

## **Council Roundup for February 20, 2018**

The Newberg City Council met on February 20, 2018 and took the following actions:

- Approved Ordinance 2018-2828, fixes to the Transportation Utility Fee
- Approved Resolution 2018-3440, authorizing financing of \$3,5000,000 for the radio communications upgrade project.
- Approved Resolution 2018-3445, contract amendment to WCCCA agreement with Don Cushing.
- Approved Resolution 2018-3437, approving union contract with AFSCME local 1569.
- Approved Resolution 2018-3439, appointing Community Development Director to Yamhill County Affordable Housing Corporation board of directors
- Approved minutes from January 16, and February 5, 2018.

In other business, the Council:

- Heard quarterly report from the Chehalem Valley Chamber of Commerce.
- Heard from the Finance Department on the Equal Pay program in development.



**City Council Work Session  
February 20, 2018 - 6:00 PM  
Public Safety Building 401 East Third Street**

- I. CALL MEETING TO ORDER**
- II. ROLL CALL**
- III. REVIEW OF THE COUNCIL AGENDA AND MEETING**
- IV. COUNCIL BUSINESS ITEMS**
- V. PRESENTATIONS**
  - V.A Chehalem Valley Chamber of Commerce report
    - [RCA Chamber report](#)
    - [Q2 2017-18 Visitor Center Tourism Report](#)
    - [Chamber organizational structure 2018-0220.docx](#)
- VI. ADJOURNMENT**

**PUBLIC COMMENT**

*WORK SESSIONS ARE INTENDED FOR DISCUSSION. NO ACTION WILL BE TAKEN ON THE AGENDA ITEMS AND NO DECISIONS WILL BE MADE. NO ORAL OR WRITTEN TESTIMONY WILL BE HEARD OR RECEIVED FROM THE PUBLIC.*



# ***REQUEST FOR COUNCIL ACTION***

**DATE ACTION REQUESTED: February 20, 2018**

**Order \_\_\_\_ Ordinance \_\_\_\_ Resolution \_\_\_\_ Motion \_\_\_\_ Information XX**  
**No. No. No.**

**SUBJECT: Quarterly Chamber of Commerce  
Report**

**Contact Person (Preparer) for this  
Item: Carr Biggerstaff,  
Chehalem Valley Chamber of Commerce  
Dept.:  
File No.:**

## **EXECUTIVE SUMMARY:**

Carr Biggerstaff, Chehalem Valley Chamber of Commerce, will present the quarterly report to City Council as required under the Marketing contract with the Chamber.

## CHEHALEM VALLEY CHAMBER OF COMMERCE Q2 VISITOR CENTER & TOURISM PROMOTION REPORT

Visitor Center	Q1	Q2
Walk-in Visitors	1,572	1,555

Tourism Website	Q1	Q2
Website Sessions	1,200	407
Bounce Rate	63.10	62.84
Duration (minutes & seconds)	1.47	2.42

Visitor Center & Tourism	Q1	Q2	YTD Budget	YTD Actual
Revenue:				
City of Newberg	\$ 34,971.50	\$ 34,971.50	\$ 139,886.00	\$ 69,943.00
City of Dundee	\$ -	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00
Total Revenues:	\$ 34,971.50	\$ 37,471.50	\$ 142,386.00	\$ 72,443.00
Expense:				
Personnel	\$ 16,873.53	\$ 15,042.16	\$ 62,000.00	\$ 31,915.69
Tourism Marketing	\$ 9,584.62	\$ 1,441.54	\$ 42,000.00	\$ 11,026.16
Overhead, Utilities, etc.	\$ 11,055.73	\$ 12,307.76	\$ 47,979.00	\$ 23,363.49
Total Expenses:	\$ 37,513.88	\$ 28,791.45	\$ 151,979.00	\$ 66,305.33
Net Income:	\$ (2,542.38)	\$ 8,680.05	\$ (9,593.00)	\$ 6,137.67

Q2 TLT Tourism Marketing Expense	Q2
Expense Category:	
FAM Tours	\$ 460.87
Edger Design-Visitor Report	\$ 425.00
Edger Design-Events Pamphlets	\$ 500.00
Website	\$ 56.02
Google Credit	\$ (0.35)
Total Expenses:	\$ 1,441.54

## Chehalem Valley Chamber of Commerce – Organizational Structure

### Chamber Staff

- |                                     |                             |
|-------------------------------------|-----------------------------|
| • Director/CEO                      | Vacant (full-time)          |
| • Operations Manager                | Patty Musick (part-time)    |
| • Membership Development Manager    | Karla Erovik (part-time)    |
| • Visitor Center Receptionist-Admin | Gloria Valdivia (full-time) |

### Governance Committees

- |                       |  |
|-----------------------|--|
| • Executive Committee | Teri Council, Carr Biggerstaff, Ron Wolff<br>Lorie Wolfe, _____ (Incoming Chair) |
| • Finance Committee   | Ron Wolff, Linda Sandberg, Nick<br>Wymore  |
| • Cultural Committee  | Mark Vergets, Fran Stoller, Teri Council   |
| • Membership Council  | Brian Love, Lorie Wolff, Karla Erovik,<br>Teri Council, Dan Prow                 |

### Chamber Program Areas

- Advocacy
  - Government Affairs Committee
  - Parkway Committee, Phase 2
- Commerce
  - Buy Local
  - Taste Dundee
  - Brews & BBQ
  - Mark
- Economic Development
  - Newberg Economic Development Plan
  - ChehalemVIA
- Leadership Newberg
- Membership
  - Communications
  - Awards Banquet

### Directors & Chairs (Volunteer team members not listed)

- |  |
|--|
| Brian Doyle (Chair), _____<br>_____, Ted Crawford  |
| Jennifer Sitter, _____<br>Ayla Holstein, Cassandra Teegarden<br>Jenn Dolphin (Chair), Teri Council,<br>Vergets |
| Joe Hannan, Carr Biggerstaff<br>Carr Biggerstaff, ChehalemVIA BOD  |
| Linda Sandberg, Karla Erovik, Gary<br>Stewart, Dave McNamee  |
| Patty Musick<br>Chelsea Stude (Chair), Teri Council  |

*"It's our job to grow commerce & a vital community"*



**Chehalem Valley Chamber of Commerce**  
2119 Portland Road, Newberg, Oregon 97132  
503-538-2014 | [www.chehalemvalley.org](http://www.chehalemvalley.org)

- Greeters
- Ambassadors
- Wine on Tuesday
- Bend Healthcare
- Golf Tournament

Fran Stoller, Joel Stude  
Karla Erovik, \_\_\_\_\_  
Cassandra Teegarden, Lorie Wolff  
\_\_\_\_\_, Hagan-Hamilton (Dawn Miiler)  
Merissa Cooper (Chair), Chamber staff

- Workforce Development
  - Steps Up Employment
  - Regional Skills Gap Analysis
  - Oregon Wine Education Center
  - Innovate Newberg (Innovate Oregon)

Lynn Quinn, Megan Perona (Chair),  
Chamber staff  
Cassandra Teegarden  
Carr Biggerstaff, Kym LeBlanc-Esparza

Visitor Center & Tourism

- Q2 Quarterly Report to City
- City Council outreach
- TLT Mktg Committee

Carr Biggerstaff, Joe Hannan  
Carr Biggerstaff, Joe Hannan  
Carr Biggerstaff, Dennis Lewis, Rob  
Felton, Sheila Nicholas, Ashley Lippard

Regional Development

- Dundee
- St. Paul
- The Collaborative: Strategic Doing

Ted Crawford, Jennifer Sitter, Fran  
Stoller  
Brian Love, Carr Biggerstaff  
Carr Biggerstaff, UO CSC, MWVCOG

*"It's our job to grow commerce & a vital community"*



**City Council Business Session  
February 20, 2018 - 7:00 PM  
Public Safety Building 401 East Third Street**

**I. CALL TO ORDER**

**II. ROLL CALL**

**III. PLEDGE OF ALLEGIANCE**

**IV. CITY MANAGER'S REPORT**

**V. PUBLIC COMMENTS**

*(30 minutes maximum which may be extended at the mayor's discretion; an opportunity to speak for not more than five (5) minutes per speaker allowed)*

**VI. CONSENT CALENDAR**

- VI.a Resolution 2018-3439, A Resolution supporting the City of Newberg's ongoing participation as a member of the Yamhill County Affordable Housing Corporation's (YCAHC) regional Housing Rehabilitation Collaborative and board of directors, and to appoint the Newberg Community Development Director as the successor to former board member Steve Olson  
[Res3439 YHCO Aff Housing appointment.doc](#)
- VI.b Resolution 2018-3440 Authorizing Financing of Real and Personal Property in a Principal Amount not to exceed \$3,500,000 and Related Matters  
[2018-02-01 RCA & Reso 2017-3440 Auth Resolution.docx](#)  
[2018-01-29 Schedule Newberg 2018 FFCO.pdf](#)
- VI.c Resolution 2018-3445 Ratifying Contract Amendment 1.2 Between Don Cushing Associates and Washington County Consolidated Communications Agency (WCCCA) For Work Undertaken On Behalf Of The City Of Newberg And Authorizing Payment  
[RCA Resolution - Don Cushing Associates.pdf](#)
- VI.d Council Minutes for January 16 and February 5, 2018  
[RCA Council Minutes 2018-0220.pdf](#)

**VII. PUBLIC HEARINGS**

- VII.a Ordinance 2018-2828, An Ordinance Amending Portions Of Newberg Municipal Code Section 3.45 Related To The Transportation Utility Fee And Declaring An

## **VIII. NEW BUSINESS**

### **VIII.a Resolution 2018-3437 - Ratify AFSCME Local 1569 Association Collective Bargaining Agreement**

[Resolution 2018-3437 Ratification of AFSCME Local 1569 Union Contract.doc](#)

[AFSCME PW Union Local 1569 Contract 1-1-18 to 12-31-20 FINAL.pdf](#)

### **VIII.b Equal Pay Plan**

[RCA Info-Equal Pay.pdf](#)

## **IX. COUNCIL BUSINESS**

## **X. ADJOURNMENT**

## **COMMENTS**

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

## **ADA STATEMENT**

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

## **ORDER**

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

# ***REQUEST FOR COUNCIL ACTION***

**DATE ACTION REQUESTED: February 20, 2018**

<b>Order ____ No.</b>	<b>Ordinance ____ No.</b>	<b>Resolution ____ No. 2018-3439</b>	<b>Motion ____</b>	<b>Information ____</b>
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**SUBJECT: A Resolution supporting the City of Newberg's ongoing participation as a member of the Yamhill County Affordable Housing Corporation's (YCAHC) regional Housing Rehabilitation Collaborative and board of directors, and to appoint the Newberg Community Development Director as the successor to former board member Steve Olson**

**Contact Person (Preparer) for this Motion: Doug Rux, Director  
Dept.: Community Development**

## **RECOMMENDATION:**

Adopt Resolution No. 2018-3439.

## **EXECUTIVE SUMMARY:**

The Yamhill County Housing Rehabilitation program and the resulting county wide regional collaborative began in 1980 with its first Housing Rehabilitation Community Development Block Grant (CDBG) award. The City of Newberg has participated with the collaborative since 1989 when it received its first CDBG award.

The Yamhill County Affordable Housing Corporation was created in 2002 and the program continues to assist homeowners across the county with the revolving loan fund that has resulted from past CDBG awards.

This revolving fund currently has more than \$3,500,000.00 in receivables. These are loaned back out to families for Housing Rehabilitation or other programs specifically focused on sustaining affordable housing in our region.

The YCAHC Board makes all final decisions regarding the expenditures and use of these revolving loan funds.

Steve Olson served on the YCAHC board for the last 10 years but has retired, leaving Newberg's position on the board vacant.

The Newberg Community Development Director has volunteered to serve as a board member, and formal appointment of the next City of Newberg's YCAHC board member is required by the City Council.

## **FISCAL IMPACT:**

None.

## **STRATEGIC ASSESSMENT (RELATE TO COUNCIL PRIORITIES FROM SEPTEMBER 2017):**

Not applicable.



## ***RESOLUTION No. 2018-3439***

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**A RESOLUTION SUPPORTING THE CITY OF NEWBERG'S ONGOING PARTICIPATION AS A MEMBER OF THE YAMHILL COUNTY AFFORDABLE HOUSING CORPORATION'S (YCAHC) REGIONAL HOUSING REHABILITATION COLLABORATIVE AND BOARD OF DIRECTORS, AND TO APPOINT THE NEWBERG COMMUNITY DEVELOPMENT DIRECTOR AS THE SUCCESSOR TO FORMER BOARD MEMBER STEVE OLSON.**

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### **RECITALS:**

1. The Yamhill County Housing Rehabilitation program and the resulting county wide regional collaborative began in 1980 with its first Housing Rehabilitation Community Development Block Grant (CDBG) award. The City of Newberg has participated with the collaborative since 1989 when it received its first CDBG award.
2. The Yamhill County Affordable Housing Corporation was created in 2002 and the program continues to assist homeowners county wide with the revolving loan fund from past CDBG awards. This revolving fund currently has more than \$3,500,000.00 in receivables that are loaned back out to families for Housing Rehabilitation or other programs specifically focused on sustaining affordable housing in our region.
3. The YCAHC Board makes all final decisions regarding the expenditures and use of these revolving loan funds.
4. Steve Olson who has served on the YCAHC board for the last ten years has retired, leaving Newberg's position on the board vacant.
5. The Newberg Community Development Director has volunteered to serve as a board member, and formal appointment of the next City of Newberg's YCAHC board member is required by the City Council.

### **THE CITY OF NEWBERG RESOLVES AS FOLLOWS:**

1. The City of Newberg continues to support efforts to achieve affordable housing solutions for all of its residents.
2. The City of Newberg supports the efforts of the YCAHC programs and wishes to continue participating in the regional collaborative.
3. The City Council hereby appoints the Newberg Community Development Director as the member of the YCAHC Board representing the City of Newberg.



➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: February 21, 2018.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 20<sup>th</sup> day of February, 2018.

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Sue Ryan, City Recorder

**ATTEST** by the Mayor this 22<sup>nd</sup> day of February, 2018.

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Bob Andrews, Mayor

# REQUEST FOR COUNCIL ACTION

**DATE ACTION REQUESTED: February 20, 2018**

**Order \_\_\_\_ Ordinance \_\_\_\_ Resolution XX Motion \_\_\_\_ Information \_\_\_\_**  
**No. No. No. 2018-3440**

**SUBJECT: Approving a Resolution Authorizing Financing of Real and Personal Property in a Principal Amount not to exceed \$3,500,000 and Related Matters**

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

## RECOMMENDATION:

Approve Resolution 2018-3440.

## EXECUTIVE SUMMARY:

The City Council committed to the WCCCA Emergency Communications System Upgrade project through several actions in 2017. On September 18, 2017, Council approved the City's participation by 1) approving the Memorandum of Understanding between the City and WCCCA related to this project (Resolution 2017-3391) and 2) approving the contract between the City and Motorola Solutions, Inc. for \$2,019,576.91 (Resolution 2017-3411). In addition, on November 20, 2017, Council authorized the City to be reimbursed for a portion of the project costs paid for in advance of securing financing for the project.

## FISCAL IMPACT:

The project estimate is currently set at \$3.15 million. It is common industry practice that the authorizing resolution build in additional margin. The term of the financing has yet to be determined (at least five years). The interest rate is expected to be between 2-3%. A Preliminary Schedule of events is attached as well.



## ***RESOLUTION No. 2018-3440***

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### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBERG AUTHORIZING FINANCING OF REAL AND PERSONAL PROPERTY IN A PRINCIPAL AMOUNT NOT TO EXCEED \$3,500,000 AND RELATED MATTERS**

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#### **RECITALS:**

1. WHEREAS, City of Newberg, Oregon (the “City”) is authorized by Oregon Revised Statutes Section 271.390 to enter into financing agreements to finance real or personal property that the City Council (the “Council”) determines is needed so long as the estimated weighted average life of the financing agreement does not exceed the estimated dollar weighted average life of the property that is financed; and
2. WHEREAS, the City is authorized to commit its full faith and credit and taxing power pursuant to ORS 287A.315 to pay the amounts due under the financing agreement; and
3. WHEREAS, it is desirable to obtain financing for the City’s portion of the costs of the WCCCA Emergency Communication System Upgrade Project (the “Project”) in a principal amount of not more than \$3,500,000 pursuant to ORS 271.390 and ORS 287A.315; and
4. WHEREAS, the Council hereby determines that the Project is needed.

#### **THE CITY OF NEWBERG RESOLVES AS FOLLOWS:**

##### **SECTION 1. AUTHORIZATION.**

The City may finance the Project under the authority of ORS 271.390 and ORS 287A.315, by entering into one or more financing agreements in an aggregate principal amount of not more than \$3,500,000 (collectively, the “Financing Agreement”). The City may also pay costs associated with the Financing Agreement with proceeds of the Financing Agreement.

##### **SECTION 2. DELEGATION.**

The City Manager, the City Attorney, the Finance Director or the person designated by the City Manager to act on behalf of the City under this Resolution (each of whom is referred to as a “City Official”) is hereby authorized, on behalf of the City and without further action by the Council, to:

- 1) Select a commercial bank with which to negotiate, execute and deliver the Financing Agreement in one or more series. Subject to the limitations of this Resolution, the Financing Agreement may be in such form and contain such terms (including but not limited to covenants, events of and remedies for default and financial reporting requirements) as a City Official may approve;
- 2) Determine the final principal amount, interest rates, payment dates, prepayment rights and all other terms of the financing;

- 3) Designate the borrowing as a “qualified tax-exempt obligation” pursuant to Section 265(b)(3) of Internal Revenue Code of 1986, as amended (the “Code”), if applicable;
- 4) Covenant for the benefit of the lender to comply with all provisions of the Code which are required for the interest paid under the Financing Agreement to be excluded from gross income for federal income tax purposes;
- 5) Execute and deliver any other certificates or documents and take any other actions which the City Official determines are desirable to carry out this Resolution.

### **SECTION 3. SECURITY.**

The Financing Agreement shall constitute an unconditional obligation of the City, which is payable from all legally available funds of the City. Pursuant to ORS 287A.315, the City Official may pledge the City’s full faith and credit and taxing power within the limitations of Sections 11 and 11b of Article XI of the Oregon Constitution, and any and all of the City’s legally available funds, to make the payments due under the Financing Agreement. The Financing Agreement may also be secured by any unspent proceeds of the Financing Agreement.

### **SECTION 4. SELECTION OF SPECIAL COUNSEL.**

The City appoints Hawkins Delafield & Wood LLP as Special Counsel for the Financing Agreement.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: February 21, 2018.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 20<sup>th</sup> day of February, 2018.

\_\_\_\_\_  
Sue Ryan, City Recorder

**ATTEST** by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Bob Andrews, Mayor

# City of Newberg

## Full Faith and Credit Financing Obligations, Series 2018

### Preliminary Schedule of Events; as of January 29, 2018

Financing Team		
Issuer:	City of Newberg	City
Bond Counsel:	Hawkins Delafield & Wood	BC
Placement Agent:	Piper Jaffray	PJC
Purchaser:	<i>To be determined</i>	
Purchaser's Counsel:	<i>To be determined</i>	

January						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

February						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28			

March						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

<input checked="" type="checkbox"/>	Due Date	Event	Parties
<input checked="" type="checkbox"/>	Mon., Jan. 29	Circulate schedule and distribution list	PJC
	Wed., Jan. 31	Draft Authorizing Resolution circulated	BC
	Mon., Feb. 5	Comments due on Authorizing Resolution	Fin. Team
	Fri., Feb. 8	Draft Term Sheet circulated	PJC
	Tue., Feb. 13	Authorizing Resolution to City for Council Packet	BC
	<b>Tue., Feb. 20</b>	<b>Council Adopts Authorizing Resolution</b>	<b>City Council</b>
	Mon., Feb. 26	Comments due on draft Term Sheet	Fin. Team
	Tue., Feb. 27	Circulate Term Sheet to banks	PJC
	<b>Tue., Mar. 13</b>	<b>Bids due at 12:00pm (call to review bids that afternoon)</b>	
	Wed., Mar. 14	Award winning bid	City
		Draft Purchase Agreement circulated	BN
	Tue., Mar. 20	Comments due on Purchase Agreement	Fin. Team
	Wed., Mar. 21	Purchase Agreement signed	City
		Draft closing documents circulated	BC
		Final numbers circulated	PJC
		Closing Memorandum circulated	PJC
	Tue., Mar. 27	Comments due on Closing documents and Closing Memo.	Fin. Team
	Wed., Mar. 28	Pre-Closing	Fin. Team
	<b>Thur., Mar. 29</b>	<b>Closing</b>	<b>Fin. Team</b>

# REQUEST FOR COUNCIL ACTION

**DATE ACTION REQUESTED: February 20, 2018**

**Order \_\_\_\_ Ordinance \_\_\_\_ Resolution xx Motion \_\_\_\_ Information \_\_\_\_**  
**No. No. No. 2018-3445**

**SUBJECT: A Resolution Ratifying Contract  
Amendment 1.2 Between Don Cushing Associates  
And Washington County Consolidated  
Communications Agency (WCCCA) For Work  
Undertaken On Behalf Of The City Of Newberg  
And Authorizing Payment**

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

**RECOMMENDATION:** Approve Resolution 2018-3445

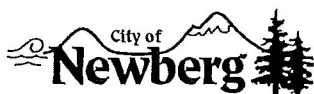
## **EXECUTIVE SUMMARY:**

The Emergency Communication System Upgrade Project was approved on September 18, 2017 via Resolution 2017-3391 and attached Memorandum of Understanding (MOU), which calls for procurement exceeding \$50,000 to be approved by the City Council. The contract between Don Cushing Associates and WCCCA has been amended to include the Newberg portion of the project in an amount not to exceed \$51,068 for related architecture and engineering services.

**FISCAL IMPACT:** Not to exceed \$51,068. These costs are within the scope of the project budget.

## **STRATEGIC ASSESSMENT (RELATE TO COUNCIL PRIORITIES FOR 2017-2018):**

Maintain a state-of-the-art 911 dispatch center and 800 MHz radio communications system.



## RESOLUTION No. 2017-3391

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**A RESOLUTION ADOPTING A MEMORANDUM OF UNDERSTANDING  
WITH WASHINGTON COUNTY CONSOLIDATED COMMUNICATIONS  
AGENCY PERTAINING TO THE EMERGENCY COMMUNICATIONS  
SYSTEM UPGRADE PROJECT.**

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### RECITALS:

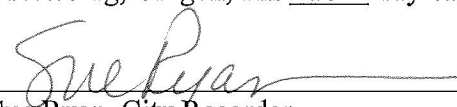
1. The City of Newberg utilizes the Washington County Consolidated Communications Agency (WCCCA) Motorola 800 MH radio system for the purpose of public safety radio communications, through an Intergovernmental Radio Agreement (IGA) dated March 4, 2009.
2. Since 2009, WCCCA has maintained all radio system components and associated equipment including maintenance of the physical radio sites such as generators, buildings, antennas, towers, radios, and up to and including the dispatch computers. Subscriber radios are the responsibility of the public safety users.
3. The City of Newberg and public safety users have benefited from the relationship established through the IGA with WCCCA. The City of Newberg has expressed no desire to pursue other radio system options, such as purchase/install a standalone radio system or move to the Yamhill County 450 MHz system. Newberg's public safety communication capability is wholly dependent upon the WCCCA and C800 (radio system provided for Clackamas County) wide area network.
4. WCCCA and C800 are in the process of upgrading the wide area communications system from an analog to a digital system, of which the City of Newberg has an interest. The Emergency Communications System upgrade will replace old infrastructure that is at end of life or end of support. The communications system provided through this agreement will provide P25 radio coverage for the users within Washington, Clackamas, and areas within Yamhill County. P25 is open standards architecture, allowing for multi-supplier compatibility.

### THE CITY OF NEWBERG RESOLVES AS FOLLOWS:


1. To authorize the City Manager to execute the MOU as attached in Exhibit B outlining the relationship between WCCCA and the City of Newberg pertaining to the Emergency Communication System Upgrade Project.
2. The City Council, acting as the contract review board for the city, and pursuant to the MOU, finds the WCCCA procurement rules acceptable for all elements of project implementation and elects to use the WCCCA procurement rules in place of the City purchasing code.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: September 19, 2017.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 18<sup>th</sup> day of September, 2017.

  
Sue Ryan, City Recorder

ATTEST by the Mayor this 21<sup>st</sup> day of September, 2017.

  
Bob Andrews, Mayor



# Memorandum of Understanding

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This agreement is entered into between the Washington County Consolidated Communications Agency (WCCCA) and The City of Newberg (City). The agreement is for the period of July 1, 2017 through December 31, 2019, or the completion of the Emergency Communication System Upgrade Project, whichever is later. The project has a targeted completion date of July 15, 2019.

The agreement defines the roles and responsibilities of the City and WCCCA during the planning, design, construction, implementation, and testing phases of the Emergency Communication System Upgrade Project. As the entity responsible for the Project Planning, Management, Implementation, and Cutover, the City will retain management oversight of and responsibility for all related expenditures and compliance with laws, policies, debt covenants and procedures. WCCCA will provide services to City, as detailed in this agreement, to assist City in implementing the project.

