the City and, because of this fact, Employee will be allowed to take compensatory time, at Employee's discretion, during normal office hours.

SECTION EIGHT

OUTSIDE ACTIVITIES

Subject to the approval of the City Council, the Employee may spend a reasonable amount of time teaching or consulting outside of the City organization.

SECTION NINE

AUTOMOBILE

Employee may be provided a monthly vehicle allowance in lieu of the City providing the use of a city-owned vehicle for city business purposes. The amount of the vehicle allowance shall be set annually by the City Council as part of the employee's salary resolution. Employee will be able to use a City vehicle to take people within the areas served by all City services for City-related business. If a monthly vehicle allowance is not provided, Employee shall have the use of an automobile provided by City to be used for City-related business only, at City's expense. The automobile must not be used for home-to-work or work-to-home travel for any residence of the Employee located outside of City limits.

SECTION TEN

DUES AND SUBSCRIPTIONS

Subject to approval by the City Council, the City shall pay professional dues and subscriptions of Employee necessary for the continuation and participation of Employee in national, regional, state, or local organizations and associations necessary for Employee's continued professional growth.

SECTION ELEVEN

PROFESSIONAL DEVELOPMENT

The City shall pay travel costs and subsistence expenses actually incurred by Employee for professional and official travel.

SECTION TWELVE

REIMBURSED EXPENSES

City will reimburse Employee for expenses of a non-personal and job-related nature as they are incurred. Reimbursement shall be made upon presentation of expense vouchers, receipts, statements, or personal affidavits.

SECTION THIRTEEN

SERVICE CLUB MEMBERSHIP

The Employee may become a member of one (1) service club or community organization at City's expense.

SECTION FOURTEEN

VACATION/SICK LEAVE

14.1 Upon appointment, an immediate eligibility for two weeks (80 hours) of vacation leave will be applied to Employee's leave account. Thereafter, Employee shall accrue vacation leave at the rate established by Resolution of the City Council for management employees.

14.2 At the time of appointment, an immediate eligibility for two weeks (80 hours) of paid sick leave will be made available. Additional sick leave will accrue at the normal rate of 8 hours per month to the maximum cap set for Department Directors by the City Council.

SECTION FIFTEEN

LIFE, DISABILITY, AND HEALTH INSURANCE

City shall provide insurance benefits to Employee as established for Department Directors by Resolution of the City Council.

SECTION SIXTEEN

RETIREMENT

After six (6) months of employment, City will enroll Employee in the City's Defined Contribution Retirement Plan which was established by Resolution of the City Council, subject to the terms and conditions of the Plan. City will contribute 10% + 2% match of employee's base pay into the plan.

SECTION SEVENTEEN

DEFERRED COMPENSATION

Employee will have the option of participating in a deferred compensation plan sponsored by City. This plan is voluntary and at the sole expense of Employee.

SECTION EIGHTEEN

RESIDENCY

Pursuant to City Charter Section 23 (1), the Employee will become a resident of the City within six (6) months of employment and shall remain a resident while employed by the City.

SECTION NINETEEN

MOVING EXPENSES

If Employee is required to move to accept the employment described in this Agreement, subject to the approval of the City Council, City shall pay two-thirds of the expenses associated with the move up to a maximum of $22,000. If the employee voluntarily terminates employment within 12 months after the first day of employment, Employee agrees to reimburse the City for one-half of the moving expenses paid.

SECTION TWENTY

GENERAL

20.1 Professional Liability. The City agrees to defend, hold harmless and indemnify Employee from any and all demands, claims, suits, actions and legal proceedings brought against Employee in his individual capacity, or in his official capacity as agent and employee of the City, consistent with the terms of the Oregon Tort Claims Act (ORS 30.260 to 30.300).

20.2 Nothing shall restrict the ability of the City and Employee to amend or adjust the terms of this Agreement. However, no amendment or adjustment shall be valid unless in writing and signed by both the City and Employee. Employee reserves the right to discuss the terms of this Agreement with the City Council as a whole in either closed Executive Session or open Regular Session as state law allows and as Employee deems appropriate.

20.3 Severability. If any provision, or any portion thereof, contained in this Agreement is held to be unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable and shall not be affected, and shall remain in full force and effect.

20.4 The rights and duties of the City and Employee shall survive the termination of this Agreement.

20.5 Mediation. Should any dispute arise between the parties regarding the terms of this Agreement or the terms of any Exhibit or work or services covered thereby, it is agreed that such dispute is required to be submitted to a mediator prior to arbitration. The parties shall exercise good faith efforts to select a mediator who shall be compensated equally by both parties. Mediation will be conducted in Portland, Oregon, unless both parties agree otherwise. Both parties agree to exercise good faith efforts to resolve disputes covered by this section through this mediation process. If either party requests mediation and the other party fails to respond within ten days, or if the parties fail to agree on a mediator within ten days, a mediator shall be appointed by the presiding judge of the Washington County Circuit Court upon request of either party.

20.6 Arbitration. In the event the parties have a dispute concerning the terms of this Agreement, the terms and conditions of the employment relationship or the violation of any federal, state or local law relating to the employment relationship (and they have not otherwise resolved the matter through the mediation process set out in subsection (E) above) then the dispute shall be resolved by arbitration in accordance with the then effective arbitration rules of (and by filing a claim with) the Arbitration Service of Portland, Inc., and judgment upon the award rendered pursuant to such arbitration may be entered in any court having jurisdiction thereof. Each party shall bear equally the expense of the arbitrator and all other expenses of conducting the arbitration. Each party shall bear its own expenses for witnesses, depositions and attorneys.

20.7 Integration. This Agreement contains the entire Agreement between the parties and supersedes all prior written or oral discussions or agreements regarding the same subject.

SECTION TWENTY-ONE

EFFECTIVE DATE

This Agreement shall be subject to the adoption of a Resolution appointing Employee as City Manager, and this agreement shall then become effective on the first date of employment.

CITY OF FOREST GROVE:

____
Peter Truax, Mayor
City of Forest Grove

EMPLOYEE:

____
Jesse VanderZanden, Employee
City Manager

RESOLUTION NO. 2015-56

9.

RESOLUTION ESTABLISHING COMPENSATION FOR THE CITY MANAGER FOR FISCAL YEAR 2015-16

WHEREAS, Michael "Jesse" VanderZanden will be appointed City Manager effective August 31, 2015, by resolution on July 13, 2015; and

WHEREAS, compensation for this position must be set by the City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF FOREST GROVE AS FOLLOWS:

Section 1. That compensation for Michael "Jesse" Vanderzanden shall be established at ________________________ annually.

Section 2. That a City Manager car allowance shall be established at Three Hundred Fifty Dollars ($350) per month.

Section 3. This resolution is effective immediately upon its enactment by the City Council.

PRESENTED AND PASSED this 13th day of July, 2015.

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Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 13th day of July, 2015.

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Peter B. Truax, Mayor