## 1. Scope of Work

The primary scope of the project is to replace/upgrade the 911 emergency communications systems for the City. This includes, but is not limited to, infrastructure hardening, additional communication tower(s), simulcast equipment, City radios, land and infrastructure upgrades, master site equipment, system refresh/upgrade, generator, microwave backhaul, console equipment, fire station alerting systems, site alarms and monitoring, spares and materials, 48 VDC power system, contingency equipment, backup dispatch, test equipment, project management, paging, unified PTT, and logging recorder.

## 2. Roles and Responsibilities

The overall project encompasses three discreet elements, including 1) Dispatch Center infrastructure improvements; 2) emergency communication system improvements; and 3) City radio replacement. City is responsible for overall project funding and fiscal administration of all three elements with general oversight provided by a City representative (City Manager or designee). WCCCA is responsible for capital project management of the emergency communications system upgrade and radio replacement elements through assigned staff representatives. Additional City and WCCCA staff will participate in the oversight and management teams detailed in section 3.

### City Responsibility

- a) Compliance and accountability related to the expenditure of City funds.
- b) Overall financial management. Oversight to include; budget review and approval, financial tracking and reporting, and all other accounting and procurement compliance requirements.
- c) Provide regular updates to the City Council and others, as determined by City representatives.
- d) Develop, approve and implement City comprehensive project plan, scope, calendar and cost estimates. Approve all change orders and scope modifications.
- e) Collaborate with assigned WCCCA staff regarding the capital project management of the replacement/upgrade of the emergency communications system and radio replacement.
- f) Ensure City finds WCCCA procurement rules acceptable and are followed for all elements of project implementation.
- g) Review and approve all invoices from WCCCA and maintain project files, including copies of all invoices and contracts related to the project, for the term of the project (including refunds) plus three years.
- h) Make approved disbursement of City funds directly to contractors for approved expenses.

WCCCA Responsibility

- i) As applicable, comply with all City financial and accounting requirements and City initiated processes and procedures.
- j) Collaborate with the City to implement a comprehensive project plan, scope, calendar, and cost estimates. Present change orders and/or scope modifications to the City for consideration and approval related to the emergency communications system upgrade and radio replacement elements.
- k) Provide lead role on the capital project management of the emergency communications upgrade and radio replacement elements. Interface directly with City management.
- l) Ensure WCCCA procurement rules are followed for all elements of the project plan for which WCCCA is primary. Submit WCCCA procurement rules and standard terms and conditions for City approval prior to project commencement.
- m) Maintain project files, including copies of all invoices and contracts related to the project, for the term of the project, plus three years.

The City and WCCCA recognize the importance of this project and will commit the necessary resources to ensure its success.

**3. Oversight/Management Teams**

Three formal teams will collaborate to manage and execute the City program as detailed below.

Executive Team (ET): To receive regular project updates, monitor progress, recommend scope, timeline and cost amendments to the City. Provide regular updates to the City Management and to the WCCCA Executive Board.

Participants: City Manager and Director of WCCCA

Leadership Team (LT): To coordinate day-to-day project management duties between City and WCCCA Project Management staff. Monitor project progress, financials and other compliance issues. Provide regular updates and make recommendations for scope, timeline and cost adjustments to the ET.

Participants: City Project Manager, and Assigned WCCCA Project Manager.

Project Administration Team (AT): To monitor and coordinate the administrative, finance, procurement and risk related elements of project delivery. Provide regular budget and financial updates to the LT and ET.

Participants: City Project Manager, City Finance Director, City Attorney and WCCCA Chief Finance Officer.

**4. Funds Disbursement**

The City will disburse funds based on the following:

1. City approved project plans, scope of work, schedule, cost estimates and change orders.
2. Confirmed satisfactory and timely delivery, receipt or provision of approved goods or services.
3. Receipt and "approval to pay" of an invoice from the respective from the respective WCCCA and/or City Project Manager.
4. Final approval by the City Manager, City Project Manager, and City Finance Director.

**5. Project Plan**

A comprehensive project plan will be developed that includes detailed scope, deliverables, cost and timelines for the three primary elements of the project, including: 1) Dispatch Center Equipment Upgrade or Replacement (WCCCA led), 2) Emergency Communications System Upgrade (WCCCA led); and 3) radio replacement (WCCCA led).

**6. Procurement Process**

WCCCA procurement rules shall be used for their designated deliverables as preapproved by the City.

For goods and services procured by WCCCA, any orders exceeding \$50,000 will need City Council review and approval before order (a process that takes up to 4 weeks). The receipt of goods and services will be logged in a mutually agreeable tracking/accounting system. This will act as verification that services have been received prior to payment. Payment for goods and services will not be made until receipt can be confirmed. Once confirmed, the invoice will be routed through the approval process and paid accordingly.

WCCCA will promptly notify the City of any disputes with contractors or subcontractors.

**7. Change Orders**

Change Orders that deviate from the agreed upon project scope, cost or timeline will be presented to the LT or the ET for consideration and approval. The City Council and WCCCA CEO Board will also be notified of such changes, as appropriate, through regular briefings.

**8. Invoice Approval Process**

Invoices received by WCCCA for the communications system and radio replacements must be approved by the City Project Manager and City Finance Director before funds will be disbursed. WCCCA will submit the invoices to the City Project Manager via email for review and approval. Once approved, the City Finance Division will process disbursement of applicable funds directly to vendors. Invoices for the City portion of the project will follow normal City review and approval processes to include approval by City Project Manager and the City Finance Director.

**9. Progress Reports**

Regular updates will be provided to the City Council and the WCCCA Executive Board. Significant milestones for project completion will be established by the project team and transmitted to the City Council and WCCCA Executive Board for their information.

**10. Assignment**

The rights and obligations of each party under this Agreement may not be assigned in whole or in part without the prior written consent of all the Parties.

**11. Amendment**

The Agreement may be amended only by a written instrument signed by all Parties.

**12. Fees and Charges**

WCCCA will bill City monthly at a per hour rate for Project Management by WCCCA staff for specific work to this project at \$91 per hour. This rate includes Administrative overhead.

WCCCA services include Financial Analysis, Site Planning, meetings, Site Design and Site layout and overall Project Management by WCCCA staff.

Resolution 2017-3391 Exhibit B Page 4 of 4

WCCCA will invoice monthly for work provided beginning July 1, 2017 through the completion of the project. WCCCA will send a monthly invoice by the 10<sup>th</sup> of the following month, with payment due from City by the 25<sup>th</sup> of the same month.

Kelly Dutra \_\_\_\_\_  
WCCCA Director

Joe Hannan \_\_\_\_\_  
City Manager

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

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



## ***RESOLUTION No. 2018-3445***

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**A RESOLUTION RATIFYING CONTRACT AMENDMENT 1.2 BETWEEN  
DON CUSHING ASSOCIATES AND WASHINGTON COUNTY  
CONSOLIDATED COMMUNICATIONS AGENCY (WCCCA) FOR WORK  
UNDERTAKEN ON BEHALF OF THE CITY OF NEWBERG AND  
AUTHORIZING PAYMENT**

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### **RECITALS:**

1. The City of Newberg approved a Memorandum of Agreement (MOU) with Washington County Consolidated Communications Agency (WCCCA) pertaining to the Emergency Communications System Upgrade Project on September 18, 2017 via Resolutions 2017-3391.
2. As part of the project management provided by WCCCA, existing contracts previously entered into by WCCCA with various contractors may require modification to incorporate the City of Newberg's portion of the project.
3. WCCCA and Don Cushing Associates entered into Contract Amendment 1.2 on or about November 3, 2017, adding the Newberg Public Works tower site to the underlying contract for architecture and engineering services.
4. City staff have reviewed the contract amendment 1.2 between Don Cushing Associates and WCCCA in consideration of the Not to Exceed sum of \$51,068.
5. Under the terms of the MOU, and in compliance with Newberg's public contracting regulations, the City Council must review and approve contracts exceeding \$50,000.

### **THE CITY OF NEWBERG RESOLVES AS FOLLOWS:**

1. To ratify Contact Amendment 1.2 between Don Cushing Associates and Washington County Consolidated Communications Agency (WCCCA) as it pertains to the inclusion of the City of Newberg's portion of the overall Emergency Communications System Upgrade Project in the amount not to exceed \$51,068, a copy of which is attached as Exhibit A and incorporated by this reference.
2. To authorize payment to Don Cushing Associates pursuant to the contract after receipt of goods and services. Payments are conditioned upon confirmation of receipt of such goods and services and receipt of an invoice(s) in conformance with the MOU.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: \_\_\_\_\_, 2018.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this \_\_\_\_ day of \_\_\_\_\_, 2018.

Sue Ryan, City Recorder

**ATTEST** by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Bob Andrews, Mayor

# EMERGENCY COMMUNICATION SYSTEM PROJECT

## CONSULTANT SERVICES CONTRACT Amendment 1.2

This Contract Amendment is made and entered into by and between:

<b>Consultant:</b> Don Cushing Associates 107 SE Washington Street, Suite 265 Portland, OR 97214  <b>Attention: Don Cushing</b>	<b>WCCCA:</b> Washington County Consolidated Communications Agency (WCCCA) 17911 NW Evergreen Pkwy Beaverton, Oregon 97006  <b>Attention: Ron Polluconi</b>
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This amendment revises the allocated costs associated with several work categories to reflect changes in work elements or pricing that are being driven by market changes since the approval of amendment 1.1.

This amendment also adds one (1) additional Site for the City of Newberg. Don Cushing shall bill for the Newberg site "Public Works" / "N-1" as a separate entity but send all invoices to WCCCA for processing and tracking.

It does not change the Scope of Work related to the Architecture and Engineering contract dated August 19, 2016.

See attached revised budget jointly agreed upon by Don Cushing Associates and WCCCA and submitted by Don Cushing Associates 10/24/2017.

### **SUPERSEDING EFFECT.**

There are no covenants, promises, agreements, conditions or understandings between the Parties, either oral or written, other than those contained in the August 19, 2016 Contract between the parties, as amended through Contract Amendment 1.0 , Contract Amendment 1.1 and this Amendment, all attachments hereto together constitute the entire agreement between the Parties (listed in order of precedence):

1) Exhibit A Terms and Conditions and 2) Exhibit B Statement of Work.

### **CONSIDERATION.**

Consultant shall perform the amended WCCCA Scope of Work in consideration of the Not to Exceed sum(s) of **\$832,183.00** (the amended total contract price) for which WCCCA agrees to pay for the Work in a manner further described in this Contract. Consultant will track cost for each site as is reasonably feasible.

Consultant shall perform the Newberg Scope of Work in consideration of the Not to Exceed sum(s) of **\$51,068.00** (the amended total contract price) for which WCCCA agrees to pay for the Work in a manner further described in this Contract. Consultant will track cost for each site as is reasonably feasible.

**CONTRACT PERIOD.**

The contract period shall begin upon signing of this Agreement by both parties, and shall terminate on the Completion Date, unless earlier terminated or later extended by the parties hereto.

**COMPLETION DATE:** Phase I/II/III and this amendment - November 30, 2018 – which may be adjusted once process schedules are finalized.

**WCCCA REPRESENTATIVE.**

WCCCA Representative for this contract is: Ron Polluconi, 503-490-4911 ext. 266 (phone), rpolluconi@wccca.com

In consideration of the mutual covenants, stipulations and agreements, the Parties hereto do Contract and acknowledge that they have read and understand this Contract and agree to be bound by its terms and conditions:

<b>Consultant:</b> <u>DON CUSHING</u> (typed or printed name of officer)  <u>Don Cushing</u> Signature <u>President</u> Title Phone <u>503-387-5331</u> Employer Id Number or Social Security Number <u>93 1217421</u>	<b>Washington Consolidated Communication Agency</b> <u>Kelly Dutra - Director</u> <u>Kelly Dutra</u>  <u>11/3/17</u> Date WCCCA Representative Director, Kelly Dutra  Not a valid Contract until all signatories are complete
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This contract is pursuant to Oregon Revised Statutes (ORS 279 A, B and C) and WCCCA Procurement and Purchasing Rules



## EXHIBIT A – Terms and Conditions

1. **ASSIGNMENT.** The Consultant may not assign, sell, dispose of, or transfer rights or subcontract Work under the Contract, either in whole or in part, without WCCCA's prior written consent.
2. **AUTHORITY.** The Consultant represents and warrants that it has the power and authority to enter into and perform the Contract and that the signer of this Contract has the authority to bind and obligate the Consultant.
3. **CHANGES.** The terms and conditions contained in this Contract may not be added to, modified, superseded or otherwise altered except by a written modification signed by an authorized representative of WCCCA and Consultant.
4. **COMPLIANCE WITH LAWS.** If the Consultant fails to comply WCCCA shall have the right to terminate this Contract pursuant to Section 24 below.
  - a. Consultant shall comply with all federal, state and local laws, regulations, executive orders and ordinances as applicable, including but not limited to the Oregon laws specifically listed in Section 19 of this Contract. All laws, regulations and executive orders applicable to the Contract are incorporated by reference where so required by law.
  - b. Consultant expressly agrees to comply with: (i) Title VI and VII of Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended, and ORS 659.425; (iv) Executive Order 11246, as amended; (v) The Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vi) The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (vii) ORS Chapter 659, as amended; (viii) all regulations administrative rules established pursuant to the foregoing laws; (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and (x) all federal and state laws governing the handling, processing, packaging, storage, labeling, and delivery of food products, if applicable.
5. **CONTINUING OBLIGATION.** Notwithstanding the Completion Date of this Contract, the Consultant is obligated to fulfill its responsibilities until warranty, guarantee, maintenance, and parts availability requirements have completely expired.
6. **DELAYS IN DELIVERY; FORCE MAJEURE.** Neither WCCCA nor Consultant shall be held responsible for delay or default caused by fire, riot, acts of God, terrorism, war or any other cause which is beyond the party's reasonable control.
7. **DRUG STATEMENT.** The use of drugs, alcohol, or any tobacco products is prohibited on all WCCCA property.
8. **FOREIGN CONTRACTOR.** If the amount of the Contract exceeds ten thousand dollars (\$10,000), and if the Consultant is not domiciled in or registered to do business in Oregon, the Consultant shall promptly provide the Oregon Department of Revenue all information required by that Department.
9. **GOVERNING LAW/VENUE.** The laws of the State of Oregon shall govern this contract. Any action or suit commenced in connection with this contract shall be in the Circuit Court of Washington County or the Federal Court for Oregon. The prevailing party shall be entitled to reasonable attorney fees and costs as awarded by the Court, including any appeal. All rights and remedies of WCCCA and Consultant shall be cumulative and may be exercised successively or concurrently.
10. **IDENTIFICATION OF EMPLOYEES.** Consultant shall ensure that its employees have identifying uniforms or other designation of identity (ID badge, hat, coat with Consultant logo/name) while on WCCCA property.
11. **INDEMNIFICATION AND HOLD HARMLESS.** Except for claims arising out of acts caused by the sole negligence of WCCCA, its Administrators or employees, the Consultant agrees to indemnify and hold harmless WCCCA and its board members, administrators, employees and agents, from acts or omissions of any nature whatsoever of the Consultant, its agents, servants and employees, causing injury to or death of person(s) or damage to property during the term of this contract, and from any expense incident to the defense of WCCCA therefrom.
12. **INSPECTION AND ACCEPTANCE.** The quality of Work shall be subject to inspection by WCCCA. If, in WCCCA's reasonable discretion, the quality of the Work is not satisfactory, and that the requirements of the specifications are not being met, WCCCA shall insist on compliance and will provide the Consultant with a 'cure date'. If the Consultant does not comply WCCCA may terminate the contract pursuant to Section 24 of this Contract. Within a reasonable time, all goods delivered are subject to final inspection and acceptance after delivery or completion at WCCCA's facility. If any goods or services are defective in material or workmanship or otherwise not in conformity with the requirements of this Contract or specifications, WCCCA shall have the right to require correction or replacement at no additional cost to WCCCA.
13. **INSURANCE** Before commencing work, Consultant shall procure and maintain:
  - a. **WORKER'S COMPENSATION** as required by law.

## EXHIBIT A – Terms and Conditions

- b. **EMPLOYER'S LIABILITY** in the minimum amount of \$500,000 when the Consultant has employees performing services under the contract.
  - c. **COMPREHENSIVE AUTOMOBILE LIABILITY** including owned, non-owned and hired vehicles: \$500,000 Combined Single Limit Bodily Injury and Property Damage any one occurrence and a minimum of \$1,000,000 in the aggregate. WCCCA shall be named additional insured on auto and liability policies and shall be provided a copy of the additional insured endorsement. May be waived if Consultant has no vehicle while providing work under the contract.
  - d. **COMPREHENSIVE GENERAL LIABILITY** to include premises operations, independent Consultants, products/completed operations, and blanket contractual: \$700,000 Combined Single Limit Bodily Injury, Property Damage, and personal injury any one occurrence and \$1.5 million in the aggregate.
  - e. **PROFESSIONAL LIABILITY.** Provider shall maintain in force during the duration of this agreement (and, if it is a claims made policy, for a year following completion of the project) a professional liability policy, in the minimum amount of \$1,000,000.
  - f. WCCCA, its employees, officials and agents shall be named as an Additional Insured on general liability and auto and be provided a copy of the additional insured endorsement. Such insurance shall be primary. Certificates of Insurance shall be issued, prior to the commencement of the contract, to WCCCA, Attn: Elizabeth Comfort, 17911 NW Evergreen Pkwy, Beaverton, OR 97006. The Consultant agrees to pay for the insurance specified and agrees to provide WCCCA with a 30 days' notice of cancellation if non-renewal occurs during the contract period. Insurance companies must have an A rating.
  - g. WCCCA reserves the right to require additional insurance coverage, limits, and terms which will be delineated in an attachment to this agreement.
  - h. This insurance shall be considered as primary insurance and exclusive of any insurance carried by WCCCA, and the insurance evidenced by the required certificates shall be exhausted first, notwithstanding the fact that WCCCA may have other valid and collectible insurance covering the same risk.
14. **INVOICING AND PAYMENT.** Consultant shall issue invoice(s) for each Work segment as mutually agreed upon or progress payment(s) as acceptable to WCCCA. Payment shall not be made prior to receipt of a valid invoice. Credit and discount periods will be computed from the date of receipt of the invoice to the date WCCCA's check is mailed. Payment will be made within thirty (30) days after the acceptance of a proper invoice. Final payment shall be made upon completion and acceptance of the Work. WCCCA will not pay any additional charges unless pacifically agreed to in writing by WCCCA. The invoice(s) shall be submitted to WCCCA, Accounts Payable Department, 17911 NW Evergreen Pkwy, Beaverton, OR 97006. Each invoice must include the project work authorization number, purchase order number or contract number, an itemized list of the pricing elements that match the Pricing Schedule and/or the quote provided for the individual project (if applicable), the project name/number and WCCCA Contract Manager's name.
  15. **MANUFACTURER'S WARRANTIES.** Manufacturer's warranties received by the Consultant which are applicable to any material equipment, parts, property and services furnished by the Consultant under this Contract shall survive acceptance and payment, shall run to WCCCA, its successors and assigns, and shall not be deemed to be exclusive.
  16. **STANDARD OF CARE.** The services provided by the Consultant under this Contract will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.
  17. **PERMITS AND RESPONSIBILITIES.** Without additional expense to WCCCA, the Consultant shall be responsible for maintaining any necessary licenses and permits.
  18. **PRICES.** All pricing is considered fixed and firm for the Contract term. The Consultant warrants that the price of the Goods and Services covered by this Contract are not in excess of the Consultant's lowest prices in effect on the date of this Contract for comparable quantities of similar Goods or Services.
  19. **PUBLIC CONTRACTS.** This Contract requires compliance with the following Oregon Revised Statutes (ORS) as applicable:
    - a. 279B.020 Conditions concerning maximum hours of labor on public contracts.
    - b. 279B.220 Conditions concerning payment, contributions, liens, withholding.
    - c. 279B.225 Condition concerning salvaging, recycling, composting or mulching yard waste material.
    - d. 279B.230 Condition concerning payment for medical care and providing workers' compensation.
    - e. 279B.235 Condition concerning hours of labor.
    - f. 305.385 Compliance with Oregon tax laws.
  20. **SECURITY CHECK:** The Consultant agrees that each of its employees, sub-consultants' employees and principals/owners involved in the Work may, at the option of WCCCA, be subject to a security check, at any time, through the Washington County Sheriff's Department or other venue. WCCCA retains the option to require the immediate removal of any sub consultant, employee or agent. Notwithstanding the foregoing, Consultant, and not WCCCA, remains solely responsible for performing background checks on, and screening for public safety all

## EXHIBIT A – Terms and Conditions

sub-consultants and employees, and, to the extent allowed by law, shall provide such screening methodologies and information to WCCCA upon request.

21. **SEVERABILITY.** If any provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.
22. **Not Used.**
23. **TAXES.** WCCCA is exempt from Federal, State, and Local taxes.
24. **TERMINATION.**
  - a. **Terminate For Convenience.** This Contract may be terminated at any time by mutual written consent of the parties, or WCCCA may, at its sole discretion, terminate this Contract, in whole or in part, upon 30 days' notice to Consultant.
  - b. **WCCCA's Right to Terminate For Cause.** WCCCA may terminate this Contract, in whole or in part, immediately upon notice to Consultant, or at such later date as WCCCA may establish in such notice, upon the occurrence of any of the following events:
    - i. WCCCA fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for Consultant's Work;
    - ii. Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Work under this Contract is prohibited or WCCCA is prohibited from paying for such Work from the planned funding source;
    - iii. Consultant no longer holds any license or certificate that is required to perform the Work; or
    - iv. Consultant commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, fails to perform the Work under this Contract within the time specified herein or any extension thereof, or so fails to pursue the Work as to endanger Consultant's performance under this Contract in accordance with its terms, and such breach, default or failure is not cured within 10 business days after delivery of WCCCA's notice, or such longer period as WCCCA may specify in such notice.
  - c. **Consultant's Right to Terminate for Cause.** Consultant may terminate this Contract upon 30 days' notice to WCCCA if WCCCA fails to pay Consultant pursuant to the terms of this Contract and WCCCA fails to cure within 30 business days after receipt of Consultant's notice.

- d. **Enforcement.** Termination under any provision of this Contract shall not extinguish or prejudice WCCCA's right to enforce this Contract with respect to any breach of a Consultant warranty or any defect in or default of Consultant's performance that has not been cured, including any right of WCCCA to indemnification by Consultant. If this Contract is so terminated, Consultant shall be paid in accordance with the terms of the contract for services rendered and accepted.
  - e. **Remedies.** In the event of termination pursuant to above, Consultant's sole remedy shall be a claim for the sum designated for accomplishing the Work multiplied by the percentage of Work completed and accepted by WCCCA, less previous amounts paid. If previous amounts paid to Consultant exceed the amount due to Consultant under this subsection, Consultant shall pay any excess to WCCCA upon demand.
  - f. **Consultant's Tender Upon Termination.** Upon receiving a notice of termination of this Contract, Consultant shall immediately cease all activities under this Contract, unless WCCCA expressly directs otherwise in such notice of termination. Upon termination of this Contract, Consultant shall deliver to WCCCA all documents, information, works-in-progress and other property that are or would be deliverables had the Contract been completed. Upon WCCCA's request, Consultant shall surrender to anyone WCCCA designates, all documents, research or objects or other tangible things needed to complete the Work.
  - g. **Limitation of Liabilities.** Neither party shall be liable for (i) any indirect, incidental, consequential or special damages under the contract or (ii) any damages of any sort arising solely from the termination of this contract in accordance with its terms.
25. **TRANSPORTATION.** The Consultant is responsible for transportation of its employees to and from the Work site.
  26. **WAIVER.** No failure of either party to exercise any power given to it hereunder or to insist upon strict compliance by the other party with its obligations hereunder, and not custom or practice of the parties at variance with the terms hereof, nor any payment under this agreement shall constitute a waiver of either party's right to demand exact compliance with the terms hereof.

END

## EXHIBIT B – Statement of Work

### SCOPE of WORK:

As outlined in Request for Proposal Scope of Work dated April 20, 2016 and Proposal from Don Cushing Associates dated May 10, 2016 and a part hereof.

NOTE: If there are conflicts in the terms and conditions shown in these documents and the foregoing terms and conditions the Agreement Terms and Conditions shall prevail.



Current Working Spreadsheet-WCCA-Engineering Totals-10-24-2017

Revised  
Ron Polluconi  
10/24/2017 15:11

Site Data Reference

WCCA & Newberg  
Site Acquisition - Site Design - Geotechnical - Survey - Environmental  
Construction Estimates

Site Type 2 indicates a modification to a new collocated lease

Site Type 1 indicates a modification to an existing Site

Site Type 3 indicates a new Site

		Site Number	W-1	W-2	W-3	W-4	W-5	W-6	W-7	W-8	W-9	W-10	W-11	W-12	W-13	W-14	W-15	W-16	W-17	W-18	W-19	W-20	W-21	W-22		N-1	
		Site Type	1	1	1	3	1	3	1	1	1	3	1	3	3	3	1	1	1	3	3	1	3	3		3	
Work Description	Work Summary	Average Cost	Burntwood	Canterbury	Cedar Hills	High Compromise	Hillsboro	Sun Rise Park	Bald Peak	Chehalem	Parrett Mountain	Sherwood	Buxton Lookout	Hayward	Hwy 26 Tunnel	North Banks	Pumpkin Ridge	Round Top	Top Hill	South Saddle Mountain	Skyline	Gales Peak	Cornelius Pass	WCCCA Dispatch	Public Works	Total	
Site Walk	A&E familiarization	700	700	700	700	700	700	700	1,050	700	700	700	700	700	700	700	700	700	700	700	700	700	700	700	15,750	700	700
Site Sketch-Lease exhibit	Concept Drawing	500	500	500	635	500	500	500	750	500	500	500	500	500	500	500	500	500	500	500	500	500	500	500	11,385	500	
Zoning Documents	First 4 sheets of package	2,775	0	0	0	2,775	0	2,775	0	0	0	2,775	0	2,775	2,775	2,775	2,775	0	0	2,775	2,775	0	2,775	2,775	30,525	2,775	2,775
Construction Documents	Shelter, RS6, electrical, etc.	2,550	0	0	0	2,550	0	2,550	0	0	0	2,550	0	2,550	2,550	2,550	2,550	0	0	2,550	2,550	0	2,550	2,550	28,050	2,550	2,550
Upgrade Documentation	Generator, Tank, tower, Shelter, Bullet resistance, etc.	3,025	3,025	3,025	3,025	0	3,025	0	4,537	3,025	3,025	0	3,025	0	0	0	0	3,025	3,025	0	0	3,025	0	0	34,787	0	0
Grading and Erosion Control Major	Supports Survey/Geotech, Access Road improvement	1,500	0	0	0	1,500	0	1,500	0	0	0	1,500	0	1,500	1,500	1,500	0	0	0	1,500	1,500	0	1,500	1,500	15,000	1,500	1,500
Grading and Erosion Control Minor	Supports Survey/Geotech	700	0	0	0	0	0	0	0	0	0	0	0	0	0	0	700	0	0	0	0	0	0	0	700	0	0
Survey	1A Included title report by others	4,750	0	0	0	4,750	0	4,750	0	0	0	4,750	0	4,750	4,750	4,750	4,750	0	0	4,750	4,750	0	5,744	4,750	53,244	4,750	4,750
Survey 1A only		900	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Tower Mapping New	New Map with EL/AZ	3,000	0	0	0	0	0	0	0	0	5,883	0	9,381	0	0	0	0	0	0	0	0	0	0	0	24,844	0	0
Tower Mapping Co-Locate	Revised Map with EL/AZ	2,750	0	0	0	0	0	0	13,047	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	13,047	0	0
Foundation/Geo Mapping New		4,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Foundation/Geo Mapping Revised		6,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Structural Analysis existing	Confirm loading is OK	3,000	3,000	3,000	3,000	0	3,000	0	4,500	3,000	3,000	0	3,000	0	0	0	3,000	3,000	3,000	0	0	3,000	0	0	37,500	0	0
Structural Mod Simple	Minor changes to tower	2,500	2,500	2,500	2,500	0	2,500	0	0	2,500	2,500	0	2,500	0	0	0	2,500	2,500	2,500	0	0	0	0	0	25,000	0	0
Structural Mod Complex	Major changes to tower	5,500	0	0	0	0	0	0	8,250	0	0	0	0	0	0	0	0	0	0	0	0	5,500	0	0	13,750	0	0
Battery Stack Support	Structural design	2,717	2,717	0	2,717	0	0	0	0	0	2,717	0	2,717	0	0	0	0	0	2,717	0	0	0	0	0	13,585	0	0
Structural Analysis New	New Structural for shelter foundation, ground equipment (not tower)	2,500	0	0	0	2,500	0	2,500	0	0	0	2,500	0	2,500	2,500	2,500	2,500	0	0	2,500	2,500	0	2,500	2,500	27,500	2,500	2,500
Geotechnical (not including soil resistance and Seismic)	For Essential Facilities. Will need drilling rig access	6,200	0	0	0	6,500	0	6,500	0	0	0	6,500	0	6,500	6,500	6,500	0	0	0	6,500	6,500	0	6,500	0	58,500	6,500	6,500
Geotechnical Seismic Model	Required for essential services existing sites	2,000	0	0	0	3,100	0	3,100	0	0	0	3,100	0	3,100	3,100	3,100	0	0	0	3,100	3,100	0	3,100	0	27,900	3,100	3,100
Soil Resistivity	For existing or co-lo site	950	0	0	0	500	0	500	0	0	0	500	0	500	500	500	0	0	0	500	500	0	500	0	4,500	500	500
NIER Letter Tower		1,200	0	0	0	0	0	1,200	0	0	0	1,200	0	0	0	0	0	0	0	0	0	0	0	0	2,400	1,200	1,200
Visual Impact Study	Drone or Balloon Test	2,700	0	0	0	2,700	0	5,000	4,050	0	0	0	2,700	0	2,700	2,700	2,700	0	0	2,700	2,700	0	2,700	2,700	33,350	2,700	2,700
Stormwater Report		2,000	0	0	0	2,000	0	2,000	0	0	0	2,000	0	2,000	2,000	2,000	0	0	0	2,000	2,000	0	2,000	2,000	20,000	2,000	2,000
Underground Power	Utilities to site including coordination	2,500	0	0	0	2,500	0	0	0	0	0	2,500	0	2,500	2,500	2,500	1,100	6,985	0	9,190	2,500	0	2,500	0	34,775	2,500	2,500
Phase 1 ESA (Environmental)	Environmental Site Assessment	2,500	0	0	0	0	0	2,500	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2,500	0	0
NEPA Check List	SHPO and Archaeology	3,500	0	0	0	5,000	0	5,000	0	0	0	5,000	0	5,000	5,000	5,000	5,000	0	0	5,538	5,000	0	5,000	5,000	55,538	5,000	5,000
NEPA EA	Federal and or Tribal requirements	5,500	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
A & E Project Management	Staff & Contract Mgmt.	4,800	4,800	4,800	4,800	4,800	4,800	4,800	7,200	4,800	4,800	4,800	4,800	4,800	4,800	4,800	4,800	4,800	4,800	4,800	4,800	4,800	4,800	4,800	108,000	4,800	4,800
Construction Administration	Inspections	850	850	850	850	850	850	850	850	850	850	850	850	850	850	850	850	2,550	850	850	850	850	850	850	20,400	850	850
Meetings with Travel	1:1 Meetings	600	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	26,400	1,200	1,200
Meetings / correspondence without Travel	Conference calls	800	800	800	800	800	800	800	800	800	800	800	800	800	800	800	800	800	800	800	800	800	800	800	17,600	800	800
Contingency	formula with 10%	4,050	2,009	1,738	2,023	4,523	1,738	4,873	4,623	1,738	2,598	4,643	2,947	4,523	4,523	4,523	3,373	2,606	2,009	5,245	4,523	2,996	4,622	3,263	75,653	4,643	4,643
Engineering Total			22,101	19,113	22,250	49,748	19,113	53,598	50,857	19,113	28,573	51,068	32,420	49,748	49,748	49,748	37,098	28,666	22,101	57,698	49,748	32,951	50,841	35,888	832,183	51,068	51,068
Site Acquisition	Lease, Construction permits, etc. flat fee for WCCCA/C800/Newberg	15,304	0	0	0	15,304	0	15,304	0	0	0	15,304	0	15,304	15,304												



New Roof	Upgrade to existing WCCCA buildings	8,500	8,500	8,500					8,500		8,500		8,500				8,500	8,500	8,500				8,500			76,500		0	
Tower upgrade	Upgrade to existing WCCCA Towers	12,000	6,000	6,000	6,000			6,000		12,000	12,000	6,000		6,000				6,000	6,000	6,000			25,000	12,000	25,000	25,000	115,000		0
Wiring and Outlet Upgrades	Upgrade to existing C800 Buildings	8,500																								0		0	
Misc.	10% of total contingency	42,353	5,895	5,895	5,045	39,683	50,000	39,683	6,495	50,000	5,895	39,683	6,515	39,683	39,683	50,000	5,895	56,380	6,515		130,683	500,000	6,495	500,000	500,000	1,090,123	39,683	39,683	
Labor and Equipment	40% of material costs	189,753	25,938	25,938	22,198	174,605	22,400	174,605	28,578	24,800	25,938	174,605	28,666	174,605	174,605	20,000	25,938	496,144	28,666		862,508	210,000	28,578	210,000	210,000	2,749,316	174,605	174,605	
Total Construction Cost			90,783	90,783	77,693	611,118	78,400	611,118	100,023	86,600	90,783	611,118	100,331	611,118	611,118	70,000	90,783	1,116,324	100,331		2,300,021	735,000	100,023	735,000	735,000	8,283,669	611,118	611,118	
Total Site Investment			112,884	109,896	99,943	676,170	97,513	680,020	150,880	105,913	119,356	677,490	132,751	676,170	676,170	135,052	127,891	1,144,990	122,492		2,373,023	800,052	132,974	801,145	786,192	9,151,558	677,490	677,490	
Initial Estimate (W/O contingency)																								8,400,000		980,460			

**Existing Site Assumptions**  
Install Commercially provide power to Round Top Site. This should be done as early in the project a possible  
Replace Generator with 30 KW Outdoor unit with full Alarms and Control systems (new pad as required)  
Replace existing Fuel Tank with 1000 gallon propane tank Include replacing the foundations  
Install Battery Rack floor support where required (WCCCA)  
Upgrade Electrical Service outlets (C800)  
R56 upgrades from Audit Results  
Upgrade Existing Tower/foundation if structural analysis requires it  
Install new roof as may be required by inspection (WCCCA/C800)  
Repair fencing, gates, doors, siding, etc. (WCCCA/C800) covered in Misc. category  
Replace siding and install bullet proofing in walls at 8 existing WCCCA sites  
NOTE: Round Top will require the deconstruction of existing 4000 gallon Diesel Fuel Tank and removal of two Diesel Generators and then reconfiguration for dual 1000 gallon LP tanks and a new generator.  
NOTE: KPDX may be purchased and then configured for WCCCA equipment / antenna systems.

# ***REQUEST FOR COUNCIL ACTION***

**DATE ACTION REQUESTED: February 20, 2018**

**Order \_\_\_\_      Ordinance \_\_\_\_      Resolution \_\_\_\_      Motion XX      Information \_\_\_\_**  
**No.                      No.                      No.**

**SUBJECT: Council Minutes**

**Contact Person (Preparer) for this  
Motion: Sue Ryan  
Dept.: City Recorder**

**RECOMMENDATION:**    Approve Council Minutes for January 16, and February 5, 2018.

**NEWBERG CITY COUNCIL MINUTES**  
**REGULAR SESSION**  
**January 16, 2018, 7:00 PM**  
**PUBLIC SAFETY BUILDING (401 E. THIRD STREET)**

A work session was held at 6:00 p.m. preceding the meeting. Present were Mayor Andrews, Councilors Patrick Johnson, Denise Bacon, Mike Corey, Stephen McKinney, Scott Essin, and Matt Murray. City staff present were City Manager Joe Hannan, City Attorney Truman Stone, City Recorder Sue Ryan, Finance Director Matt Zook, Public Works Director Jay Harris, Community Development Director Doug Rux, Human Resources Director Anna Lee, Police Chief Brian Casey, Information Technology Director Dave Brooks, and Library Director Leah Griffith.

Mayor Andrews called the meeting to order. He had a correction to the December 18, 2017 minutes. The definition listed for construction excise tax was actually the definition for low income housing, not for the tax.

Public Works Director Harris reported on the Villa Road project, pavement maintenance plan and funding for it, selling street name signs, Bypass opening, well field emergency back-up generators, improving telemetry across the Willamette River between the Water Treatment Plant and well field, safety at the water line bridge, improvements at the Water Plant, leak repairs on settling basins, the Blaine Street stormwater project, DEQ report, Wastewater Master Plan, pump station work, security and data telemetry project at the Highway 240 Pump Station, Inflow and Infiltration projects, Public Safety Building seismic study, and improvements to the Public Works maintenance yard. There was discussion on erosion at the Water Treatment Plant and tarps on Eighth Street.

Library Director Griffith discussed library remodeling projects, author event in November, Oregon Battle of the Books program, online library additions of e-magazines, and Library Board scholarship program.

Finance Director Zook reported on the annual audit, long range financial planning meetings, utility billing, debt financing, refinancing of two existing debts, Citizens Rate Review Committee work, revenue audits, and emergency management training. There was discussion on refinancing City debt, and the potential Equal Pay program.

Human Resources Director Lee discussed current recruitments, new hires, Safety Committee work, AFSCME contract, workers compensation and employee benefits management, transferring NERPS employees to PERS, ongoing records management, and employee assistance programs.

Police Chief Casey gave 2017 statistics for the number of calls for service, complaints, citations, warnings, and arrests. He discussed Community Outreach Program events, fundraisers, community advisory boards, police officer recruitment, and reserve department needs. There was discussion on the low crime rate, Unidos program, and community safety.

Information Technology Director Brooks reviewed the IT activities from 2017 including service calls, on call hours, servers, data back-up, and departments contacting them for work. There was discussion regarding the number of servers the City had.

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## CALL MEETING TO ORDER

Mayor Andrews called the business session to order at 7:00 p.m.

## ROLL CALL

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

Staff Present:	Joe Hannan, City Manager	Truman Stone, City Attorney
	Sue Ryan, City Recorder	Doug Rux, Community Development Director
	Matt Zook, Finance Director	Cheryl Caines, Senior Planner

**PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was performed.

**PRESENTATIONS:** Finance Director Zook and Brad Bingenheimer of Boldt Carlisle and Smith presented on the 2016-2017 Financial Audit. The City received an unmodified report, which meant the financial statements presented fairly in all material respects. They discussed the total assets and net position of the City and the audit process.

**MOTION: Bacon/Johnson** moved to approve the independent auditor report and Comprehensive Annual Financial Report for the year ending on June 30, 2017. Motion carried (7 Yes/0 No).

**CITY MANAGER'S REPORT:** City Manager Hannan reported on meeting with ODOT regarding the Bypass opening and Everest intersection, meeting with Austin Industries, meeting with potential mill owners, financial audits, Martin Luther King, Jr. ceremony, community engagement, Lodging Tax Committee meeting, and Provoking Hope presentation.

## PUBLIC COMMENT:

Tina Johnson, representing Newberg Veterinary Hospital, expressed support for the Newberg Animal Shelter. The proposal to sell the shelter building was a substantial concern because the shelter provided a service that was needed and supported by the community. A doctor from her hospital visited the shelter regularly to provide veterinarian oversight and animal care. The shelter had maintained a well-run, clean, and safe sanctuary for animals. The hospital also provided medical and surgical care for many shelter animals. The shelter's goal was to provide the care the animals needed before they were adopted out. They had also worked together to spay and neuter many dogs and cats. The shelter filled the gap of animal control in the City. Citizens could take roaming dogs to the shelter, could surrender their animals to the shelter, and the shelter helped locate lost animals. Newberg Police Officers had 24 hour/7 days a week access to the building to bring in protective custody or nuisance dogs. The shelter also took in stray and injured cats. If the animal shelter was sold, who would provide these services? She thought it should be a priority for the shelter to continue to provide a vital resource for the pets and people in the community. She asked that the City reconsider the sale of the animal shelter.

Councilor McKinney agreed about the importance of the shelter and the Friends group that ran the shelter. The Council was taking this decision seriously and he thanked everyone for their work. Councilor Essin also supported the animal shelter. No matter what happened, this building would remain an animal shelter.

## CONSENT CALENDAR:

**MOTION: Corey/Essin** moved to approve the Consent Calendar and to approve the Council minutes for December 4, 18, and 20, 2017 with the minutes for December 18 as amended. Motion carried (7 Yes/0 No).

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## **PUBLIC HEARINGS:**

### **Ordinance 2018-2824, Population Projections**

Mayor Andrews called the public hearing to order. He asked for abstentions, conflicts of interest, or objections to jurisdiction. There were none.

Senior Planner Caines presented the staff report. In 2013 the state passed legislation that required Portland State University to complete Population Forecasts for every jurisdiction in the state. Recently Yamhill County's population forecast was completed. These forecasts were updated every four years. This ordinance would update the population growth information in Newberg's Comprehensive Plan. These numbers would be used in planning for housing and economic needs and the Urban Growth Boundary expansion process. The Planning Commission held a hearing on this item in December and recommended adoption of this amendment as proposed.

Councilor McKinney asked about the actual numbers that they were adopting. CDD Rux explained they were taking the numbers of the first 20 year horizon beginning in 2017. Councilor Johnson asked about the purpose of these numbers. CDD Rux clarified the numbers were used for planning purposes, such as for the UGB expansion and Wastewater Master Plan.

Proponents: None

Opponents: None

Undecided: None

City Recorder Ryan said the ordinance was not posted one week in advance and the Council could not waive the second reading. This was for first reading only. It was the same for all of the ordinances on the agenda tonight.

Mayor Andrews closed the public hearing.

### **Ordinance 2018-2821, new legal description:**

Mayor Andrews called the public hearing to order. He asked for abstentions, conflicts of interest, or objections to jurisdiction. There were none.

CDD Rux provided the staff report. This ordinance would adopt the new legal description for the City limits. The last time this was done was in 2000. All of the annexations since 2000 had been added to the description to June 2017. The intent was every year staff would ask for funding to update the description.

Proponents: None

Opponents: None

Undecided: None

Mayor Andrews closed the public hearing.

### **Ordinance 2018-2822, creation of private streets**

Mayor Andrews called the public hearing to order. He asked for abstentions, conflicts of interest, or objections to jurisdiction. There were none.

CDD Rux entered the staff report and exhibits into the record (Exhibit A). This was a request to modify the Planned Unit Development regulations to allow private streets. PUDs were reviewed by the Planning Commission. They allowed flexibility in the standards to better meet housing needs and targets. The City stopped allowing private streets in 1999 due to parking enforcement and emergency vehicle access issues. Private streets could be narrower than public streets and they allowed for denser neighborhoods, which helped

meet housing goals. Planning Commission discussed how many dwelling units to allow on a private street, and the recommendation was 50 dwelling units. Another issue discussed was requiring a Homeowners Association that was run by a community management company in perpetuity to enforce the no parking rules, and to maintain the street. Amendments included requiring a reserve study to show enough funds for street maintenance. Applicants must show there was on and off street parking sufficient for the expected demand of the developments. It would have to be a Class 1 community. The width of the private street needed to be adequate for emergency vehicle access.

Councilor McKinney asked what a Class 1 Community was. City Attorney Stone said under the ORS there were Class 1, 2, and 3 Communities which were Planned Unit Developments. Class 1 had certain requirements that had to be met, such as a reserve study.

CDD Rux said if a PUD was established, a Homeowners Association would provide an annual report on the anniversary date of the final plat. In the comments from Mr. Soppe, there was concern that there was not a deed included for enforcement of the parking. It was possible to create a deed if the Council wished. Another discussion by the Planning Commission was concern about enforcement.

Councilor Murray asked about the burden on code enforcement and if more staff would be needed. CA Stone said if it came to the City's attention that the Homeowners Association and management company were not fulfilling their duties, the Association would be the ones cited into court potentially. There were many ways to enforce provisions in the code besides using code enforcement. Councilor Essin said under these regulations the Homeowners Association could repair the private streets, sidewalks, trees, etc. without having to wait for the City. It would also save the City money because they did not have to pay for those repairs.

CDD Rux said this flexible tool could help with developing affordable housing, could reduce maintenance costs, had a higher level of review with the Planning Commission, a minimum of 50 dwelling units were required, a community management company was required, and it gave the Planning Commission criteria to approve or deny a private street.

Councilor Johnson did not think these types of developments were affordable housing. CDD Rux said the affordability came with the narrower street, which took up less land and allowed more units. That helped construction costs go down and it would get the units closer to affordable price points.

Proponent: Michael Robinson, land use attorney, said his client was preparing to develop property north of Highway 99W at Providence Lane. This amendment was initiated because of affordability. His client committed that his project would include affordable units. The scale, more developable land, less infrastructure costs, and less maintenance costs made the initial price less and the monthly assessments per homeowner less. Mr. Soppe had asked about doing this city-wide instead of through a PUD, but that would require amending the Transportation System Plan. The community management company would be able to enforce the no parking rules, and street maintenance. The ordinance was set up to prevent problems, and if problems occurred it had a structure to resolve them. Mr. Soppe had asked for an additional section in the code, and he was fine with that. These changes would make PUDs appropriately designed. Ultimately it would be the Planning Commission's decision to approve the PUD and PUDs would have to satisfy the Fire Marshall and City Engineer to make sure public safety was maintained. He recommended approval.

Opponent: Robert Soppe, Newberg resident, said he supported narrower roads, but they should become part of the Code not some special right given to a PUD. Safety considerations, walkable neighborhoods, and higher density were things they wanted City-wide not just in PUDs. The real issue was that existing standards were inappropriate. He suggested if Council supported the idea of private streets, they should initiate a process to revise the code to support the same standards where appropriate.

Councilor McKinney would like to see a universal application. He thought cars should be in garages at night to alleviate problems, especially for emergency vehicles. What was good for a PUD was good for the whole community. Councilor Essin was a proponent for narrower streets. What was beneficial to private streets was the fact the City did not have to fix or maintain them. Councilor McKinney asked about previous issues with private streets. Mr. Soppe said the main issue was parking on the streets that were supposed to be no parking. Mayor Andrews said past issues were on small streets here and there, not in an organized development as was being presented here.

Mayor Andrews closed the public hearing.  
There was a brief recess.

## **NEW BUSINESS:**

### Resolution 2018-3429, TLT grant awards for marketing:

CDD Rux said would award Destination Development Marketing grants. Solicitation began in July 2017 and closed in October 2017. They had up to \$430,000 in funding available. Six applications were submitted, were reviewed in November with recommendations in December. This included three grants to Newberg Downtown Wineries Association for a strategic multi-media presence for \$20,000; Chehalem Cultural Center culinary enrichment center for \$250,000; and Wolves and People Steins to Vines Trail for \$30,000. That was a total of \$300,000. Councilor Murray asked if the remaining funds rolled to the next year. CDD Rux said yes, they would be re-budgeted for the coming year.

### **Opponents:**

David Wall said TLT had significant structural problems. One was giving taxpayer money to third party businesses that were not in Newberg to enrich their business under an illusory promise that they would open the floodgates for tourism. He did not think one of these applicants met the eligibility criteria for funding as they were outside of Newberg. There were no performance targets or audits for the awards. Applicants did not have to disclose current problems with County permitting and the County did not enforce the conditions on permits. He thought the TLT fund needed to be self-sustaining, including staff that were currently funded through the General Fund.

There was discussion about the purpose and intent of the Transient Lodging Tax monies.

Vicki Shepherd was opposed to the funding for the Wolves and People Steins to Vines project because this business entity did not belong in a neighborhood or land designated EF-20, agricultural land. The applicant asserted that most neighbors liked coming to the brewery, but that was untrue. The applicant used social media to garner mass support. The funding was supposed to steer visitors to restaurants and other related businesses in Newberg. There were food carts near the brewery, and she questioned if the food carts were from Newberg businesses. These food carts competed with Newberg's restaurants. She did not think it was right to give money to a business outside of the City as she did not see a benefit to Newberg. The building of trails on the agricultural land was ludicrous. Chemicals were used in this area, and it was not safe to walk on the trails. Customers could be drunk and fall down. She could see the potential for lawsuits, health and safety injuries, and lower property values. The applicant's permit approval at Yamhill County stated no new permanent structures were allowed. She questioned why the applicant was proposing to build a new pavilion. The usage of this agricultural land for other than its intended purposes would be appealed to the Yamhill County Commissioners when the applicant sought to renew his agritourism permit, and to LUBA if necessary. It was premature of the City to grant this request at this time. She thought it should be denied.

Joyce Damman, Newberg resident, read a letter from her attorney who recommended denial of the Wolves and People project. The City should not expend funds on a walking path that might prove to be useless in a matter of months. Their agritourism permit must be renewed in March and the applicant had failed to comply with the rules of the current permit. The renewal would most likely be denied and the TLT grant would serve no

purpose. The applicant was only supposed to operate the brewery for 18 agritourism events per year. But they had been running a normal brewery operation. The events exceeded operating hours, and the 18 allowed weekends. They also had food carts on the premises. She said attendance exceeded 250 people per day. The barn was used as a brewery and tasting room. The applicant viewed the brewery as the predominant and future use of the property instead of being subordinate to the hazelnut farm. Neither the brewery nor the events were supporting the hazelnut farm. Their grant request did not mention supporting the hazelnut farm, but focused on bringing tourists to the brewery. She felt the permit renewal would be denied, and the funds expended on a walking trail would be misspent.

Councilor Johnson asked about Attachment 8. CDD Rux explained the scoring sheet by the TLT Committee. They had reduced the funding requested so it would be a one-to-one match. Councilor McKinney suggested referring applications back to committee. He had reservations about the grant monies, and how they should be expended. He did not support this proposal.

Councilor Corey also had concern regarding the Wolves and People application as they were outside of the City limits and he did not see a connection with bringing tourists to Newberg. He also questioned if the trail would bring in more tourists. He did not see this as a benefit to Newberg. Councilor Murray said Wolves and People had a good product, but he was concerned about this business not being a good neighbor and not following the rules. It would not draw the traffic into Newberg and the trail would be on private property. He was not in support of the grant award for this business.

Councilor Johnson said Council created criteria for the grants and the applicant had followed the rules. The rules allowed this location to apply, even though it was not in the City limits. The trail was less than 5 miles from the Allison Inn. He thought people coming to the trail would stay there and eat dinner in town. They needed to be careful about basing the decision on the business not being in the City limits, as the location could bring people into the City. He supported the proposal.

CM Hannan said the controversy over the County permit was new information that the TLT committee did not know about. This was a facility that would drive people to stay a night in the City, which was part of the tourism strategy. Councilor Essin was in favor of approving the other two grants, but not the one for Wolves and People. Councilor Bacon suggested delaying the decision on the Wolves and People application until the permit issue was resolved. One of the things missing was things for tourists to do, and this would fit that need. CDD Rux said the Council could amend the resolution to only include the other two applications and direct staff to further evaluate Wolves and People's request. The TLT committee did not have the information presented to the City Council tonight. He explained the process, and reasons for their recommendation.

Councilor McKinney supported the other 2 applications. He thought the Cultural Center wayfinding project should also be included in the funding. There was discussion on how to proceed with the resolution. Councilor Murray said the Wolves and People application did follow the rules for location and the contract could be terminated at any time. Councilor Essin thought the proposal should be sent back to the TLT committee and reviewed in light of the new information.

**MOTION: Johnson/Murray** moved to direct staff to send the Wolves and People application for the Steins to Vines Trail back to the TLT committee for further review. Motion carried (7 Yes/0 No).

**MOTION: Johnson/Murray** moved to amend Resolution 2018-3429, A Resolution awarding Transient Lodging Tax Destination Development Marketing Grant Funds to the Chehalem Cultural Center and Newberg Downtown Wineries Association by deleting Resolves Number 3 and Amending Resolves Number 4. Motion carried (7 Yes/0 No).

Resolution 2018-3435, Title 15 code amendment building line lot width:

CDD Rux said Del Boca Vista had been in conversation with City staff about initiating a Development Code amendment to reduce lot width requirements at the building line. He explained the process for the code amendment.

Proponent: Dan Danicic, Del Boca Vista, spoke in favor of initiating this process, which would allow the Planning Commission to consider the amendment. The amendment would help provide diversity in the R-1 zone and provide different price points for projects.

There was a brief discussion on price points and the amount of lots that would be created.

**MOTION: Johnson/Bacon** moved to approve Resolution 2017-3435, A Resolution initiating an amendment to the Newberg Municipal Code, Title 15 Development Code for lot width at the building line in R-1 and R-2. Motion carried (7 Yes/0 No).

CM Hannan asked for direction on bringing back the request to the next Council meeting for transferring the Animal Shelter to the Friends group. There was consensus to put it on the next agenda.

**EXECUTIVE SESSION pursuant to ORS 192.660 (2)(d) Labor Negotiator Consultations**

Start: 10:22 p.m.

Stop: 10:36 p.m.

Staff present: Human Resources Director Lee, Public Works Director Harris, City Manager Hannan, City Attorney Stone

Topic: AFSCME Union Contract negotiations update

**ADJOURNMENT:** The meeting was adjourned at 10:36 p.m.

**ADOPTED** by the Newberg City Council this 20th of February, 2018.

\_\_\_\_\_  
Sue Ryan, City Recorder

**ATTESTED** by the Mayor this 22nd day of February, 2018.

\_\_\_\_\_  
Bob Andrews, Mayor

**NEWBERG CITY COUNCIL MINUTES**  
**REGULAR SESSION**  
**February 5, 2018, 7:00 PM**  
**PUBLIC SAFETY BUILDING (401 E. THIRD STREET)**

A work session was held at 6:00 p.m. preceding the meeting. Present were Mayor Andrews, Councilors Patrick Johnson, Denise Bacon, Mike Corey, Scott Essin, and Matt Murray. Councilor Stephen McKinney was excused. City staff present were City Manager Joe Hannan, City Attorney Truman Stone, City Recorder Sue Ryan, Human Resources Director Anna Lee, Library Director Leah Griffith, Finance Director Matt Zook, Community Development Director Doug Rux, and Public Works Director Jay Harris

Mayor Andrews called the meeting to order.

City Manager Hannan presented a Council Priorities update. The first was to maintain a state-of-the-art 9-1-1 center. To upgrade the equipment and furniture in the Dispatch Center would be about \$70,000. The Text to 9-1-1 program was happening now. Some CAD computers had been replaced and staff was still looking at whether the 9-1-1 center should be a stand-alone or not. There had been an analysis of Fiberlink and fiber needed to be a broader discussion. Fiber would make the system more resilient and would help with economic development, particularly at the mill site. They were continuing the process with WCCCA regarding the radio system upgrade and things were progressing as expected.

Finance Director Zook said staff researched financing the radio upgrade. He had looked into an equipment lease with US Bank. An RFP for different bank rates would come to Council on February 20. CM Hannan said staff had been going through a pre-application process for consultants regarding finding the tower location. They had agreed the right location was the City's maintenance yard. There would be a public hearing for neighborhood residents before the request goes to the Planning Commission.

CM Hannan said the second goal was about streets and sidewalks. Public Works Director Harris said they completed the five year capital improvement plan for road pavement assuming the existing level of funding. This is \$1.8 million per year. They were updating the Pavement Condition Index model to the five year plan. He would present to Council in March on supplemental funding for the pavement system. Regarding Goal 2.3, they would discuss the State transportation package and how shared revenue would help cover the gap that the Transportation Utility Fee was not covering. The five-year capital improvement plan would be updated every year. CM Hannan said the plan would be put on the City's website as well. He saw value in showing the street inventory and if a street did not get done, they would have to be able to explain why. Councilor Johnson thought they should only include streets that would be worked on for the year on the website, not the whole five year plan as it was subject to change.

CM Hannan said the next goal was about the TVF&R annexation. They were waiting for an election in Washington County. He had been meeting with the Board and staff of TVF&R to put the Intergovernmental Agreement together for the annexation to go into effect on July 1. The next goal was about employee retirement plans.

Human Resources Director Lee said staff would be presenting to Council an updated AFSCME contract that as of January 1, 2018 moved all newly hired AFSCME employees to the PERS system.

CM Hannan said the goals for Technology were being met, although he suggested revisiting the Technology Plan. The Trak-It system had been put into place. Community Development Director Rux said the Trak-It system allowed planning, building, engineering, and public works permitting to be all in one system. It also linked into the financial software. The kinks were being worked out and configure modifications were being done. This made processes more efficient.

CM Hannan said the next goal revolved around financial planning and policies. Finance Director Zook said the Council had seen the Long Range Financial Plan in action to generate discussion as staff was preparing the 2018-19 budget. Financial policies had been developed in light of the challenge in the General Fund. They were balancing the need for policy and the need to be prudent in how finances were managed.

CDD Rux said the next goal was about the Urban Growth Boundary expansion. He had been working with the state to fix the streamlined process. He was also working on the draft scope of work, which would include a buildable lands inventory update. The update would occur after the state made the technical fixes which should be done by the end of June. He had also met with the County Assessor regarding their classifications and how those classifications should not be used for a land to improvement ratio methodology as was included in the streamlined process. That was one of the fixes that needed to occur. There was a Citizens Advisory Committee for the first phase of the streamlined process. They had been contacted to continue on with the process. He had also put together a list of people for the Technical Advisory Committee. He explained all of the documents would be ready for Council adoption by May 2019.

CDD Rux said the next goal was about affordable housing. Council had discussed the Housing Newberg proposals. Staff was working on the annexation policies and they would go to the Planning Commission in March and to Council in April. Accessory Dwelling Unit provisions were being worked on. He would be working on the Construction Excise Tax in the future. There had been some internal discussion regarding the missing middle housing.

CM Hannan said the next goal was about the Riverfront Master Plan. They were still short a planner and this item had been put on hold until that planner was hired. CDD Rux reported on the status of the Riverfront Master Plan grant application with the state.

CM Hannan said the next goal was emergency preparedness. PWSD Harris said City employees were keeping track of their emergency preparedness training. Copies of employee certifications would go into their HR files. Supply storage was limited at the primary Emergency Operations Center and he was looking to add some counter top space. Mary Newell had submitted a grant to Homeland Security for a storage container and fuel bladders. Several employees had recently completed the EOC coursework and would be added to the pool of available employees to operate the EOC. The City was working with TVF&R to come up with communications training exercises that would be valuable to both teams.

CDD Rux said the next goal was Economic Development. There was an Economic Development Strategies Work Group that met on a monthly basis. He would give the Council a report on the Downtown Plan in March. He was working on the appraisal for the Butler property. There was a 20 unit apartment project proposed at 2<sup>nd</sup> and Edwards streets. He had been talking with people about bringing a hotel downtown and repurposing the building at 1<sup>st</sup> and Blaine streets. Façade improvements had taken place for two historic buildings. The food cart pod was open on 1<sup>st</sup>. There had been a pre-application meeting for an office building on 2<sup>nd</sup> and he met with someone interested in building apartments on 2<sup>nd</sup>. Under the Tourism Strategy, three recommendations had been brought forward for the Destination Development Marketing grants. The Council approved two and referred one back to the TLT Committee. The TLT Marketing Subcommittee had been discussing the marketing program and made a proposal for changes at the Chamber.

CM Hannan said the next goal was communication and he proposed that conversation be done at another meeting as well as a discussion about technology. The last goal was in regard to transit.

Councilor Essin gave an update on the new routes that had been proposed to the Yamhill County Transit Authority. Establishing a transit hub downtown was also requested.

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## CALL MEETING TO ORDER

Mayor Andrews called the business session to order at 7:10 p.m.

## ROLL CALL

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

Members Absent: Stephen McKinney – excused

Staff Present:	Joe Hannan, City Manager	Truman Stone, City Attorney
	Sue Ryan, City Recorder	Doug Rux, Community Development Director
	Matt Zook, Finance Director	Cheryl Caines, Senior Planner
	Caleb Lippard, Assistant Finance Director	

**PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was performed.

**CITY MANAGER’S REPORT:** City Manager Hannan reported on a GPS policy, new *Graphic* reporter tour of City facilities, meeting with Newberg Animal Shelter Friends , participation with Yamhill County Transit Authority, meeting with a consultant on reuse water temperatures, meeting with Department Directors, Bypass Parkway Committee meeting, potential reuse of wood from the Villa Oak trees, TLT Marketing Subcommittee meeting, Sportsman’s Airpark FAA application, Downtown Coalition projects, Butler property appraisal, Council of Governments awards dinner, YCAP Youth Center and affordable housing initiatives, emergency management meetings, and Police Department fundraisers.

## COUNCIL APPOINTMENTS:

**MOTION:** **Bacon/Corey** moved to approve the appointment of John Wuitschick, Jr. to the Planning Commission for a term of February 5, 2018 to December 31, 2020. Motion carried (6 Yes/0 No/1 Absent [McKinney]).

## PUBLIC COMMENTS:

David Wall shared his ideas on TLT grants. He said rating criteria needed to be reviewed. This was public money and distributing it properly was important. Regarding the wastewater discharge and Water Pollution Control Plan, he suggested the City look into a metered flow, equilibration basin, serpentine tanks, and solar refrigeration. Oregon’s main economy was agriculture and farmland needed to be protected.

Rebecca Wallis, Family Pet Partners, gave an update on their services. Yamhill County decided March 2017 that animal control would become a City responsibility as of July 1, 2017. Since their group helped the City respond to dog-at-large calls, lost and found dogs, and complaints. They partnered with others to house exotic animals. The Partners were the only organization receiving calls dispatched by the 9-1-1 system. Newberg still had Animal Control Services. All officers fulfilled the duties of animal control when dispatched to do so or referred calls to Family Pet Partners when it was something that could be handled without a police officer. At times the Partners called the Police Department for assistance and officers were readily available whenever needed. The Partners provided services at no cost to the City. They had been operating in Newberg since January 2017 and they looked forward to expanding services.

## NEW BUSINESS: Potential Sale of the Newberg Animal Shelter:

CM Hannan said the City was looking for funding to upgrade communications. One options was selling City assets. Staff researched selling the Butler and Animal Shelter properties. A lot of community concern had been raised regarding the sale of the Animal Shelter and this was an opportunity to discuss the issue further. The appraisal was not completed for the Animal Shelter yet. Staff had collected all of the information on what the City spent to build the building, money raised by the Friends group, and additional funds raised for building

improvements. The Friends wanted to continue the current contract. But if the City planned to sell the shelter they wanted to have donations recognized and be given a right of first refusal. The purpose of this item was for the Council to make a statement of intent, that the City formally recognize the value of the donations and grant revenues that were contributed by the Friends, and to direct staff to hold a public hearing on March 19.

Councilor Bacon asked if the money would be returned to the Friends group or stay with the City. CM Hannan explained the Council would decide what would happen with the proceeds if the building was sold.

Councilor Johnson asked about the cost-benefit of selling the property. CM Hannan said they did not know the value of the property yet or if there would be a profit if they sold it. The purpose of starting this process was to see what could be done to pay for the communications upgrade. Staff would come back with alternatives once the appraisal was done and the Council would decide the next steps. CDD Rux said the instructions to the appraiser were to appraise the property as an industrial piece of property with a building that had no restrictions. It would be a fair market comparison for industrial land. The issue about limiting it to an animal shelter would be discussed at the public hearing in March. Councilor Johnson asked when the current lease with the Friends expired. CM Hannan answered June 2018. The Friends' preference was to continue the lease.

Councilor Essin said the City agreed to use the donations for an animal shelter. He thought they should maintain that intent. The Friends were currently operating the shelter, and would have to compete for the sale of the building. The property would be a different value if sold as an industrial property than if it was limited to be sold as an animal shelter. He did not think much profit would come from the sale. The Friends was asking for a right of first refusal, and he thought that was reasonable. However, he thought the sale would not work out and preferred to renew the lease.

Councilor Bacon donated money to build an animal shelter. Animal shelters were not a function of government, and she did not care who ran it or who profited from her donation as long as there was an animal shelter. If they were not giving the credit to any animal shelter, it did not make sense to say it had to be an animal shelter. People had donated money for it to be an animal shelter.

CM Hannan said the Council could vote on each item as three separate recommendations. Another alternative was to direct staff to present a detailed list of all the donations at the public hearing. This was a City facility, and the Council would make the decision on the distribution of the money. There was an organization that had been meeting with the Friends. They were willing to help finance the sale assuming the value was worth more than the appraisal. There were ongoing costs at the shelter. Even if there was no capital to be gained by the sale, the Council might still want to sell the facility due to the budget costs.

Councilor Johnson asked why they had decided to do the appraisal as an industrial property with a building on it verses as an animal shelter. CM Hannan said they were looking at the highest and best use of the property. Councilor Essin said most of the time shelters were handled by the County, but the County had transferred that responsibility to the City. The City needed this service, and he was thrilled that the Friends had taken it on for the community. He thought they should continue with the appraisal process and see where that led. Councilor Bacon said there was a difference between the function of government and taking care of local animals. Mayor Andrews asked if the City could not accept a right of first refusal before the public hearing.

City Attorney Stone said the sale of real property was governed by ORS 221.275. The statute had requirements prior to the sale of real property. He advised that this was a property right. It shouldn't be given without going through the public hearing process. He was not aware of any other animal shelter that had been sold recently in the State. The appraiser could not do a sales comparison for the value of this property as an animal shelter. Even to find comparables for a property like the Butler property had been difficult as there were no recent comparable sales. CM Hannan said the only value they could put on other county animal shelters was through their insurance policies.

Mayor Andrews asked if passing this motion would indicate a deed restriction. CA Stone did not think it would.

**MOTION: Murray/Bacon** moved to approve the City's declaration of its intent that the Newberg Animal Shelter continue to be used as an animal shelter, that the City recognize the value of the donations and grant revenues contributed by the Newberg Animal Shelter Friends (NASF) to construct and improve the Newberg Animal Shelter if the Shelter is sold, and that a public hearing on the sale of the Animal Shelter be scheduled for March 19, 2018.

Deliberations: Councilor Johnson was not in support of the motion. It was not a good first step because they did not have the appraisal yet for the property.

**AMENDMENT TO THE MOTION: Essin/Johnson** moved to table the decision until the appraisal was completed. Mayor Andrews clarified the decision would be postponed until the first Council meeting following receipt of the appraisal. Motion amendment carried (6 Yes/0 No/1 Absent [McKinney]).

#### **CONSENT CALENDAR:**

**MOTION: Corey/Murray** moved to approve the Consent Calendar including Council Minutes for January 2, 9, and 11, 2018 and Resolution 2018-3438, A Resolution approving an Intergovernmental Agreement between the City of Newberg and Mid-Willamette Valley Council of Governments for Economic Development Revolving Loan Fund services. Motion carried (6 Yes/0 No/1 Absent [McKinney]).

#### **CONTINUED BUSINESS:**

Cal Portland adjustment: Caleb Lippard, Assistant Finance Director, said Council had directed staff to renegotiate the credit amount for the 2016 charges to Cal Portland's municipal services account. This was due to an error in the City's system. The amount had been reduced as requested.

**MOTION: Bacon/Corey** moved to approve a leak adjustment in the amount of \$5,645.54 to apply toward Cal Portland's Municipal Services account. Motion carried (6 Yes/0 No/1 Absent [McKinney]).

Ordinance 2018-2821, Legal Description: CDD Rux said at the last Council meeting the Council held a hearing updating the legal description of the City limits. That hearing was closed. An update had not been done since 2000. The new legal description had been sent to the Department of Revenue and Yamhill County and no comments had been received.

**MOTION: Corey/Johnson** moved to approve Ordinance 2018-2821 to be read by title only, An Ordinance adopting a new legal description of the Newberg City limits. Motion carried (6 Yes/0 No/1 Absent [McKinney]).

#### Ordinance 2018-2822, Private Streets in Planned Unit Developments:

Mayor Andrews said the public hearing had been closed on this ordinance, but there were people who wished to provide testimony tonight.

**MOTION: Bacon/Johnson** moved to reopen the public hearing. Motion carried (6 Yes/0 No/1 Absent [McKinney]).

Mayor Andrews called for any abstentions, conflicts of interest, or objections to jurisdiction. There were none.

CDD Rux said this proposed to allow private streets in Planned Unit Developments. It was reviewed by the Planning Commission who recommended approval with some caveats. These included: 50 or more dwelling units, Class 1 Community, A Homeowners Association managed by a professional company, Preliminary Parking Plan, Preliminary Reserve Study, and Annual Reserve Study. The City Engineer and Fire Marshall also had to agree to the private street. The Planning Commission had the authority to approve or deny a private 39

street. If the parking restrictions on the private street were not enforced, it could be turned over to Code Enforcement.

Councilor Murray said over the weekend he had walked around the City and he noted there were many alleyways and private streets where no one was parked. He thought this ordinance dealt with any issues that might arise and it would help bring affordable housing to the City.

Proponents: Andrew Tull, 3J Consulting, said an email from Roger Currier was submitted after the close of the record. He wanted to offer rebuttal testimony to it. He handed out a packet of rebuttal comments, examples of private streets being successful in other developments, and costs associated with a private street system. What his client was contemplating with property in Newberg was separating the development into pods. These were serviced like an apartment complex. There would not be a lot of cross traffic. Parking could be increased by providing head in parking throughout the private street network. This would be a higher density of up to 20 detached units per acre. Open space and parking provisions would still be accomplished.

Jesse Nemec, JT Smith Companies, said private streets provided design opportunities and densities that otherwise would not be available, especially for irregular lots. When used in a PUD there would be additional scrutiny by the Planning Commission. He thought private streets would be used in a good way to provide high density projects.

Opponents: Roger Currier's email had been entered into record.

CDD Rux recommended approval of the ordinance.

**MOTION: Bacon/Murray** moved to approve Ordinance 2018-2822 to be read by title only, An Ordinance amending the Newberg Development Code to allow for the creation of private streets in Planned Unit Developments (PUDs).

Deliberation: Councilor Bacon said affordable housing was a Council goal. She thought they learned from past mistakes. This was also an opportunity to review street widths of all City roads. The City would not have to pay for the repair of these private streets. Councilor Johnson favored it because the City would not be responsible for the maintenance. There was a need to balance affordable housing with the City's budget shortfall. This was a creative way to solve multiple problems with simple tools. Mayor Andrews thought this was a move in the right direction.

Motion carried (6 Yes/0 No/1 Absent [McKinney]).

#### Ordinance 2018-2824, Comprehensive Plan – Population projections:

Senior Planner Caines said at the last Council meeting a public hearing was held to consider proposed amendments to the Comprehensive Plan to amend the population forecasts. This information would be used for future planning.

**MOTION: Corey/Johnson** moved to approve Ordinance 2018-2824 to be read by title only, An Ordinance amending the Newberg Comprehensive Plan, Section IV (Subsections A and B) to reflect updated historic and projected population information. Motion carried (6 Yes/0 No/1 Absent [McKinney]).

#### **NEW BUSINESS:**

##### Resolution 2018-3434

CDD Rux said this was to initiate a code text amendment process for the Wastewater Master Plan update. The last time the Plan was updated was in 2007. A consultant worked with the City and several Technical Advisory Committee meetings and Public Advisory Committee meetings had been held. The final draft of the Plan should be completed in the spring and it would be sent to the Planning Commission in May and then to the Council in June.

**MOTION: Bacon/Murray** moved to approve Resolution 2018-3434, A Resolution initiating a Comprehensive Plan text amendment for the Wastewater Master Plan update. (6 Yes/0 No/1 Absent [McKinney]).

2007 Water Master Plan review:

SP Caines reviewed the 2007 Water Management and Conservation Plan. This plan was required by the state to ensure the efficient use of water resources, and to ensure the City's water supply over time. The plan outlined the City's water sources, conservation measures currently being done or planned to be done by the City, and what to do if there was a situation of insufficient water such as during a drought. Conservation measures included audits, system improvements, public education, and a recycled water system. This was an old plan, and many things had changed with the water system. The City recently adopted an updated Water Master Plan and part of the requirements in the plan was to update this Water Management and Conservation Plan. The City would also be reviewing water rights.

**COUNCIL BUSINESS:**

City Recorder Ryan reminded the Council about their SEI filing and reviewed the Council's February calendar.

CM Hannan said there was an opportunity for someone from this area to serve on an advisory committee to the Oregon State Parks Board.

Councilor Bacon said they raised \$7,500 at the Police Foundation fundraiser on Friday evening.

Councilor Johnson would like staff to look into a program for low income that if they paid the water and sewer portion of their Municipal Water Statements but did not pay the fees that their water would not be shut off. He would like to know the budgetary and legal impacts.

Mayor Andrews would like to know how many shut offs there were typically in a month.

There was consensus for staff to come back with the information post budget season.

**ADJOURNMENT:** The meeting was adjourned at 9:22 p.m.

**ADOPTED** by the Newberg City Council this 20<sup>th</sup> day of February, 2018.

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Sue Ryan, City Recorder

**ATTESTED** by the Mayor this 22nd day of February, 2018.

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Bob Andrews, Mayor

# REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: February 20, 2018

Order No.	Ordinance XX No. 2018-2828	Resolution No. _____	Motion _____	Information
SUBJECT: An Ordinance Amending Portions Of Newberg Municipal Code Section 3.45 Related To The Transportation Utility Fee And Declaring An Emergency			Contact Person (Preparer) for this Motion: Truman Stone/Jay Harris Dept.: Legal/Public Works File No.:	

☒ HEARING TYPE    ☒ LEGISLATIVE    ☐ QUASI-JUDICIAL    ☐ NOT APPLICABLE

## RECOMMENDATION:

Adopt Ordinance No. 2018-2828.

## EXECUTIVE SUMMARY:

The City hired a consultant to study pavement conditions and develop options for maintenance and improvements to the City's street system. Out of this process and a citizen ad hoc committee, it was recommended that the City adopt a transportation utility fee ("TUF") as one source of funding. The council adopted an ordinance creating a TUF, in May 2017, modeled after the Hillsboro TUF ordinance. The TUF was implemented in September 2017 and has been billed monthly since that time.

Experience in administering the TUF has brought to light some areas of the code that need addressing. This ordinance fixes those technical deficiencies. The amendments are intended to do the following:

- Consistently use defined terms
- Eliminate confusion on the role of the Citizens Rate Review Committee and the applicability of certain portions of the rate review process
- Remove a biennial adjustment limitation to provide additional flexibility and synchronize with the citizens rate review process
- Substitute a valid inflationary index for one which is no longer published

In order to promptly address the identified issues and ensure continuity in administration of the TUF, this ordinance declares an emergency and would be effective upon passage.

FISCAL IMPACT: Not applicable.

STRATEGIC ASSESSMENT (RELATE TO COUNCIL GOALS): Not applicable

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AN ORDINANCE AMENDING PORTIONS OF NEWBERG MUNICIPAL  
CODE SECTION 3.45 RELATED TO THE TRANSPORTATION UTILITY  
FEE AND DECLARING AN EMERGENCY

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### RECITALS:

1. The council enacted Ordinance 2811 on May 2, 2017 establishing a transportation utility fee. This ordinance was codified in Newberg Municipal Code title 3, chapter 45.
2. The transportation utility fee is a fee based on the direct and indirect use of or benefit derived from the use of public transportation facilities and is reasonably related to the cost of providing these services. For purposes of ORS Volume 8 (Revenue and Taxation), the transportation utility fee is not intended to be a tax on property or a property owner as a direct consequence of ownership, but instead is a fee or charge not subject to the limits of Section 11(b), Article XI, of the Oregon Constitution.
3. After enactment and implementation of the transportation utility fee, the need for certain technical fixes has become apparent.
4. The amendments are intended to do the following: consistently use defined terms; eliminate confusion on the role of the citizen's rate review committee and the applicability of certain portions of the rate review process; remove a biennial adjustment limitation to provide additional flexibility and synchronize with the citizens rate review process and substitute a valid inflationary index for one which is no longer published.
5. The council finds that an emergency exists and that it is necessary that this ordinance take effect immediately upon passage.

### THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

1. Title 3, Chapter 45 is amended as shown in the attached Exhibit A, which is fully incorporated by this reference.
2. **Emergency Clause.** The transportation utility was implemented in September 2017 and the amendments to the municipal code are necessary for effective implementation of the transportation utility fee. Therefore, the city declares an emergency for the welfare of citizens and persons responsible for payment of the transportation utility fee within the city, and thereby this ordinance shall take effect immediately upon passage by the council and signature of the mayor.

*Continued on the next page*

➤ **EFFECTIVE DATE** of this ordinance is: \_\_\_\_\_, 2018.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this \_\_\_\_ day of \_\_\_\_\_, 2018, by the following votes: **AYE:**      **NAY:**      **ABSENT:**      **ABSTAIN:**

\_\_\_\_\_  
Sue Ryan, City Recorder

**ATTEST** by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Bob Andrews, Mayor



**Section 1:** Section 3.45.030 is amended to read as follows:

**3.45.030 Administration.**

A. Authority and Effective Date. The city manager is the delegated authority to implement the TUF created by this title when administratively feasible, but not sooner than July 1, 2017. The city manager may interpret all terms, provisions and requirements of this chapter and determine the appropriate TUF category. A ~~property owner~~ **responsible party** desiring an interpretation or other examination of the TUF category must submit a written application to the city manager. The application must provide sufficient detail to allow an interpretation. The city manager may require additional information, including an engineering study prepared by a licensed professional engineer using ITE manual methodology.

**Section 2:** Section 3.45.050 is amended to read as follows:

**3.45.050 Fee imposed.**

A. A transportation utility fee is imposed upon the ~~owners of~~ **responsible party** for all developed property within the corporate limits of the City of Newberg.

B. ~~Property owners~~ **Responsible parties** with specific activities and uses of property that result in extraordinary wear and tear or structural damage to a city transportation facility may be assessed a special damage assessment fee, which is determined by the city manager on a case-by-case basis.

C. The TUF may be paid by the owner, occupant or anyone designated by the owner or occupant provided that person is listed as the responsible party on the city utility accounts system.

**Section 3:** Section 3.45.080 is amended to read as follows:

**3.45.080 Fee determination, adjustments and terminations.**

A. The TUF will be calculated as a monthly service charge and collected from ~~owners or occupants~~ **responsible parties** of developed property in a manner similar to the collection of city water or sewer fees. Fees need not be invoiced monthly but will not be invoiced for intervals longer than three months.

B. Adjustment or termination of the TUF will be approved by city council resolution. The TUF may be modified ~~biennially~~ based on one or more of the following factors:

1. Cost of Service Adjustment. A rate adjustment reflecting a change in the amount of revenue required to maintain the city transportation pavement facilities defined by this chapter net of other city revenue that may be pledged for that purpose.

2. Inflationary Index Adjustment. A rate adjustment reflecting the changes in the cost of labor, materials and other services linked to changes to broader economic conditions as measured by the ~~Oregon~~ Department of Transportation Four-Quarter Moving Average **Engineering News Record** Construction Cost Index **for Seattle**.

3. New Revenue Adjustment. An adjustment based on revenue received from outside sources (not locally generated) to provide street maintenance.

4. Road Condition Assessments. Assessments that forecast reduced costs to maintain the condition of the road system.

5. Fee Termination. The fee can be terminated by the city council if it is determined that the funding is no longer needed to maintain the street system.

C. TUF Program Review. The adjustment to the TUF determined by subsection (B) of this section will not be automatic or predetermined. The citizen rate review committee will review the TUF program on a biennial basis **or at such other times the city council refers the TUF to the committee for review.** ~~is as defined in NMC 2.15.120 through 2.15.210 and~~ **After reviewing the TUF program, the citizen rate review committee will make recommendations** ~~recommend any modification to the amount of TUF collected to the city council regarding the TUF. The provisions in NMC 2.15.120 through 2.15.200, including the right of referral, do not apply to review of the TUF.~~

D. Establishment of Service Fees. Monthly service fees will be established for the following types and classes of developed property or developed use:

1. Residential Properties.

a. Single-Family. Includes developed property with one, two, or three separate dwelling units. Each attached or separate dwelling unit is subject to the TUF for this class.

b. Multifamily. Includes developed property with four or more attached dwellings, condominiums, and town homes including accessory dwelling units. Each dwelling is subject to the TUF for this class.

c. Mobile Homes. Property located in parks as defined in ORS [446.003](#)(23).

2. Nonresidential Properties.

a. Class 1. Those categories generating less than 18 average daily trips per 1,000 gross square feet of developed area.

- b. Class 2. Those categories generating from 18 to 30 average daily trips per 1,000 gross square feet of developed area.
  - c. Class 3. Those categories generating from 31 to 51 average daily trips per 1,000 gross square feet of developed area.
  - d. Class 4. Those categories generating from 52 to 80 average daily trips per 1,000 gross square feet of developed area.
  - e. Class 5. Those use categories generating more than 80 average daily trips per 1,000 gross square feet of developed area.
  - f. Class 6. Categories with trip generating characteristics that either are not documented in the ITE manual or have special circumstances that merit separate fee calculation. Examples include: gas stations, hospitals, universities, schools, parks, assisted living centers, fairgrounds, golf courses, and aviation facilities.
3. Nonresidential Class Distribution. The trip ranges described for Classes 1 through 5 are established equally, as close as possible by the following steps:
- a. Sort all non-Class 6 categories from lowest to highest daily trip generation.
  - b. Set the break line between each class as close as possible to equally distribute the total trips generated by Classes 1 through 5.
- E. Fee Minimum. The minimum monthly fee for nonresidential accounts shall be equal to the fee imposed for a single-family residential home.

**Section 4:** Subsection B of Section 3.45.100 is amended to read as follows:

**3.45.100 Implementation rules.**

B. The city manager will review the operation of this chapter and may make appropriate recommendations for amendments to this chapter or the adoption of administrative rules by city council resolution. Administrative rules may provide guidance to ~~property owners~~ **responsible parties** concerning the application and interpretation of the terms of this chapter. Rules adopted by the city council will have full force and effect, unless clearly inconsistent with this chapter.

**Section 5:** Section 3.45.110 is amended to read as follows:

**3.45.110 Billing and collection.**

A. The TUF will be billed and collected with the monthly municipal service statement for developed properties using city water and sewer, and may be billed and collected separately for developed properties not utilizing city water and sewer as follows:

1. For a developed residential property that is subject to water and sewer utility charges, the TUF bill will be sent to the responsible party.
2. For a developed nonresidential property that is subject to water and sewer utility charges, ~~a common~~ the TUF bill will be sent to the responsible party. See NMC [3.45.090](#) for special rate calculation procedures related to mixed-use properties for exceptions to this rule.
3. For a developed residential or nonresidential property that is not subject to water and sewer utility charges, the TUF bill will be sent to the property owner.
4. All TUF bills become due and payable per date noted on the bill.
5. If payments received from city utility billings are inadequate to satisfy in full all balances, credit will be applied proportionately between funds, unless directed otherwise by the city manager. [Ord. [2811](#) § 1 (Exh. A), 5-2-17.]

# REQUEST FOR COUNCIL ACTION

**DATE ACTION REQUESTED: February 20, 2018**

**Order \_\_\_\_ Ordinance \_\_\_\_ Resolution 2018-3437 Motion \_\_\_\_ Information \_\_\_\_**  
**No. No. No. 2018-3437**

**SUBJECT: Ratify AFSCME Local 1569 Association Collective Bargaining Agreement effective retroactively to January 1, 2018 through December 31, 2020.**

**Contact Person for this Motion: Anna Lee, HR Director  
Dept.: Human Resources Department**

**HEARING TYPE: No public hearing is required.**

## **RECOMMENDATION:**

Adopt **Resolution No. 2018-3437** to ratify the Collective Bargaining Agreement between the City and AFSCME Local 1569 Union.

## **EXECUTIVE SUMMARY:**

City staff has been negotiating with the AFSCME Local 1569 Union (the “Association”) representatives for the new contract period January 1, 2018, through December 31, 2020. On January 17, 2018 the City was notified that the Association members have ratified the Collective Bargaining Agreement (“Agreement”).

The City Management team and the Association team have met and negotiated the Collective Bargaining Agreement. The Association has been willing to recognize the City’s financial situation and worked with the City to maintain public works and water services to the community.

The first year of the contract, the Association agrees that their members will receive a 3% COLA (cost of living increase), and will have a wage only option to open the contract September 15, 2018 to determine the COLA for the remaining years of the contract.

Additionally, the Association and the City have agreed to; longevity pay was increased in efforts to retain long term employees. The Union has agreed that all “newly hired” employees of the Union will be enrolled in the PERS (Public Employees Retirement System) as of January 1, 2018.

There are other matters addressed in the contract, such as call back time, updated the contract regarding the Oregon Paid Sick Leave law, as well as integrated all of the outstanding MOUs (Memos of Understanding), into the current contract.

## **FISCAL IMPACT:**

The contract being presented has approximately \$70,000 fiscal year 2017-18 impact.

## **STRATEGIC ASSESSMENT:**

The financial matters addressed in this Agreement help benefit the community. It’s essential to maintain quality public works, streets, water and operations for the infrastructure of the City.



## **RESOLUTION No. 2018-3437**

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**A RESOLUTION APPROVING THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY AND AFSCME LOCAL 1569 ASSOCIATION, EFFECTIVE RETROACTIVELY TO JANUARY 1, 2018 THROUGH DECEMBER 31, 2020, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AS WELL AS DELEGATING THE AUTHORITY TO MAKE MINOR AMENDMENTS AND INTERPRET THE AGREEMENT ON BEHALF OF THE CITY**

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### **RECITALS:**

1. City staff has been negotiating with the AFSCME Local 1569 Association (the “Association”) representatives for the new contract period January 1, 2018, through December 31, 2020.
2. The City has been notified that the Association members on January 17, 2018, have ratified the Collective Bargaining Agreement (“Agreement”).
3. City staff recommends acceptance of the Agreement by the City Council.

### **THE CITY OF NEWBERG RESOLVES AS FOLLOWS:**

1. The City approves the Agreement between the City and the Association, which is attached hereto as Exhibit “A” and by this reference incorporated.
2. The City Manager is authorized to execute the Agreement with the Association on behalf of the City. The City Manager is further delegated the authority to approve minor amendments to the Agreement; interpret language to the Agreement on behalf of the City; enter into memorandums of understanding concerning the interpretation and disputes arising under the Agreement; and negotiate settlements of disputes concerning interpretation of the Agreement.
3. The City Attorney and Human Resources Director have reviewed and approved the Agreement as to form and content.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is February 20, 2018.

**ADOPTED** by the City Council of the City of Newberg, Oregon, on this 20th day of February 2018.

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Sue Ryan, City Recorder

**ATTEST** by Bob Andrews, Mayor this \_\_\_\_ day of February, 2018.

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Bob Andrews, Mayor

**COLLECTIVE BARGAINING AGREEMENT**

**BETWEEN  
THE CITY OF NEWBERG**

**AND**

**THE NEWBERG  
PUBLIC WORKS UNION  
AFSCME Local 1569**

**Effective January 1, 2018 through December 31, 2020**

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## **ARTICLE 1: UNION RECOGNITION**

### **1.1 Recognition of Union**

The City recognizes the Union as the sole and exclusive bargaining agent for the purpose of establishing wages, hours, and other conditions of employment for all Public Works employees employed by the City of Newberg, excluding employees of the Engineering Department, as well as supervisory and confidential employees, as certified by the Oregon Employment Relations Board, case number CC-09-12.

### **1.2 Disputes Concerning Newly Created and Existing Classifications or Clarifications**

#### **1.2.1 Written Notice**

Except for the special provision for reviewing newly created, modified or existing classifications or positions, any challenges regarding the inclusion, exclusion, or clarification of classifications or positions shall be referred to the Oregon Employment Relations Board for determination. To minimize the possibility of such disputes, when a new Public Works non-bargaining unit classification is created, or when a new position is exempted from a classification otherwise represented by the Union, written notice will be sent to the Union to include the reason for exemption. Both parties will make a good faith effort to resolve the dispute before filing the case with ERB.

#### **1.2.2 Notification of New Class and Wage Scale**

New classes may be developed within the bargaining unit by the City and a wage scale assigned thereto. The City will forward notice of the new class and wage scale to the Union by certified mail. The wage scale so assigned may be negotiated upon request by the Union within fourteen (14) days after receipt of notice from the City. If the Union fails to request bargaining with the City within fourteen (14) days of receipt of notice of the new class, the interim wage scale will become final.

### **1.3 Certification of Union Officers**

The Union shall, on an annual or as changes dictate, basis, provide the City with a written list of the current Union officers and stewards responsible for contract administration.

## **ARTICLE 2: MANAGEMENT RIGHTS**

### **2.1 Recognition of Management Rights**

It is recognized that an area of responsibility must be reserved to the employer if the City is to effectively serve the public. Except to the extent expressly abridged by a specific provision of this

Agreement, it is recognized that the responsibilities of management are exclusively functions to be exercised by the City. By way of illustration and not of limitation, the following are listed as such management functions:

#### **2.1.1 Determination of Services**

The determination of the services to be rendered to the citizens served by the City.

#### **2.1.2 Determination of City's Operations**

The determination of the employer's financial, budgetary, accounting and organization policies and procedures.

#### **2.1.3 City's Rules and Provisions**

The continuous overseeing of personnel policies, procedures, and programs promulgated under any resolution, ordinance or administrative order of the City, including the establishment of personnel rules and regulations not inconsistent with any other term of this Agreement.

#### **2.1.4 Management and Human Resources**

The management and direction of the work force including, but not limited to, the right to determine the methods, processes and manner of performing work; the determination of the duties and qualifications of job classifications; the right to hire, promote, train, demote, assign duties, transfer and retain employees; the right to discipline or discharge for just cause; the right to lay off for lack of work or funds; the right to abolish positions or reorganize the departments or divisions; the right to determine schedules of work; the right to purchase, dispose and assign equipment or supplies; and the decision to contract or sub-contract any work (within the limits set by MOA in Appendix C of this agreement), or other rights as provided by ORS 243.650(7) (g).

#### **2.1.5 Discretionary Practices**

Both parties acknowledge that certain discretionary practices exist within the employer/employee relationship, which do not have a material effect on the conditions of employment, such as the providing of picnic lunches, holiday hams, etc. The parties agree that such practices shall continue to exist at the sole discretion of the City.

## **ARTICLE 3: UNION SECURITY AND RIGHTS OF BARGAINING UNIT EMPLOYEES**

### **3.1 Rights of Employees to Participate in Union Activities**

Employees shall have the right to self-organize, to form, join or assist labor organizations or to refrain therefrom, to bargain collectively through representatives of their own choosing, and there shall be no discrimination exercised against any employee covered by this Agreement because of his/her membership or Union activities.

### **3.2 Employment Classifications**

Employee status is categorized to make distinctions in benefits and other employment conditions and to aid in a better understanding of employment relationships within the City of Newberg. Employees may be considered as probationary, regular full-time, regular part-time, limited part-time, volunteers, temporary, management or contract. The following definitions apply:

**Lead Worker/Crew Chief:** This position involves certain limited oversight and administrative duties which are deemed not to warrant a full supervisory classification. Lead Workers/Crew Chiefs will not be responsible for recommending hiring and/or firing, imposing discipline or delivering performance evaluations.

**Probationary Status:** Newly hired or promoted employees within the probationary period.

Newly hired employees earn, but cannot use vacation benefits. You must wait six months before you are eligible to use vacation, unless pre-approved at the time of hire.

**Regular Full-time:** An employee who has successfully passed the probationary period and is regularly scheduled to work 40 hours or more per week. This classification is eligible for benefits.

**Regular Part-time:** An employee who is regularly scheduled to work at least **20** but less than 36 hours per week. This classification is eligible for vacation, sick leave, holiday benefits on a pro-rata basis, and cost-of-living adjustment (COLA). However, employees in this classification who are required to receive retirement benefits on a pro-rata basis (employees in PERS eligible positions) will not be eligible for vacation, sick leave and holiday benefits.

**Limited Part-time:** An employee who is regularly scheduled to work less than 20 hours per week, or who may not have a set schedule and works only when called upon. This classification is not eligible for benefits; however will be eligible for COLAs.

**Temporary:** An employee who is hired for a specified period of time, usually no more than twelve months. This classification is not eligible for benefits and will not be eligible for COLAs.

### **3.3 Union Security and Check-off Service Fees, Authorization and certification of dues and Fair Share**

#### **3.3.1 Amount deducted each payroll period**

The City agrees to deduct each payroll period from the pay of employees covered by this Agreement as

applicable:

### **3.3.2 Union dues**

Monthly Union membership dues of those Union members who individually request and authorize such deductions in writing on the form provided by the Union. Deduction of membership dues must be authorized in writing on the form provided by the Union.

### **3.3.3 Fair Share Service Fee**

Monthly Fair Share Service Fee, payable in lieu of dues by any employee who has not joined the Union within thirty (30) days of initial regular appointment to a bargaining unit position.

### **3.3.4 Remission of Dues and Fair Share Service Fees**

The Fair Share Service Fee shall be applied solely to defraying the cost of negotiations and contract administration. The process for determining the amount of the Fair Share Service Fee deduction, accountancy requirements for funds collected, limitations on the use of such funds, and any requirements for refund, shall all be in accordance with the requirements of state and federal laws.

### **3.3.5 Deduction of Dues and Fair Share Service Fees**

The amount to be deducted for dues and Fair Share Service Fees shall be certified in writing to the City by the Union President or their designee. The aggregate of all deductions shall be remitted, together with an itemized statement, to the Treasurer of the Union at an address certified to the City in writing by the Union President or their designee, within five (5) working days after it is withheld or by such time as the parties mutually agree in writing.

### **3.3.6 Religious objections to payment of dues and Fair Share Service Fees**

The Union expressly agrees that it will safeguard the rights of non-association of employees, based upon bona fide religious tenets or teachings of a church or religious body of which such employee is a member. Any such employee shall pay an amount equal to regular union dues through the Union to a non-religious charitable organization exempt from taxation under 501(c)(3) of the Internal Revenue Code, or other charitable organization mutually agreed upon by the employee making such payment and the Union. The employee will make payment through the Union on a monthly basis. The Union will forward the payment to the agreed upon charity, and provide the employee with a copy of the forwarding letter.

### **3.3.7 Appointment to excluded positions**

Deductions for Fair Share Service Fees and Union dues shall cease beginning with the pay period following an employee's regular appointment to a position which is excluded from the bargaining unit.

### **3.3.8 Notice of new employees and those separated from employment.**

The City agrees to furnish the Union, in electronic form, the names of any new employees and employees

who have separated from employment. When the City knows an employee is retiring at the time of separation, the employee's name will be so noted on the report.

### **3.3.9 AFSCME PEOPLE Deductions**

To the extent allowable by law, employees may authorize payroll deductions for the voluntary AFSCME PEOPLE (Public Employees Organized to Promote Legislative Equality) by submitting the form provided by the Union to Central Payroll. The City agrees to provide the Union by the tenth (10<sup>th</sup>) of each month a listing of employees that are making PEOPLE contributions and amount deducted per employee. This report can be included in the same report as dues, provided a separate line item clearly shows this deduction.

### **3.3.10 Defense and Indemnification of the City**

The Union agrees that it will indemnify, defend and hold the City harmless from all suits, actions, proceedings or claims against the City or persons acting on behalf of the City, whether for damages, compensation, reinstatement, or any combination thereof, arising out of application of this Article, in the event any decision is rendered by the highest court having jurisdiction that any portion of this Article is invalid and/or that reimbursements must be made to any employees affected, the Union shall be solely responsible for such reimbursements.

## **3.4 Union Representation and Contract Negotiations**

### **3.4.1 Union Negotiating Team**

The Union's Negotiating Team shall consist of not more than four (4) members, three (3) of whom may be employees. City employees participating in such negotiations will be allowed to do so without loss of pay. The Union and City may mutually agree to a different number of negotiating team members, appointing an equal number of representatives from labor and management.

### **3.4.2 Ground Rules**

Prior to negotiations, representatives of the City's and the Union's Negotiating Teams will jointly discuss general negotiating ground rules, such as the number of observers, resource people, meeting times, etc.

### **3.4.3 Copies of Agreement**

The City shall print enough copies of this Agreement for all employees in the bargaining unit. The City shall provide an electronic copy of the Agreement to the Union and post it to the City intranet and internet websites.

## **3.5 Grievances and Contract Administration**

The Union is the exclusive representative of bargaining unit employees with respect to conditions of employment governed by this Agreement under the State of Oregon Public Employees Collective Bargaining Act.

### **3.6 Site Access**

Union representatives will have access to work sites, provided notification is provided to supervisors before arrival on site and there is no interruption of the work force.

### **3.7 Communication with Bargaining Unit Members**

#### **3.7.1 Bulletin boards**

The City agrees to furnish and maintain suitable bulletin boards in convenient places in each work area to be used by the Union. The Union shall limit its postings of notices and bulletins to such bulletin boards. All postings of notices and bulletins by the Union shall be factual in nature and should be signed and dated by the individual doing the posting.

#### **3.7.2 Use of city computers for e-Mail and Internet connections related to Union business**

##### **3.7.2. a City's Communication Mediums**

City communication systems may be used for Union business involving electronic communications or Internet connections in the following circumstances, but only when such use is also in conformance with the other requirements of this Agreement, specifically Agreement sections which require that stewards make every effort to avoid disruptions and interruptions of work.

##### **3.7.2. b Meetings**

When such use is de minimis and incidental, such as arranging a meeting with a fellow shop steward or the Staff Representative, or for accessing an electronic copy of the union contract.

##### **3.7.2. c Investigations**

For the purpose of conducting an investigation of a grievance, such as individual inquiries to co-workers.

##### **3.7.2. d Other Interactions**

For the purpose of interacting with the City's representatives concerning Union-City business, such as setting dates for City-Union meetings, making inquiries regarding grievances, etc.

##### **3.7.2. e Union's Internet Site**

On the employee's own time, for the purposes of utilizing the Internet to reach a Union Internet site. Any use of such sites will comply with City Personnel Rules and shall exclude blogging, use of chat rooms, instant messaging or other live person to person electronic communication, and political activities as prohibited by law.

##### **3.7.2. f Union Officials' Use**

For authorized Union officials only, and on such employee's own time, for the purpose of posting

messages on the internet site provided for in (e) above.

**3.7.2. g Communications between The Local 1569 and the City**

The Local 1569 President or designee may use the City's electronic communication systems for the purpose of communicating with Local 1569 members. All such communications shall comply with City Personnel Rules. Communications that are sent to employees within a single Department shall be approved by the Department Director or designee prior to distribution. Communications that are distributed to employees in more than one Department shall be approved by the Human Resources Director prior to distribution. Examples of such communications may include, but are not limited to: meeting announcements; Union elections and ratification votes; Union appointments; bargaining updates prior to impasse; seniority lists; and miscellaneous surveys.

**3.7.2. h Costs**

The uses cited above may continue only to the extent that they are at no additional cost to the City, and are contingent on the continued use of the cited computers, internet connection, intranet connection, etc. for other City purposes. The content of any and all communications using the City computer system is not privileged and may be subject to City review and public records requests.

**3.8 Maintenance of Membership**

Employees who are current members of the Union at the signing of this agreement or who sign a Union membership card subsequent to the signing of this agreement shall maintain their Union membership for the duration of the collective bargaining agreement. Maintenance of membership shall be a condition of employment.

**3.9 Collective Bargaining Agreement Prevails**

All matters not prescribed by the language of this Agreement may be administered for its duration by the City in accordance with the City Personnel Rules and Regulations. In the event of a conflict between Personnel Rules and this Agreement, the provisions of this Agreement shall prevail.

**ARTICLE 4: NON-DISCRIMINATION**

**4.1 Non-discrimination and Compliance with Applicable Laws**

The City and the Union agree that each will fully comply with all applicable laws and regulations regarding discrimination against any employee or applicant for employment because of such person's race, religion, color, natural origin, gender identity, mental or physical disability, sex, age, union affiliation or other status protected by state or federal law. Any references to gender in the Agreement include both genders. The parties agree that

nothing in this agreement will interfere with or restrict the City in its obligation to accommodate individuals with disabilities under federal and state law. Any disputes regarding this article may be resolved through the grievance procedure, but will not be subject to the arbitration process.

## **ARTICLE 5: HOURS OF WORK**

### **5.1 Regular Hours**

The regular hours of each workday shall typically be consecutive with interruptions for lunch periods.

### **5.2 Work Week**

Work week shall consist of a seven (7) day work schedule with five (5) consecutive eight (8) hour days with two (2) consecutive days off or four (4) consecutive ten (10) hour days with three (3) consecutive days off or any other type of alternative work schedule agreed to in writing by the Union, the employee(s) and the City. The City and the Union will explore the option of a fourteen (14) day 9/80 schedule to be used during the summer starting 2015.

#### **5.2.1 Summer Schedule**

Starting the first Monday in May each year of this contract, employees will work a ten (10) hour shift four (4) days out of each seven day week for public works positions.

On the first Monday of September of each year, all employees will return to a regular five (5) day, eight (8) hour day work schedule without any requirement of notification by management.

The 4/10 Summer Schedule will require employees to still work a forty (40) hour week. If a holiday/vacation/sick day only covers eight (8) hours as a benefit, the employee will need to work two (2) additional hours, or utilize accrued vacation or comp time to complete forty (40) hours of paid time during that week.

Example: July 4<sup>th</sup> eight (8) hours paid benefit from City

Employee can flex: working thirty-two (32) additional hours during that week OR  
Use two (2) hours vacation or comp time plus work thirty (30) hours that week OR  
Any combination of flex and paid time that equals a forty (40) hours week  
All schedule adjustments made with the approval of the supervisor.

A few schedules will have the third (3<sup>rd</sup>) day off assigned in the middle of the week but all employees will have no less than two (2) consecutive days off under the 4/10 Summer Schedule.

Example: Jane Doe works M, T, TH and F - has Sat/Sun and Wed off

#### **5.2.2 Water customers - End or start service new resident move-ins:**

For Fridays in which the employee is not scheduled to work, the on-call employee may be required to report to work in the afternoon for urgent water turn on for new move ins. Early in the week,



Management will make reasonable efforts to inform the employee of their on-call status for the coming Friday.

The on-call person for that week would be able to leave at 2:30 pm on the day before (Thursday), and the three (3) hours on Friday would complete the forty (40) hour work week.

### **5.2.3 Shifts**

Public Works Maintenance - shifts are ten (10) hour shifts, starting time 7:00 am to 5:30 pm, Monday through Thursday.

Public Works Operations – shifts are ten (10) hours shifts, starting time 6:00 am to 4:30 pm, variation of shifts and days are based upon assignment.

Supervisors may agree to adjust the hours or days scheduled for an employee at their request on a case by case basis.

### **5.2.4 Disconnections**

Disconnections will be scheduled on Mondays. Prearranged water connections made by customers for Fridays would be scheduled on Thursday afternoons to help reduce the potential Friday connections.

Management will inform the Utility Office of this 4/10 schedule for turn on and disconnections.

If the work duties do not allow for leaving early on Thursday, the time worked Friday afternoons would be at comp/overtime, subject to prior approval from a supervisor.

Water disconnections for non-payment:

Normally done on the third (3<sup>rd</sup>) Thursday, however depending on volume may not be completed by the regular staff and the on-call person would finish them Friday the same way as the listed above.

If there is a large number of service still off, the on-call person could be called in sooner on Friday which would be comp/overtime.

For emergencies on Friday, the on-call person would respond as needed while at work in the afternoon, contacting other employees as may be required to assist as usual during the non- working hours.

All adjustments in work schedule need to be pre-approved by supervisors.

However, the City may agree to a change in the work schedule where necessary to accommodate an employee as required by federal or state law.

## **5.3 Schedule Changes**

### **5.3.1 Notice of Changes**

Notice of change in an employee's work schedule shall be given to the affected employees in writing, not less than five (5) calendar days prior to the effective date of the change. The City may also grant a reasonable request for a temporary change to the work schedule of an employee on a case-by-case basis.

### **5.3.2 Flexible Work Schedules**

By mutual agreement, at any time, the work schedule can be flexed, meaning different start and stop time or different days during the week without the payment of overtime unless the request exceeds forty (40) hours in a work week.

## **5.4 Rest Periods**

### **5.4.1 Definition**

Rest periods will be provided for in accordance with federal and state law. All employees shall have a fifteen (15) minute rest period during each one-half (1/2) shift which shall be scheduled as near the middle of each one-half (1/2) shift as is feasible. Rest periods may not be accumulated, nor shall rest periods have any monetary value.

### **5.4.2 Extreme Weather Conditions**

Employees working in extreme weather conditions such as temperature over 90 degrees and under 35 degrees may be given extra breaks at the discretion of a division manager.

## **5.5 Meal Periods**

Meal periods will be provided for in accordance with federal and state law. All employees will be granted a thirty (30) minute or a sixty (60) minute, duty free, unpaid meal period during each work shift, which shall be scheduled as near the middle of each shift as is feasible. The current length of meal periods may be changed by mutual agreement between the employee and supervisor. Employees shall not be permitted to work through a meal period unless approval from a supervisor is obtained before the scheduled break period.

## **5.6 Call Back Time**

### **5.6.1 Definition**

Any employee asked to work outside of his/her regularly scheduled shift shall be paid for a minimum of two (2) hours at the rate of time of one (1) and one-half (1 1/2) times the employee's regular compensation (overtime rate). Call backs within the same two hour period will be considered one call back for the purposes of this Section.

If the call back time work assignment and the employee's regular shift overlap, the employee shall be paid the overtime rate until the employee completes two (2) hours work. The employee shall then be paid for the balance of the regular work shift at the appropriate rate.

This section does not apply to scheduled overtime at the beginning of the work shift or workday or at the end of the work shift or workday provided forty-eight (48) hour notice has been given and the overtime is consecutive with the shift hours or work. (For example, if an employee is given 48 hour notice to change the start time from 6:30am to 5:00am, the entire shift will be at regular hours, unless they work in excess of 40 hours for the week.)

### **5.6.2 Not Returning to Work Site**

An employee who receives a call and is able to resolve the issue by phone or by computer without having to come to work shall be paid one (1) hour of overtime rate if the employee can resolve the problem within thirty (30) minutes. If the issue requires more than thirty (30) minutes or the employee must leave his/her home, the employee shall receive a minimum of two (2) hours of overtime.

### **5.6.3 Travel Time**

For call backs, the first thirty (30) minutes of travel time each way is considered part of paid time. Employees who live further than thirty (30) minutes from the work site; shall not compensated them for the addition travel time beyond the thirty (30) minutes, each way.

## **5.7 Overtime**

### **5.7.1 Definition**

When employees are required to work overtime, the employee may, at his/her discretion choose either compensatory time off or pay at the rate of one (1) and one-half (1 %) times the employee's regular rate of compensation. Overtime is defined as any hours worked in excess of forty (40) hours in one workweek. Unless there is an emergency situation which requires immediate attention, the division supervisor must approve any overtime hours in advance. Unauthorized overtime shall be paid in accordance with FLSA. However, employees working unauthorized overtime may be subject to discipline.

### **5.7.2 Accumulation and Use of Compensatory Accrual**

Compensatory time accumulation shall not generally exceed forty (40) hours. Employees may request to take compensatory time off and shall be permitted by the City to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the City.

## **5.8 Stand-by Pay.**

### **5.8.1 Regular Time and Pay**

When the City officially places an employee on stand-by and requires an employee to carry an emergency communication device and to respond to emergency calls generally within thirty (30) minutes, the City shall pay the employee thirty dollars (\$30) per calendar day.

### **5.8.2 Enumerated Holiday Time and Pay**

Employees on stand-by shall receive sixty dollars (\$60) per day: for City recognized holidays enumerated in Article 9.1.1.

An employee that is in stand-by status for seven consecutive days may elect to take ten (10) hours of floating holiday leave, in-lieu of pay described in 5.8.1 and 5.8.2.

## **5.9 Reporting Time.**

### **5.9.1 Minimum Requirement**

An employee who is scheduled to report for work and who presents him or herself for work as scheduled shall be assigned to at least three (3) hours of work.

### **5.9.2 Applicable Pay Rate**

If work within the bargaining unit is not available, the employee shall be excused from duty and paid for three (3) hours work at the appropriate rate, straight time or overtime, whichever is applicable.

### **5.9.3 Excused from Duty**

If an employee reports for and starts to work as scheduled, and is excused from duty before completing three (3) hours work, the employee shall be paid for three (3) hours work at the appropriate rate, straight time or overtime, whichever is applicable.

## **ARTICLE 6: WAGES**

### **6.1 Rate of Pay**

Each employee shall be compensated in accordance with the wage schedule attached to this agreement in Appendix A.

#### **6.1.1 Effective Date**

Effective January 1, 2018 the COLA will be 3.00%.

#### **6.1.2 The Effective Date for subsequent years of the contract will be January 1.**

The parties will re-open this Agreement by September 15, 2018 for the purposes of negotiation of Article 6 – WAGES for the last two years of this Agreement.

### **6.2 Salary Step Increases.**

Employees shall be eligible for salary step increase consideration as follows:

#### **6.2.1 Completion of Probationary Period**

Completion of the initial probation period, typically following twelve (12) months of service.

#### **6.2.2 Promotions**

Completion of twelve (12) months of service following a promotion.

#### **6.2.3 Top of Ranges**

Annually, on the employee's anniversary date until the employee reaches the top of the range.

#### **6.2.4 Unsatisfactory Evaluations**

The City may withhold a step increase if the employee has been placed on a work plan that has not been

completed at their regular anniversary date. Effective with satisfactory completion of the work-plan, with-in six (6) months the City will reinstate the step increase back to the employee's anniversary date. If the employee does not satisfactorily complete the work plan, the City will not grant the increase. Final decisions shall be at the sole discretion of the City; however, the employee may request review of a final decision by the Human Resources Manager and/or the City Manager.

### **6.3 Salary on Promotion**

Upon promotion, an employee shall be paid at least the minimum of the salary for the new job and shall receive roughly a 5% increase (occasionally step distance may vary slightly).

### **6.4 Salary on Demotion**

#### **6.4.1 Disciplinary Action**

Whenever an employee is demoted as a result of disciplinary action, the employee's salary shall be maintained at the same step number/letter as previously held, but in the lower pay scale resulting in roughly a 5% pay reduction.

#### **6.4.2 Compensatory Process**

Whenever the City demotes an employee to a new job for a reason other than discipline, the employee's salary shall move to the new pay range at the step most closely aligned to the employee's current rate of pay. If the employee's current rate of pay is below the maximum rate of pay for the new position, the employee shall continue to receive market adjustments and to be eligible for step increases. If the employee's current rate of pay is above the maximum rate of pay for the new position, the employee shall be frozen (red circled) at the existing rate of pay until such time as future market adjustments have brought the pay range for the job above that of the employee's frozen pay rate.

### **6.5 Salary on Return from Layoff**

When the City recalls an employee previously laid off, he/she shall be placed at the step most closely aligned to the employee's rate of pay at the time of the layoff. Future step increase eligibility shall be the prior date, adjusted for the time away, just as if the employee had taken a leave of absence.

### **6.6 Pay Day**

Employees are paid monthly. Paydays are generally the last day of each month. If the payday falls on either a Saturday or a Sunday, paychecks will be distributed on the Friday prior to the established payday. If a City of Newberg Holiday falls on payday, you will receive your check on the last workday prior to the holiday. Employees may request direct deposit.

### **6.7 Out of Class Pay**

Employees assigned by a supervisor in writing to perform the duties of a higher paid position for more than a

total of five (5) consecutive working days shall be paid for all such work, retroactively to the first day of the assignment, five percent (5%) of the employee's base salary.

## **6.8 Beginning Salary**

**6.8.1** Normally an employee will be appointed at the first step of the range established for his/her classification. The City may make an appointment above the first step at the sole discretion of the City.

**6.8.2** An employee who is hired back or reinstated to employment after an absence of twelve (12) months or less to the same classification will be paid at the same step as when they left.

## **ARTICLE 7: RETIREMENT**

### **7.1 Retirement Plan**

The City provides a City Retirement Plan for all regular full-time employees. Employees hired before January 1, 2018 are enrolled in the NERPS (Newberg Employees Retirement Plan). Employees hired on or after January 1, 2018 will be enrolled in the Oregon Public Employees Retirement System (PERS). The employees contribute to their retirement by paying the six percent (6%) employee contribution, directly out of their paychecks into the retirement plan (as a pretax contribution per IRS Code 414(h)).

### **7.2 Deferred Compensation Plan**

The City agrees to provide opportunities for employees to participate in Internal Revenue Code Section 457 Deferred Compensation Plans. Contributions may be made by employees in any amount up to the annual limit set forth by the IRS.

### **7.3 The Longevity Deferred Compensation or Salary Program**

Deferred compensation, or an option to add to salary will be paid at the following rates:

Five (5) Years

After five (5) years of employment, sixty dollars (\$60) a month, \$720 per year.

Ten (10) Years

After ten (10) years of employment, one hundred-twenty dollars (\$120) a month, \$1,440 per year.

Fifteen (15) Years

After fifteen (15) years of employment, two hundred dollars (\$200) a month, \$2,400 per year.

Twenty (20) Years

After twenty (20) years of employment, three hundred dollars (\$300) a month, \$3,600 per year.

Twenty-five (25) Years

After twenty-five (25) years of employment, four hundred dollars (\$400) a month, \$4,800 per year.

Option to change longevity pay distribution will be provided once a year during benefit enrollment.

#### **7.4 Retirement Medical Insurance**

Retiring employees may qualify to purchase, through the City, Retirement Medical Insurance, pursuant to the provision of Oregon Revised Statute 243.303.

#### **7.5 Changes to Retirement Plan**

##### **7.5.1 Mutual Agreement**

Both parties must mutually agree to any changes in the City Retirement Plan.

##### **7.5.2 Annual Statements and Plan Books**

The City will provide employees annual statements on Retirement Plans. Plan books are available through Human Resources. Employees covered under the PERS Plan will receive annual statements from PERS.

##### **7.5.3 Meeting with representative**

The City will allow an employee who is with-in five (5) years of retirement one (1) sixty (60) minute meeting with the Retirement Plan Representative. The City will allow an employee who is with-in twelve (12) months of retirement one (1) ninety (90) minute meeting with the Retirement Plan Representative.

#### **7.6 Retirement and Recall Pursuant to Accrued Sick Leave**

##### **7.6.1 Accrued Sick Leave with Retirement Calculation**

Under the City's Retirement Plan, fifty percent (50%) of an employee's accrued sick leave goes into the employee's retirement calculation when he/she separates from services voluntarily or is laid off. If the City recalls an employee from layoff status within the specified time period the City will reinstate the remaining fifty percent (50%) of the employee's previously accrued sick leave, per Article 14.4.5, which shall be the amount recorded at the time of the layoff. However, for the purposes of the accrued sick leave retirement calculation, the employee's accrual must start over from the time of recall. The City will report all employee's accrued sick leave to PERS. There is no provision for reinstatement of sick leave for employees covered by PERS.

##### **7.6.2 Example**

For example, if the City lays off an employee with two-hundred (200) hours of accrued sick leave, the employee will receive 100 hours (50%) in his/her retirement calculation. If the City then recalls the employee within the specified time, the employee will return and regain the remaining one-hundred (100) hours of accrued sick leave. However, for future retirement calculation purposes, the employee will start with zero (0) accrued hours when he or she is recalled. Therefore, if that same employee voluntarily leaves City employment twenty-four (24) months later having used no sick leave, he/ she will have added one hundred ninety-two (192) hours of the sick leave bank for a total of two hundred ninety- two hours

(292) hours. However, only 50% of the newly accrued one hundred ninety-two hours (192) is eligible for being rolled into retirement.

## **ARTICLE 8: HEALTH & WELFARE**

### **8.1 Carrier and Coverage Changes**

The City retains the exclusive right to select the plans and carriers (or to develop and implement a self-insurance plan) for medical, dental, vision, life and other insurance plans provided that the successor plan(s) provide substantially comparable coverage to the existing plans.

### **8.2 Plans Offered**

The City currently provides full family medical through City County Insurance Services (CIS). Blue Cross Blue Shield (BCBS) Copay A Rx4 Plan; VSP Vision; Delta Dental Plan III with Ortho; and Alternative Care Rider – Chiropractic and Acupuncture to eligible employees as defined by Federal and/or State laws, including but not limited to the Affordable Care Act (ACA). Payroll deduction of the employee contribution toward the monthly health care premium. A representative from the local union will participate in the annual benefit committee to review plans offered each year.

### **8.3 Premium Contribution**

#### **8.3.1 Percentages**

The City will contribute ninety percent (90%) of the cost of the eligible regular full-time employee's monthly health care premium and the employee will contribute ten percent (10%).

#### **8.3.2 Options for Eligible Employees**

Eligible employees may enroll dependents in the medical, dental and vision plans. Full time employees will pay ten (10%) of the dependent coverage. This cost shall be deducted from the employee's paycheck.

### **8.4 Limit to Future Increases**

Should insurance premium rates increase more than 10% from the previous year, the employer and the employees will share the premium increases above 10% equally, to a maximum employee contribution of no



more than 15% of the total medical, dental and vision premiums for full-time employees.

### **8.5 Additional Insurance**

The City shall provide Long Term Disability, Accidental Death and Dismemberment, and Life Insurance to eligible employees without cost to the employees.

### **8.6 Insurance Eligibility**

Eligible employees are all regular full time employees who have completed thirty (30) days of employment. Insurance plan coverage begins on the first day of the month following completion of the thirty (30) day waiting period. If an eligible employee does not enroll during the eligibility period the eligible employee is required to wait for an “open enrollment” period to be insured.

### **8.7 Continued Eligibility Coverage**

The City will pay its contribution for the insurance premium for employees who work or use authorized leave for at least the first forty (40) working hours of the month.

### **8.8 Qualified Family Status Changes (Qualifying Event)**

The addition or deletion of dependents as a result of a qualifying event will be provided in accordance with federal or state laws and City Policy. Enrollment changes must be received by the Human Resource Department with applicable documentation within 31 calendar days for newborns or children placed with the employee for adoption, or a new spouse. Changes shall be effective the first of the month following the date of the qualifying event; except in the case of newborns, adoptions or marriage, coverage is effective on the date of the birth, placement in the home or date of marriage. For newly eligible dependents not enrolled within 31 calendar days, coverage cannot be obtained until the next open enrollment with coverage effective January 1 of the following year.

### **8.9 Flexible Spending Accounts (FSA)**

The City shall make available the FSA Section 125 plan for health care expense reimbursement and dependent care expense reimbursement. The employee signs up for this plan at the time of open enrollment each year. The amount specified by the employee is deducted from their monthly paycheck.

If allowed by the FSA plan administrator, debit cards shall be made available to participants.

### **8.10 Employee Assistance Program**

The City agrees to make available an employee assistance program providing confidential counseling services to employees and their eligible dependents. For information regarding this plan please contact the Human Resources Department.

### **8.11 Flexible Spending Account (FSA) for part-time staff.**

The City and the Union will schedule and meet to create eligibility standards for part-time staff to enroll in a

Flexible Spending Account. The negotiations will be conducted between January 1, 2015 and June 30, 2015 with an effective date of January 1, 2016.

## **ARTICLE 9: HOLIDAYS**

### **9.1 Regular Holidays**

The following days (each a 24-hour period from midnight to midnight) shall be recognized and observed as holidays on the days specified:

#### **9.1.1 Recognized Holidays**

The City of Newberg observes the following holidays each year, and offices are officially closed on these days:

New Year's Day	Labor Day
Martin Luther King Jr.'s Day	Veteran's Day
Presidents' Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Fourth of July	Christmas Eve
Christmas Day	

#### **9.1.2 Floating Holiday**

In addition, employees will receive one floating holiday. The floating holiday shall be granted by calendar year and must be used by December 31. Employees hired after March 1 shall not be eligible for the floating holiday until January 1 of the following year. An employee shall not be eligible for a floating holiday after submitting a resignation.

#### **9.1.3 Hours Paid for Holidays**

Holidays are paid based on the number of hours in a typical workday for regular full-time employees. If employees work a 5/8 schedule, then eight (8) hours of holiday pay will be paid. If an employee works a 4/10 schedule requested by that employee, they shall be paid eight (8) hours holiday and will have the option of using a total of two (2) hours of compensatory time and/or vacation time, or flexing their hours within the same week.

#### **9.1.4 Observation of Holiday**

If any holiday falls on a Saturday, the preceding Friday will be observed, unless that Friday is also a holiday, in which case the following Monday will be observed. If any of the above holidays falls on a Sunday, the following Monday will be observed, unless that Monday is also a holiday, in which case the preceding Friday will be observed.

### **9.1.5 Schedule for Holidays**

For Departments with other schedules and other regular part-time employees who might not work on the actual holiday the following applies. Holidays may occur on the days regular full-time or regular part-time staff members are not scheduled to work. If a holiday falls on a day off for a staff member, they may take the holiday within the pay period (with approval from their supervisor or Department Head) or receive straight compensatory time to be used later. The dates observed for the above holidays will be those authorized by the Oregon Legislature. Employees will receive a schedule each year showing the date each of these holidays will be observed.

## **9.2 Eligibility**

Employees regularly scheduled to work forty (40) hours or more per week will be paid for the above holidays. Regular part-time employees will receive a pro-rated amount of paid time based on their regularly scheduled time. For instance, a regular part-time employee working twenty (20) hours per week would receive four (4) hours of holiday pay because he/she is working 50% of full-time. Upon submitting a resignation notice the City requires an employee to work on the day before or after the holiday in order to receive holiday pay. Temporary workers and contract employees are not eligible for paid holidays.

## **ARTICLE 10: VACATION**

### **10.1 Vacation Eligibility**

All full-time and regular part-time employees are eligible for vacation based on the schedule below. All accruals are pro-rated the first month of employment.

### **10.2 Exceptions to Eligibility**

New employees shall not be eligible for vacation leave during their first six (6) months of employment, unless specific arrangements have been made at the time of hire. Vacation leave shall accrue from the beginning of employment, but no vacation time may be taken or paid during the first six months. One (1) week of vacation may be taken after satisfactory completion of six (6) months of employment.

### 10.3 Vacation Accrual Schedule

You will earn vacation benefits for each full calendar month worked according to the following schedule:

Length of Service as of Anniversary Date	Vacation Award	Maximum Vacation Accrual Allowed
Up to 5 years	8 hours per month for a total of 96 hours, 12 days or 2.4 weeks/year	192
5 years, less than 10 years	10 hours per month for a total of 120 hours, 15 days or 3.0 weeks/year	240
10 years, less than 15 years	12 hours per month for a total of 144 hours, 18 days or 3.6 weeks/year	288
15 years, less than 20 years	13.33 hours per month for a total of 160 hours, 20 days or 4.0 weeks/year	320
20 years or more	14.66 hours per month for a total of 176 hours, 22 days or 4.4 weeks/year	352
25 years or more	16 hours per month for a total of 192 hours, 24 days or 4.8 weeks / year	384

### 10.4 Pro-rata Accruals

Accrual for regular part-time employees is on a pro-rated basis calculated on the established budgeted FTE. Continuous service will be calculated from the first of the month nearest your date of hire.

### 10.5 Vacation Purpose

Vacation is provided so that employees can enjoy periods of time away from work. Vacation is intended for rest and recreation. Vacation may be cashed out at the discretion of the City.

Vacation accrual will be paid out at separation in accordance with applicable laws (FLSA, etc.).

### 10.6 Maximum Accrual

Accruals cannot exceed two times an employee's annual accrual rate. Vacation benefits will stop accruing when the maximum allowed has been reached. The benefit will begin accruing again when you reduce the total to less than the allowed maximum.

### 10.7 Vacation Use and Approval Process

Employees who want to use vacation time should request time off as early as possible so that arrangements for coverage can be made. Requests for vacation time are to be made in writing and submitted to the immediate supervisor. Supervisors will respond in writing and provide a clear reason for any denied requests. Generally, employees will not be allowed more than two weeks off at a time. The City will try to grant each request, but cannot guarantee requests will be approved. In the event of competing requests for times submitted

concurrently, consideration will be given to the employee with the longest tenure, or seniority as defined in Article 14. Approval of special requests may be done at the discretion of the Department Head in accordance with departmental rules.

## **ARTICLE 11: SICKNESS AND INJURY LEAVE**

### **11.1 Sick Leave Accrual**

#### **11.1.1 Employees**

Per Oregon Paid Sick Leave Law employees shall accrue paid sick leave at the rate of 8 hours per month.

#### **11.1.2 Maximum Accrual**

Sick leave will accrue to a maximum of one-thousand (1,000) hours for full-time employees and at the prorated equivalent based on budgeted FTE for part-time regular employees.

#### **11.1.3 Part-time Regular Employees**

Part-time regular employees will accrue paid sick leave hours on the first day of each month in the same proportion equivalent based on budgeted FTE.

### **11.2 Transfer of Sick Leave**

When an employee is transferred or appointed to another department, an employee sick leave balance shall be assumed by the new department.

### **11.3 Use of Sick Leave**

#### **11.3.1 Allowable Reason**

Employees may use their allowance of sick leave when unable to perform their work duties by reason of illness or injury, parental and family leave as specified by Oregon or Federal law, necessity for medical or dental care, exposure to contagious disease under circumstances by which the health of the employees with whom associated, or member of the public necessarily dealt with would be endangered by the attendance of the employee, or by serious health condition in their immediate families, requiring the presence of the employee, in compliance with Family Medical Leave Act/Oregon Family Leave Act (FMLA/OFLA). Employees may also use sick leave to cover time lost for non-emergency medical appointments for themselves, providing the proper authorization has been granted by management prior to the time being taken off.

#### **11.3.2 Return to Work**

In order to ensure employees are fully able to safely return to work, all absences of five (5) days or more will require the employee to submit to the Human Resources Manager a release to return to work

signed by licensed medical professional, unless otherwise agreed to as part of a FMLA/OFLA approved leave or other mutual agreement.

#### **11.3.3 Emergencies**

Emergency situations will be evaluated on a case-by-case basis.

#### **11.3.4 Sick Leave Use**

Sick leave is to be used for the purposes outlined in this Article and will not be granted to cover other leave requests made by employees.

#### **11.3.5 Legal Requirements**

The City agrees to abide by all State and Federal laws and regulations regarding FMLA, OFLA, Parental Leave Act(s), ADA, or similar laws providing rights to employees in their use of sick leave, and other accrued leave banks.

#### **11.3.6 Ineligible Employees**

Employees are not eligible for sick leave if continuing to work at another job during the time period for which sick leave is requested.

#### **11.3.7 Restriction**

Sick Leave hours cannot be used until after the completion of the pay period in which they are accrued to the employee accrued leave bank.

### **11.4 Family Sick Leave**

#### **11.4.1 Eligible Employees**

In the case of a serious health condition of a member of the employee's immediate family, a FMLA/OFLA eligible employee, upon proper notice and approval, may use sick leave to cover time lost.

#### **11.4.2 Immediate Family Definition**

Immediate family for the purpose of this section will be defined as spouse, mother, mother-in-law, father, father-in-law, sister, brother, child or ward, stepmother, stepfather, step-children, grandparents, or grandchildren, same sex partner, or others as provided for by FMLA and/or OFLA.

#### **11.4.3 Deduction from Sick Leave Accrual**

Family sick leave will be deducted from the existing sick leave balance of the employee.

#### **11.4.4 Use for Child**

Sick leave is also available to care for a sick child who does not have a serious health condition but requires home care (sick child leave). Employees who use up their original twelve (12) weeks for

parental leave are entitled to an additional twelve (12) weeks of sick child leave consistent with FMLA/OFLA.

## **11.5 Catastrophic Leave-sick leave transfers**

### **11.5.1 Request for Transfer**

An employee may request, through their Department Head, that some of the employee's paid sick leave be transferred to another employee who is absent from work for an extended period of time because of an injury, unexpected illness, or other reason for which the use of paid sick leave would normally be allowed. The Department Head will pass the request, with the Department Head's recommendation, to the City Manager for consideration of approval. The employee receiving a donation of paid sick leave must be non-probationary and must first have used all available paid leave and vacation time.

### **11.5.2 Conditions for Transfer**

The maximum donation shall continue to be sixteen (16) hours per incident and no more than forty-eight (48) hours per year. Employees transferring paid sick leave must have accrued a minimum of two hundred (200) hours of sick leave or for part-time a prorated amount commensurate with the budgeted full-time equivalent of the position. All donated leave will be used in the order received by the Payroll Department.

### **11.5.3 Return if Unused**

Any paid sick leave not used by the employee receiving the paid sick leave will be returned to the donor employee, so long as the returned time does not cause the donors sick leave balance to exceed the one-thousand (1,000) hour maximum.

## **ARTICLE 12: OTHER LEAVES**

### **12.1 Union Leave**

Union officers, stewards and other employee representatives of the Union who are designated by the Union to represent it in activities such as conventions, seminars, etc., which may take them away from their City employment, may be granted up to ten (10) days leave without pay and without loss of status, seniority or other benefits. Such leave may be granted upon the written request of the Union President, made to the City's Human Resources Manager not less than ten (10) City business days in advance of the commencement of the requested leave. The number of Union representatives absent on Union leave from any one division shall not exceed two (2) at any one time.

### **12.2 Jury Duty**

In the event an employee is duly summoned to any court for the purposes of performing jury duty, they shall receive their regular compensation for any regularly scheduled working hours spent in the performance of such service, provided that any compensation that may have been received for jury duty is turned over to the City. If

jury duty does not take the entire work day, employees shall be afforded reasonable paid time in order to travel to work or the employee may choose to use appropriate leave for the remainder of the shift if pre-approved.

## **12.3 Bereavement Leave**

### **12.3.1 Definition**

Each regular employee covered by this contract will be entitled to up to five (5) working days of bereavement leave with pay per qualifying occurrence. Leave days may be non- consecutive, with approval from the Department Head or designee when the situation applies. For example, the employee takes two days off when the death occurs and three weeks later a single day off for the service. The City reserves the right to require verification for the use of this leave.

Employees shall be allowed an additional unpaid five (5) days as allowed by the state OFLA provisions.

### **12.3.2 Use**

Such bereavement leave will apply to a death in the immediate family as defined under FMLA or OFLA guidelines. An employee may ask for approval for other family members not on the list under special circumstances. For example, if an employee was raised by their aunt rather than their mother, they could be approved to use bereavement leave to attend the aunt's funeral. In the event an employee's request for bereavement leave for an individual was not an immediate family member under FMLA or OFLA is denied by their supervisor, they may appeal that decision to the Department Head.

### **12.3.3 Not Accruable**

Bereavement leave will not be accruable from year-to-year nor will it have any monetary value if unused, and is not available for cash-out.

### **12.3.4 Additional Time Off**

Employees wishing to take time for the loss of a family friend, pet, or other loss not specifically declared in this article, may request to take time off but will need to utilize accrued vacation or compensatory time. Management will consider such requests and in the interest of supporting the employee at their time of loss, approve when staffing levels permit.

## **12.4 Educational Leave With or Without Pay**

### **12.4.1 Definition**

Special consideration may be granted employees wishing leave for purposes of pursuing educational training at any accredited school, when the course of study is directly related to the requesting employee's work. Such leave will be without compensation.



#### **12.4.2           Certifications and Training**

The City will pay for the maintaining of all current Public Works related certifications obtained while in the employ of the City, as well as all training, fees and materials for employer-required certifications within the Public Works department. The City may also at the Department Head's discretion, pay for training, fees and materials for certifications required for advancement to the next certification level within the same division (e.g., Operator I to Operator II).

#### **12.4.3           Costs**

The City may pay for other classes and seminars that in its sole determination benefit the City.

### **12.5   Authorized Leave without Pay**

#### **12.5.1   Unpaid Leave**

It is the expectation of the City that employees will be judicious in their use of paid leave and that the need for an authorized leave without pay will be a rare occurrence. In the event of the exhaustion of vacation, holiday and compensatory leave time, the employee may be assigned by the Department Head to leave without pay due to unavoidable absence from work.

#### **12.5.2   Temporary Absence**

In instances where the work will not be seriously handicapped by the temporary absence of an employee, a Department Head may grant a leave of absence without pay not to exceed thirty (30) calendar days. Leaves of absence without pay for periods in excess of thirty (30) days will be made at the discretion of the City Manager. Requests for such leave must be in writing and must establish reasonable justification for approval of the request. Such leave will not be approved for an employee who is accepting employment outside the City service.

### **12.6   Government Leave**

The City will provide leaves for Military Service and other public service areas as required by state and federal law. Grievance action taken under this section will not include binding arbitration unless mutually agreed to by the parties.

### **12.7   Family Medical Leaves**

Employees shall be eligible to take Family Medical Leave(s) in accordance with relevant Federal and/or Oregon law. Necessary requests and documentation will be filed with the Human Resources Department. Human Resources will process the requests, notify the supervisor and Department Head of the approval and maintain the appropriate private and separate medical files as required by the Federal regulations.

## **ARTICLE 13: PROBATION**

### **13.1 Probationary Period**

#### **13.1.1 Original Appointment Probationary Period**

All original appointments shall be tentative and subject to a probationary period of twelve (12) months of service. A written evaluation of the employee's adjustment to work tasks, conduct and other work rules, attendance, and job responsibilities will be conducted, at or around the six (6) month from date of hire. Upon written agreement by the City and the Union, probation may be extended. Time spent on extended leave (leave greater than two (2) consecutive weeks) by the employee does not count towards the months of service required to complete the probationary period. Probation shall end only upon receipt of a satisfactory performance evaluation which shall not be delayed unreasonably. A probationary employee who has not received a written evaluation by the end of their twelve (12) month probationary period, shall notify the Public Works Director in writing, who will respond within twenty-one (21) calendar days with a scheduled date for the evaluation. If no response is received within that time frame, the employee will be deemed to have completed probation. A step increase under Article 6.2.1 shall be retroactive to the employee's one (1) year anniversary date. The provisions of this paragraph shall only apply to new employees hired after the effective date of January 1, 2018.

#### **13.1.2 Regular Employment Status**

Upon satisfactory completion of the probationary period as judged by the City in a written performance evaluation, the employee shall be considered as having demonstrated qualifications for the position, shall gain regular status, and shall be so informed through the supervisor. Upon attaining regular status, the employee shall be informed concerning eligibility for a merit increase.

#### **13.1.3 Termination During Probationary Period**

During the initial probationary period, a probationary employee may be terminated at any time without appeal or recourse to the grievance procedure of this Agreement. Probationary employees may use the grievance procedure for other, non-termination provisions of the contract.

#### **13.1.4 Promotional Probationary Period**

Upon promotion within the bargaining unit, an employee will undergo a promotional probationary period of six (6) months. If more time is necessary to evaluate a promoted employee, the City may extend the promotional probationary period up to three (3) months. During the promotional probationary period, an employee may be returned to the employee's former position for any reason without appeal or recourse to the grievance procedure of this Agreement.

## **ARTICLE 14: LAYOFF/SENIORITY**

### **14.1 Seniority**

#### **14.1.1 Seniority Definition**

For purposes of this contract, "seniority" means length of continuous service in a bargaining unit position, computed from the date of the employee's original hire. Such date shall be known as the employee's "continuous service date." Where two employees have the same continuous service date, the employee whose application was first filed shall be deemed the senior employee. Where continuous service dates and application dates are the same, seniority shall be determined by lot.

#### **14.1.2 Continuous Service Definition**

As used in this section, "continuous service" includes all authorized paid leaves of absence and unpaid leaves of absence for less than thirty (30) consecutive calendar days, but does not include any period between an employee's layoff and recall nor unpaid leaves of absence for more than thirty (30) consecutive calendar days. In the event of layoff and recall, the employee's continuous service date shall be adjusted to reflect a total length of continuous service.

### **14.2 Order of Layoff**

#### **Definition Reduction in Force**

Reduction in Force is defined as a reduction in hours from full-time to part-time and from full-time or part-time to separation from employment.

#### **14.2.1 Reduction in Force**

In the event of a reduction in force in a department or division, the City will first ask for volunteers in that job. If there are no volunteers or the number of volunteers is insufficient, layoffs will be made in the inverse order of seniority. The City will provide sixty (60) days written notice in person to the affected employees and by mail to the union. Affected employees shall be informed of the layoff as soon as practicable. The laid off employee may, at their discretion, bump a less senior regular full time employee in a lower job description, if the laid off employee is qualified for that position. "Qualified" shall be defined as meeting the posted minimum qualifications in the job description at the time of bumping, including required certifications. Exceptions to certification may be made in jobs where the law does not require certification for the position and the employee has the necessary skills and can obtain the certification within ninety (90) days.

#### **14.2.2 Layoff Status**

While on layoff status, regular employees may apply for seasonal work. If an employee is laid off from a regular job and later accepts a seasonal position, this would not change any of the provisions in this Article. Employees who bump to a seasonal position will be subject to recall under Articles 14.3 and 14.4.

### **14.2.3 Pay Status**

Employees who bump to a seasonal position will be paid at the existing hourly rate as paid to other seasonal positions.

## **14.3 Layoff Status**

### **14.3.1 Definition**

For a period of twelve (12) months following the date of layoff, or reduction in hours from full-time to part-time an employee shall be classified as on "layoff status," and the employee's name maintained on a recall eligible list. The order of names on the recall list shall be *in inverse order of layoff, by job description*. At the end of the twelve (12) month period, or sooner if the employee so requests, the employee's name shall be removed from the list. This provision applies to reductions in force made after December 31, 2014 and is not retroactive.

### **14.3.2 Entitlements**

An employee on full layoff status shall not be entitled to any pay, status, benefits, or employment rights other than those specifically provided herein. Employees who are changed from full-time to part-time status will be eligible for all provisions, status, benefits or employment rights as a regular part-time employee.

### **14.3.3 Notification of Change of Address**

An employee on layoff status shall promptly inform the Human Resources Manager of any change of address, and shall be deemed terminated if a letter mailed to the last address recorded with the City is returned unclaimed.

### **14.3.4 Accrual Payout**

An employee being laid off shall be paid for the total accrued vacation, holiday (if any) and compensatory time existing at the time of the layoff date.

## **14.4 Order of Recall**

### **14.4.1 Definition**

An employee on the recall list shall be offered a seasonal position, if available, if the employee is qualified for the position.

### **14.4.2 Order**

Employees will be recalled based upon their job classification and seniority date at the time of layoff, with the most senior employee being recalled first.

### **14.4.3 Eligibility**

Regular employees who are on a recall list (as defined by Article 14.3) will be eligible for employment in a vacant seasonal position. Regular employees who accept seasonal work shall be retained on the

recall list. Failure to accept seasonal work will not affect the employee's standing on the recall list.

#### **14.4.4 Termination**

An employee shall be deemed terminated if the employee does not report for work within ten (10) City business days of written notice of recall via registered mail for a regular position. Except as provided in this section, no person shall be hired to fill any position from which an employee was laid off as long as there is an employee within that job description on the layoff eligible list.

#### **14.4.5 Restoration of Accrued Sick Leave**

Upon recall, the employee shall have restored for authorized use all accrued sick leave hours as recorded by the City at the time of the layoff (this shall be the adjusted amount after 50% is provided for retirement per Article 7.6). This does apply to cases where the laid off employee returns to City work by being hired as a replacement as provided in Article 14.5.2 below. Time served in a seasonal appointment will not be credited towards the recalled employee's continuous service date for the regular position.

#### **14.4.6 Acceptance of Regular Position**

If an employee accepts a regular position, that employee will not be placed on the recall list and shall have no rights to recall, with the exception of 14.5.2.

### **14.5 Replacement Employment**

#### **14.5.1 General Applicant**

An employee on layoff status may apply for a position with the City in a job other than the one from which the employee was laid off.

#### **14.5.2 Retaining Eligibility**

Acceptance of employment in a lower level job with a lower pay scale other than the employee's former job shall not be cause to remove the employee's name from the layoff eligible list. Rejection of replacement employment shall not be grounds for removal.

## **ARTICLE 15: PROMOTION AND TRANSFER**

### **15.1 Promotions**

Promotion is the change of position for an employee from a position in one class designation to a position in a class assigned to a higher salary range.

#### **15.1.1 Filling Job Vacancies**

Any job vacancy may be filled by promoting qualified employees within the City service or by hiring an external candidate. The City will fill employment vacancies with the most qualified applicant,

whether it is from an internal or external source. Any current employee that applies for a union represented vacant posted position, that meets the minimum qualifications as defined in the posting, will be given an interview for that position.

#### **15.1.2 Recruiting and Hiring Process**

External recruiting may be initiated concurrently with the internal posting process, but no hiring commitment or decision will be made until the position has been posted internally for a minimum of five working days. In order to be eligible to promote to a different job, shall not be in the process of any disciplinary action, during the recruitment process. New probationary periods will begin at the time of an approved transfer to a new classification and/or a promotion.

#### **15.1.3 Appointment to Filling Vacancies**

The appointment to fill a vacancy shall be made on a competitive basis utilizing criteria established by the City.

#### **15.1.4 Promotional Hire**

Employees who are promoted or transferred to a different classification shall serve a six (6) month probationary period in that different position, unless they have not completed their initial probation. When an employee is promoted or transferred to a different classification during their initial probationary period the six (6) months probationary period will be served concurrent with any unserved initial probationary period, however, the employee will continue to be "at-will" until they have passed the initial twelve (12) months. The City may extend the six (6) month promotional probationary period for up to three (3) additional consecutive months. The employee shall be covered by all terms and conditions of this contract except that the City's standards for successful completion of the probationary period and its application to the employee may not be grieved.

#### **15.1.5 Right of Return**

Any regular status employee who is promoted shall have a two (2) week period of time from the date of appointment during which the employee shall be allowed to return to the employee's former position. This two-week period of time may be extended by the City if it has not made an offer of employment for the career employee's former position. In the event that an employee fails to pass the employee's six (6) month promotional probationary period due to an inability to meet performance standards, the employee will be returned to his/her previous position.

### **15.2 Transfers**

Transfer is a change of an employee from one position to another in the same class or to a position in a comparable class within the City service.

#### **15.2.1 Written Requests**

Requests from employees for transfers from one department to another shall be made in writing and shall be directed to the employee's present department head and referred to the appropriate department head and the appointing power. Records of transfer requests will be kept centrally on a list with Human Resources by date of the request and will expire after thirty-six (36) months. Copies will be placed in the employee's file. Employees are responsible to check the status of their request when vacancies are announced.

#### **15.2.2 Minimum Qualifications**

Requests for transfer shall be given consideration when a suitable vacancy occurs; however, no employee shall be transferred to a position for which he/she does not possess the minimum qualifications. In order to be eligible for transfer to a different job, employees must have completed probation and shall not be in the process of any disciplinary action.

#### **15.2.3 Decisions**

Final decisions regarding transfers will be made at the discretion of the City Manager.

### **15.3 Written Offers/Explanations**

Offers of promotion and transfer and notice of an increase shall be given to the employee in writing. Absent such written offer and acceptance and absent such notice of an increase, no promotion, transfer or increase shall exist.

Existing employees shall receive a written explanation as to why the employee was not appointed. The explanation will include suggestions to help the employee be more competitive in the event of another promotional opportunity. The denial of a promotion/transfer shall not be grievable, so long as the decision was based upon lawful grounds.

### **15.4 AFSCME Representative**

AFSCME will be allowed to send a representative to New Employee Orientation to familiarize the new employee about the Union. The City will notify AFSCME the date and time of New Employee Orientation Sessions.

## **ARTICLE 16: PERSONNEL RECORDS**

### **16.1 Files**

Employees may inspect the contents of their personnel file, in the presence of an authorized City representative. The official files will be kept with the Human Resources Manager. Any duplicate or subsequent notes or records kept by a supervisor shall be for reference only and will not be considered part of the official file. Employees shall have the right to challenge any records that should have been purged per section 16.3. If found to be

incorrectly in the file, the document will be destroyed.

### **16.2 Signature Requirement**

No information reflecting critically upon employees will be placed in their personnel files without the employees being given the opportunity to review and sign the information. Employees will be required to sign such material to be placed in their personnel file with the understanding that their signature does not indicate agreement. If the employee refuses to sign the document, the supervisor will make a note that the employee has refused to sign and will place the information in the file. Signature sections shall not be on a separate page from the document. They shall be on a front to back or two-sided document in order to show that the signature was placed on the original document and not on a document later amended post-signature. Original signed documents shall be kept in the official personnel file at Human Resources.

### **16.3 File Purging**

Documentation of an oral reprimand will be removed from the employee's personnel files after eighteen (18) months. Upon written request of the employee, written reprimands may be removed from their personnel files after eighteen (18) months at the discretion of the Division Manager and as long as no discipline occurred within that time period. Upon written request, written reprimands shall be removed from the employee's personnel files after thirty-six (36) months as long as no discipline has occurred during that time period. This shall include copies in any subsequent "supervisory" files kept outside of Human Resources.

## **ARTICLE 17: EMPLOYEE EVALUATIONS**

### **17.1 Evaluations**

As part of the City's personnel system each employee shall be evaluated upon completion of the probationary period and at least once a year in proximity to his/her anniversary date.

### **17.2 Furnished Copies**

An employee shall receive a copy of any employee evaluation report.

### **17.3 Appeal Process**

An employee may request a meeting with his or her department head to appeal an evaluation.

If the evaluation results in economic loss then the employee shall, upon request, meet with the supervisor and the City to review the evaluation. The parties may evaluate the appropriateness of a work plan in consideration of the employee's performance and may consider a delayed step increase in lieu of a withheld step increase as a potential solution.

### **17.4 Supplemental Letter**

An employee may write a supplemental letter and have it put in his or her personnel file along with the evaluation.



### **17.5 Definition**

Performance evaluations are not considered disciplinary action, and are not subject to the grievance procedure, unless there is an economic loss applied, then the grievance procedure may apply.

## **ARTICLE 18: DISCIPLINE AND DISCHARGE**

### **18.1 Disciplinary Action**

#### **18.1.1 Definition**

Disciplinary action may be imposed upon a non-probationary employee following the principals of just cause. Disciplinary action imposed on any non-probationary employee may be processed through the regular grievance procedure in this agreement. A grievance of an employee discharged shall be filed at Step 2 (19.6) and must comply with all the requirements of Step 1. Oral reprimands shall be limited up to Step 2 of the grievance process.

#### **18.1.2 Progressive Discipline and Serious Misconduct**

Disciplinary action shall be timely. The City will use progressive discipline unless the misconduct is of a serious nature that merits a higher level of discipline. Examples of serious misconduct may include, but are not limited to, violence or threats in the workplace, being intoxicated or otherwise impaired while working, and sexual harassment except in cases of serious misconduct, discipline shall be corrective and not punitive. Discipline may include but is not limited to oral reprimand, written reprimand, suspension without pay, demotion, reduction in pay and discharge.

#### **18.1.3 Consequences**

Serious violations, as determined by the City, may be dealt with by any of the above measures on the first offense or subsequent offenses.

#### **18.1.4 Reprimand and Discipline**

If the City has reason to reprimand or discipline an employee, it shall be done in a manner that will not embarrass the employee before other employees or the public.

#### **18.1.5 Stewards' Rights**

A steward shall have the right to discuss any disciplinary action imposed or recommended by a supervisor with that supervisor at the affected employee's request, with or without the employee's presence.

#### **18.1.6 Employees' Rights**

In addition to the provisions of (18.1.5) above, an employee has the right to have a steward present at an interview with a supervisor when the employee has a reasonable belief that the interview is part of an

investigation which could result in disciplinary action. The interview may not be unduly delayed to await a particular unavailable steward when other stewards may be available.

#### **18.1.7 Due Process**

Due Process procedures which normally will be followed when an employee may be subject to discipline greater than a written reprimand are as follows:

##### **18.1.7. a. Notification of Charges or Allegations**

The employee will be notified of the charges or allegations which may subject them to discipline.

##### **18.1.7. b. Notification of Disciplinary Sanctions**

The employee will be notified of the disciplinary sanctions being considered.

##### **18.1.7. c. Employees' Opportunity to Refute Charges or Allegations**

The employee will be given an opportunity to refute the charges or allegations either in writing or orally in an informal hearing.

##### **18.1.7. d. Accompaniment by Employee**

At their request, the employee will be entitled to be accompanied by a fellow employee or a representative of the Union at the informal hearing.

#### **18.2 Right to Grieve Discipline**

Any discipline imposed on a non-probationary employee may be grieved through the provisions of Article 19. If an arbitrator determines that an employee has been issued discipline that does not comply with the just cause or other provisions of this Article, the arbitrator will have the authority to fashion an appropriate remedy that may include reinstatement with full restoration of rights and conditions of employment, compensation for lost wages or other benefits, or a reduction of the level of discipline issued.

#### **18.3 Plans of Correction and Improvement**

Management may counsel employees about areas in which improvement can be attained, when in the supervisor's assessment the employee could benefit from the additional coaching. The City may also provide counseling during the employee's performance evaluation and when appropriate the City and employee may develop a plan of action for improving performance. The goal of this counseling is to help the employee understand the supervisor's expectations and provide a time frame during which the employee and the supervisor will work closely together to reach the required performance or behavioral improvements contained within the plan. So called "teachable moments" are not disciplinary in nature. These plans are not an extended probation, nor are they intended to be discipline. The purpose behind these policies is to provide a tool which allows for the documentation of improvements that must be made by an employee in meeting either the performance or behavioral expectations of the supervisor.

If an employee has been placed on a plan and improvement has not been achieved, they may have their step increase with-held until the completion of the plan, however, such an action shall be subject to the grievance procedure outlined in Article 19.

## **ARTICLE 19: DISPUTE SETTLEMENT**

### **19.1 Grievance Definition**

As used in this contract, the term "grievance" means any claim by or on behalf of a particular employee or party to this contract that such claimant's rights, benefits, privileges, or interests under this contract have been violated or that this contract has been misapplied to such claimant in a particular case.

### **19.2 Exclusive Remedy**

Grievances shall be initiated and processed in the manner provided for herein, which procedure the parties mutually acknowledge to be the exclusive and binding process for the resolution of disputes constituting grievances.

### **19.3 Time Limits and Procedures**

Any or all time limits specified in the grievance procedure may be waived by mutual consent of the parties. Any such waiver must be reduced to writing by the party requesting it and agreed to in writing by the other party (exchanged e-mails shall be sufficient to meet this requirement). Failure of the aggrieved party to submit or prosecute a grievance in accordance with these time limits shall constitute abandonment of the grievance. The City shall respond to the grievance within the stated time limits unless an extension has been mutually agreed upon. Upon failure of the City to respond to a grievance within the specified time limits, the Union will be permitted to advance the grievance to the next step.

### **19.4 Grievances**

#### **19.4.1 Outline of Written Grievance**

The written grievance shall include:

#### **19.4.2 Name and Position**

The name and position of the employee by or on whose behalf the grievance is brought.

#### **19.4.3 Dates**

The date of the circumstances giving rise to the grievance, and the date of the employee's first knowledge thereof, if later.

#### **19.4.4 Statement**

A clear and concise statement of the grievance including the relevant facts necessary to a full and objective understanding of the employee's position.

**19.4.5 Provisions**

The specific provision or provisions of this contract allegedly violated by the City.

**19.4.6 Remedy**

The remedy or relief sought by the employee.

**19.4.7 Signature(s)**

The signature of the employee and/or the shop steward submitting the grievance, and such person's name and position.

**19.5 Grievances at Step 1**

The union has fifteen (15) calendar days after the incident that led to a grievance, to file with the employee's immediate supervisor. The supervisor has fifteen (15) days of receipt of the grievance to provide a written response. If the grievance is not resolved at step 1, the union has ten (10) calendar days to advance the grievance to step 2.

**19.6 Grievances at Step 2**

The grievance, along with all pertinent written information will be submitted to the City Manager or their designee. The City Manager or designee shall meet with the employee and/or the Union representative and will render a decision within fifteen (15) calendar days of receipt of the grievance. If the City Manager's decision does not resolve the grievance, the Union may advance the grievance to Step 3.

**19.7 Grievances at Step 3****19.7.1 Process**

If the Union chooses to advance the grievance to Step 3, the Union must provide notice to the City Manager and request a list of arbitrators from the Employment Relations Board within 15 days of the City's response in Step 2 unless mediation has been requested. If the parties do not agree to mediation, the Union must request a list of arbitrators within 15 days of the refusal to mediate. Grievances shall be submitted to a single arbitrator chosen in the following manner from a list of seven (7) names submitted by the State Conciliator of the Employment Relations Board or from any other agency on which the parties agree. Within fifteen (15) calendar days following the Union's receipt of the list of arbitrators, the City and the Union representatives shall flip a coin to determine who shall exercise the first opportunity of striking a name, with the loser of the coin toss striking first. Strikes shall be exercised alternately until each party has exercised three (3) strikes and only one (1) name remains, who shall be the arbitrator. Within fifteen (15) calendar days from the date the arbitrator is selected, the Union, on behalf of both parties, shall inform the arbitrator of selection; and the arbitrator shall schedule a hearing.

**19.7.2 Mutual Agreement**

The parties may, by mutual agreement in a particular case, provide for any amendment, waiver, modification, or addition to the rules and procedures herein set forth in this Article, which agreement shall not affect subsequent cases.

### **19.7.3 Mediation**

Within fifteen (15) calendar days of receipt of the City's response in Step 2, either party to the labor contract may request mediation. Both parties must agree to mediation. If agreed to by both parties, the Union will contact the State Conciliator of the Employment Relations Board and a mediation session will be held with an assigned mediator. If mediation is not successful, a request shall be made within ten (10) calendar days from the conclusion of mediation, for a list of arbitrators. Mediation shall be concluded when (1) the parties mutually agree in writing that the grievance is resolved; and (2) the Union provides written notice that the grievance is withdrawn; or (3) either party notifies the other party and the mediator in writing that it wishes to conclude mediation, but only after at least one mediation session has been held.

### **19.7.4 Arbitration Rules**

Except as expressly provided herein, arbitration of grievances shall be conducted according to the applicable rules of the organization that supplied the parties with a list of arbitrators.

### **19.7.5 Arbitration Process**

When, after the initiation of a grievance at Step 3 but before the arbitration hearing, new factual information or evidence directly relevant to the issues first comes to the knowledge of a party and it was not previously known to the party, notice of such information immediately shall be served on the other party's representative. Such information may be introduced in arbitration, if otherwise admissible according to usual evidentiary standards in arbitration.

### **19.7.6 Arbitration**

The powers of the arbitrator shall be limited to determination of issues of fact and the application and interpretation of the provisions of this contract. The arbitrator shall have no power or authority to alter, abridge, modify, vacate, or amend any of the terms of this contract; nor to substitute the arbitrator's judgment for that of the City as to any matter within City's discretion under this contract, as long as the City did not exercise its discretionary authority unreasonably, arbitrarily, capriciously or discriminatorily; nor to consider, decide, or act upon any condition or circumstance not treated in this contract.

### **19.7.7 Arbitrator's Decision and Costs**

The arbitrator shall render a decision within thirty (30) days of the close of the hearing.

Any necessary expenses for the services of the arbitrator shall be split equally between the parties. If either party desires an official verbatim record of an arbitration proceeding, it may cause such a record to be made, providing it pays for the record and makes copies available without charge to the other party and to the arbitrator. Each party shall be responsible for compensating its own representatives or witnesses, subject to changes in relevant case law and in accordance with Article 24 Savings Clause. The names of any witnesses to be used in arbitration by either party shall be made known to the other at least seventy-two (72) hours prior to the arbitration hearing.

#### **19.7.8 Arbitrator's Decision**

The decision of the arbitrator, if arrived at pursuant to the provisions of this contract, shall be final and binding upon the parties.

#### **19.8 Informal Discussion Permitted**

Nothing in this article is intended to preclude or prohibit informal discussion of a potential grievance between an employee and the immediate supervisor, provided that the time limits set forth herein are adhered to.

#### **19.9 Confidentiality**

All proceedings, meetings, and discussions related to grievances shall be limited in attendance to the parties and their designated representatives. All documents and information relative to the grievance and resolution are exempt from public disclosure to the extent allowed under the public records law, until the conclusion of the final proceeding.

#### **19.10 Absence from Work Station**

Except for the provisions of Article 19.7.7, union stewards representing employees or the Union at the meetings and hearings provided for in this article shall be permitted, after notice to the immediate supervisor, to leave their assigned work areas without loss of pay during their attendance at such meetings or hearings.

### **ARTICLE 20: NO STRIKE OR LOCKOUT**

#### **20.1 Strike Prohibited**

During the life of this Agreement, the Union and its members, as individuals or as a group, will not initiate, cause, permit, participate in or join any strike, work stoppage, slow down, picketing or any other restriction of work. Employees in the bargaining unit, given the opportunity to confer with a supervisor while acting in the course of their employment, shall not honor any picket line when called upon to cross such picket line in the line of duty. Disciplinary action, including discharge, may be taken by the City against any employee or employees engaging in a violation of this article.

#### **20.2 Union's Duty**

In the event of a strike, work stoppage, slow down, picketing, observation of a picket line or other restriction of work in any form, either on the basis of individual choice or collective employee conduct, the Union will immediately upon notification make reasonable attempts to secure an immediate and orderly return to work.

## **ARTICLE 21: OUTSIDE EMPLOYMENT**

### **21.1 Approval to Engage in Outside Employment**

Bargaining unit employees may not engage in outside employment that conflicts with the nature of the City's mission, conducts business with the City of Newberg, or otherwise interferes with the employee's ability to perform according to established standards of performance and work rules. An employee also may not conduct business connected to outside employment during scheduled hours of work at the City of Newberg. An employee must receive authorization prior to engaging in outside employment. Any employee who wishes to engage in outside employment must submit a completed "Outside Employment" form (Appendix F of the City Personnel Manual) to the Division Manager. If the City, in its discretion, determines that the outside employment does not create a conflict, it will approve authorization of the request and place the Outside Employment form in the employee's Personnel File. If the City does not approve an outside employment request, the Union reserves the right to meet and discuss the rationale for the City's decision. The City has the final say and the decision is not grievable.

## **ARTICLE 22: WORKING CONDITIONS AND SAFETY**

### **22.1 Safety**

The City and employees agree to abide by federal and state safety regulations per the Oregon Administrative Rules. Unsafe practices and conditions shall be immediately called to the attention of the employee's immediate supervisor and/or an available supervisor. Once substantiated by the City, the unsafe condition shall be remedied as fully as possible. The City shall not discipline or in any manner discriminate against any employee who, in good faith and for cause, reports the existence of an unsafe condition or practice to the City. If an employee refuses to work due to a good faith belief and for cause evidence of unsafe working conditions, after following the proper reporting of unsafe conditions as outlined above, the City agrees to not subject the employee to discipline. If the City fails to remedy the situation in a reasonable amount of time, the employee will not be penalized for reporting the unsafe condition. However, if the City examines the condition and deems it safe, the City can require the employee to perform the work.

### **22.2 Uniforms and Protective Clothing**

#### **22.2.1 Provided Uniform Items**

The City shall provide uniform items required for the position, including but not limited to shirts, jackets, vests, coveralls, gloves, safety glasses, rain gear, steel toed rubber boots, hats and replacement items as authorized.

#### **22.2.2 Employees' Choices**

Employees should have choice in fit of apparel, i.e. correct sizes. If needed for the employee's position,

not more than every twelve (12) months, the City shall reimburse the employee up to \$300.00 for the purchase of ANSI-approved safety-toed boots/shoes and work pants as authorized, annually effective January 1.

### **22.3 Clean up Time**

Whenever it is essential for employees to clean up or change clothes before being presentable upon leaving work, the employee shall be granted adequate personal clean up time prior to the end of each work shift. The City shall provide the required facilities for the employee's clean up time. Work schedules shall be arranged so that employees may take advantage of this provision where it is applicable. Neither party to this contract shall construe "clean up time" to mean "quitting early time," "leave early time," or coming in early from the field.

### **22.4 Tools and Equipment**

Providing safety equipment and personal protective equipment is the City's responsibility. The City shall provide tools, except in Fleet Services where employees may elect to use pre-authorized personally owned tools.

### **22.5 Travel**

Employees shall make every effort to travel as economically as practical. The City shall use a reasonableness test to evaluate whether employee proposed travel expenses are economical under the circumstances. Distances more than seventy (70) miles from Newberg, shall be considered for hotel stays, either on the night before or after a required class or training. The City has discretion to provide a City-owned vehicle for the travel, or to authorize the employee to use a personal vehicle. If, by mutual agreement, the employee uses a personal vehicle, the City shall reimburse the employee at the rate determined by the Internal Revenue Service. If the City requests that the employee use a City-owned vehicle, but the employee chooses to drive a personal vehicle, the City will not reimburse for travel.

Drive time to required classes is paid roundtrip.

### **22.6 Personnel Rules and Regulations**

The City agrees to make this contract available to each employee now in the bargaining unit, through electronic means, within sixty (60) days of full execution of this contract and to furnish each new employee with a copy of this contract and the City's Personnel Rules and Regulations at the time of appointment. A printed copy of the contract will be made available at the employee's request in the Human Resources Office and thirty (30) copies will be made available to the Local President. The cost of printing and assembling the contract will be borne by the City. The City shall furnish the Union with a copy of the City's Personnel Rules and Regulations and furnish copies of any and all amendments thereto from time to time.

### **22.7 Vehicle Safety**

The parties recognize that possession of a valid Commercial Driver's License (CDL) or driver's license is an essential job function for a number of City positions. If an employee holds a position in a classification that requires a valid driver's license, and his/her license is non-renewed, suspended or revoked, that person will be



subject to termination due to failure to maintain minimum qualifications. An exception to this is if the employee temporarily loses his/ her driver's license for a traffic violation, or their CDL lapses, the employee can apply accrued leave and other compensatory time, or if the City, without creating an operational disturbance can find alternative work duties, the City and the employee will bridge the gap, up to sixty (60) days. Employees are obligated to notify their employer immediately if their license is invalid or suspended.

#### **22.7.1 Global Positioning Systems (GPS)**

The City will provide at least ten (10) days advance notice to the Union and affected employees of any plans the City may adopt the installation of a GPS system in any vehicles that are operated by members of the bargaining unit.

The City intends to use the GPS system to improve operation efficiencies, achieve cost savings through preventative maintenance, and improve employee safety. Any information or data gathered through the GPS system is intended solely to inform or provide coaching to employees, and not to support disciplinary actions.

#### **22.7.2 Policy for Weapons**

Employees that commute to work in personally owned vehicles and park in City owned parking areas, but do not use their personal vehicle for the performance of work duties.

Employees may legally own and carry weapons in their personal vehicles on City property in accordance with ORS.

#### **22.8 City to Bear Cost of Commercial Driver's License Requirement**

The City shall bear any additional costs associated with a required Commercial Driver's License. Should an employee allow their CDL to expire or it is revoked, any re-instatement fee shall be the responsibility of the employee.

#### **22.8 Impairing Medications**

If an employee is taking any medication that has a warning label indicating it may cause impairments when driving or operating equipment and the employee's job duties include driving or operating equipment, the employee shall notify the Human Resource Office before reporting to work.

#### **22.10 Inclement Weather**

**22.10.1** Essential Personnel is defined as employees who are required to respond to work even during a City declared inclement weather or emergency situation as their duties are required as essential for basic City functions. Essential Personnel will be notified annually by their supervisor that the position

they hold is so designated

**22.10.2** Inclement weather will be defined and declared by the City Manager or their designee. Once an inclement weather day has been declared notice will be given to all City employees, via public media, or phone tree or a code red system as determined by management.

**22.10.3** In the event that the City decides to close operations due to inclement weather or hazardous conditions, the City shall pay non-essential employees as if they worked their full shift that day.

**22.10.4** All employees who work in inclement weather shall be paid overtime or compensatory time for all hours they perform work on those days. Essential personnel required to report to work in inclement weather, when the City Manager has closed the City, shall receive pay at time and one half for actual hours worked that day.

**22.10.5** Non-essential employees who have reported to their assigned shift prior to the City Manager closing the City shall receive overtime or compensatory time for the actual hours worked.

## **ARTICLE 23: JOINT LABOR MANAGEMENT COMMITTEE**

### **23.1 Membership**

A Joint Labor Management Committee is hereby established to serve as a mechanism for dialogue between the parties and as a vehicle to discuss issues of mutual concern to the parties. The parties agree to meet at least two times per calendar year. The parties have the authority to create additional subcommittees underneath the auspices of the Joint Labor Management Committee, as the parties may deem appropriate. The Joint Labor Management Committee shall be composed of eight members, with four members appointed by the Union and four members appointed by the City including the Union's representative and the City's Human Resources Manager. Permanent or temporary membership on the Committee may be expanded by the mutual agreement of the Union and the City. Should the Joint Labor Management Committee meet during normal work hours, no bargaining unit member of the Committee shall suffer any loss of pay as a result thereof.

### **23.2 Issues**

The parties agree that the Joint Labor Management Committee, and its subcommittees, as appropriate, will thoroughly examine and discuss the issues that have been jointly identified and any new issues that later are identified by the parties. It is intended that each issue will be thoroughly explored so that the ramifications and impacts of each issue are understood by the Committee members. The Joint Labor Management Committee shall have no authority to review the merits or adjust specific employee grievances. Subject to the deliberation of the subcommittees, or the Joint Labor Management Committee itself, recommendations may be issued to the Union's leadership or membership, as appropriate, and to the City Manager or City Council, as appropriate.

## **ARTICLE 24: SAVINGS CLAUSE**

### **24.1 Remainder of Contract Enforceable and Duty to Bargain Replacement Language**

Should any article, section, provision, or portion thereof of this Agreement be held unlawful or unenforceable by any court of competent jurisdiction or become unlawful through a change in applicable state or federal law, only the specific article, section, provision, or portion thereof will be invalidated. The remainder of the Agreement will still be given full force and effect and remain binding on the parties. The parties agree to meet promptly in order to bargain replacement language for any part of this Agreement that is held to be unlawful.

## **ARTICLE 25: COMPLETE AGREEMENT/PAST PRACTICES/SEVERABILITY**

In the event the City desires to amend or modify or change the status quo concerning an issue that it believes is a mandatory subject of bargaining or that has a mandatory impact, the City will provide the Union with written notice of the proposed change. The Union will have fourteen (14) days to object in writing and orally to the person proposing the change or their designee. The Union's written objection will specify the nature of the objection. Failure of the Union to object in writing to the proposed change within fourteen (14) days of the notice provided for above will serve as a waiver of the Union's right to bargain. Thereafter, the parties will bargain in good faith over said changes for a period not to exceed thirty (30) days. If after the passage of thirty (30) days, the parties have not reached agreement; the parties will follow the provisions outlined in Oregon Revised Statutes for Public Employee Rights and Benefits (ORS243.650 through 243.795).

## ARTICLE 26: DURATION

### 26.1 Term

This Agreement shall be effective January 1, 2018 and will remain in effect through December 31, 2020. To negotiate a successor agreement, either party must give written notice by July 1, 2020 to the other party of their intent to open the contract. The parties will re-open this Agreement by September 15, 2018 for the purposes of negotiating Article 6 – WAGES for the last two years of this Agreement. This Agreement will automatically be renewed from year to year thereafter unless by July 1 either party gives written notice to the other of their intent to negotiate a successor agreement. Negotiations shall commence not later than forty-five (45) days after the giving of said notice.

**IN WITNESS WHEREOF** the parties hereto have set their hand at the date indicated by their signature. This Agreement shall be deemed fully executed when all signatures have been obtained.

**Public Works Employee Union  
AFSCME Local 1569**

**City of Newberg**

\_\_\_\_\_  
Karen Tarmichael, President      Date

\_\_\_\_\_  
Joe Hannan, City Manager      Date

\_\_\_\_\_  
Bill Jones, Member

\_\_\_\_\_  
Anna Lee, HR Director

\_\_\_\_\_  
Ken Marron, Member

\_\_\_\_\_  
Jay Harris, PW Director

\_\_\_\_\_  
Eben Pullman, AFSCME Council 75

\_\_\_\_\_  
Truman Stone, City Attorney

Agreement voted and approved by City Council Resolution No. 2018-3437 on February 20, 2018

# JANUARY 2018 SALARY SCHEDULE

City of Newberg

Public Works Union

<u>Public Works Union</u>			Step	Step	Step	Step	Step	Step	Step	Step	Step	Step	
			1	2	3	4	5	6	7	8	9	10	11
CLASSIFICATION			GRADE										
Secretary	121	\$	3,278	3,360	3,444	3,530	3,618	3,708	3,801	3,896	3,993	4,093	4,195
	Hourly	\$	18.91	19.38	19.87	20.37	20.87	21.39	21.93	22.48	23.04	23.61	24.21
Admin Support Coordinator	128	\$	3,514	3,602	3,692	3,784	3,879	3,976	4,075	4,177	4,281	4,388	4,498
Facilities Maintenance/Groundskeeper	Hourly	\$	20.27	20.77	21.30	21.83	22.38	22.94	23.51	24.10	24.70	25.32	25.95
Groundskeeper	132	\$	3,740	3,834	3,930	4,028	4,129	4,232	4,338	4,446	4,557	4,671	4,788
Utility Technician 1	Hourly	\$	21.58	22.12	22.67	23.24	23.82	24.41	25.04	25.65	26.29	26.95	27.62
Operator 1													
Facilities Maintenance Technician	136	\$	3,912	4,010	4,110	4,213	4,318	4,426	4,537	4,650	4,766	4,885	5,007
Utility Technician 2	Hourly	\$	22.57	23.14	23.70	24.31	24.91	25.54	26.18	26.83	27.51	28.18	28.89
Fleet Mechanic													
Operator 2 - Treatment Plant	140	\$	4,100	4,203	4,308	4,416	4,526	4,639	4,755	4,874	4,996	5,121	5,249
Plant Mechanic	Hourly	\$	23.65	24.25	24.85	25.48	26.10	26.76	27.43	28.12	28.82	29.54	30.27
PWM Lead - Crew Chief	144	\$	4,295	4,402	4,512	4,625	4,741	4,860	4,982	5,107	5,235	5,366	5,500
Operator 2 - Pretreatment Specialist	Hourly	\$	24.78	25.40	26.03	26.68	27.35	28.04	28.74	29.46	30.20	30.96	31.73
Conveyance Specialist													
Fleet Mainenance Lead - Crew Chief	148	\$	4,507	4,620	4,736	4,854	4,975	5,099	5,226	5,357	5,491	5,628	5,769
Operator 3 - Regulatory Specialist	Hourly	\$	26.00	26.65	27.32	28.00	28.70	29.42	30.15	30.91	31.68	32.47	33.28
Sr Plant Mechanic													
Operator 3 - Senior Operator													
Operator 4 - Regulatory Compliance	152	\$	4,705	4,823	4,944	5,068	5,195	5,325	5,458	5,594	5,734	5,877	6,024
	Hourly	\$	27.15	27.83	28.51	29.24	29.97	30.72	31.49	32.27	33.08	33.91	34.75

# ***REQUEST FOR COUNCIL ACTION***

**DATE ACTION REQUESTED: February 20, 2018**

<b>Order ____</b>	<b>Ordinance ____</b>	<b>Resolution ____</b>	<b>Motion ____</b>	<b>Information <u>XX</u></b>
<b>No.</b>	<b>No.</b>	<b>No.</b>		

**SUBJECT: To review and discuss Policies and FAQ's for Municipal Services Billing Equal Pay plan.**

**Contact Person (Preparer) for this**  
**Name: Caleb Lippard**  
**Dept.: Finance**  
**File No.:**

**RECOMMENDATION:** To discuss and give feedback on the Equal Pay plan and its policies.

**EXECUTIVE SUMMARY:** The Finance Department oversees the Utility Billing function and its programs and policies. The attached information is to begin a discussion on a new Equal Pay plan and the policies that guide it.

**FISCAL IMPACT:** None.

# **Equal Pay**

## **Purpose**

The Equal Pay plan provides a level payment plan that assists in household budgeting by considering seasonal swings of water and sewer consumption over the course of a year. The customer will always be responsible to pay for actual consumption. This plan is designed to help smooth fluctuations that may occur month to month or seasonally. At the time of termination, the customer will be charged or credited for the remaining difference between the amount consumed and the amount billed.

## **Eligibility**

1. Equal Pay is available for all customer accounts except Irrigation and Non-potable accounts.
2. Customer may take part in Equal Pay after 12 months of continuous service at their current address with good payment history.
3. Good payment history is defined as no more than two late payments and/or no service interruptions for non-payment in the last 12 months.
4. Customer must bring balance to zero before enrolling.
5. Customer must maintain good payment history, as defined above, throughout their enrollment in Equal Pay.

## **Calculation**

1. Water and sewer consumption charges are the only services calculated for Equal Pay.
2. Equal Pay calculations will be performed every March. The City will perform a new annual calculation (true-up), using a 12-month lookback period, which will be applied to your April 1<sup>st</sup> statement. The March calculation will be performed regardless of when your annual calculation last occurred in order to capture the new Winter Averaging\* calculation and the potential utility rate adjustments that typically occur on January 1<sup>st</sup> every year.
3. Winter Averaging for sewer charges will continue to be calculated based on actual consumption for November through February. The Winter Average will be included in the calculation of the annual Equal Pay amount.
4. Customer will receive a Municipal Services Statement indicating monthly water usage, amounts charged and the current balance but will be billed the Equal Pay amount.
5. Customer will pay the Equal Pay amount, and not the amount that the bill would be if not on Equal Pay.
6. Equal Pay amounts will be re-calculated (true-up) every March and could be increased or decreased depending on changes in city council-approved rates or usage of the customer. At that point, the customer agrees to pay the new Equal Pay amount for the next year or to cancel the plan.
7. Leak Adjustments will be processed in the same manner as expressed in the existing Utility Billing Policy. The only difference is an Equal Pay customer will receive the adjustment on their account during the annual true-up.

## **Enrollment**

1. Customer must complete an Equal Pay enrollment form. Enrollment via the City's website will be available in the near future.
2. Customer must be enrolled in the Direct Payment Plan or Recurring Payment Plan that the City of Newberg offers. These are auto payment plans, where the City either withdraws money from a checking or savings account (Direct Payment) or charges a credit card (Recurring Payment) monthly for payment of the current billing.

3. Subject to other applicable laws and regulations, participation in the Equal Pay Plan will continue automatically until customer withdraws or ceases to be eligible for the plan.
4. When customer terminates Equal Pay or close their account, customer must bring account to a zero balance.
5. It is the customer's responsibility to monitor the balance of their account to ensure the monthly Equal Pay payment is reasonably close to their actual consumption. The customer should continue to track their consumption to ensure they are staying within reasonable range of their average yearly usage. This will minimize the variation that occurs during the annual true-up or upon termination if they experience any major fluctuations in consumption charges.
6. If customer no longer wishes to participate in the plan, he/she will notify the City in writing at least five days prior to the next billing (which occurs on the 1<sup>st</sup> of each month).

**\* Winter Averaging**

For the months of November through February, the sewer consumption will be billed on actual water usage. The actual water consumption for these months will then be used to calculate the average consumption for sewer charges, with a minimum of 200 cubic feet charged, for the rest of the year (March-October). Winter Averaging is used because it is assumed that water consumed November through February is primarily being used inside the home. Water used inside the home is going down the drains and into the sewer system. Therefore, when water is being used outside (irrigation, car wash, etc.) and flowing into the ground or into the storm system, the customer won't receive sewer charges that exceed what they used during November through February.



## **Equal Pay FAQ's**

### **How does it work?**

It's pretty simple. You must have an active account with us for 12 months at your current address. We take the last 12 months of consumption and get an average. We charge for consumption based on that average for the next 12 months. Every March, we compare your actual consumption against your billed consumption during the past 12 months. This is what we call a "true-up." If you used more or less water than what we billed you for, the difference will be divided over the next Equal Pay billing period in addition to your new calculated amount. If you use less water than what we billed for, it will reduce your next 12-month Equal Pay amount. If you use more water than what we billed for, it will be added to your next 12-month Equal Pay amount.

### **What will I pay?**

Every month, you will pay only the Equal Pay amount, regardless of your actual usage. Then on every April 1<sup>st</sup> statement your Equal Pay amount could be adjusted depending on changes in city council-approved rates or usage of the customer. At that point, the customer agrees to pay the new Equal Pay amount for the next year or to cancel their participation in the plan.

### **Can I have my Equal Pay amount changed if the number of people living in my household changes?**

No. The amount will adjust automatically on every April 1<sup>st</sup> statement.

### **What happens if my actual consumption charges are more or less than my Equal Pay charges?**

The Equal Pay plan provides a level payment plan that assists in household budgeting by considering seasonal swings of water and sewer consumption over the course of a year. The customer will always be responsible to pay for actual consumption. This plan is designed to help smooth fluctuations that may occur month to month or seasonally. At the time of termination, the customer will be charged or credited for the remaining difference between the amount consumed and the amount billed.

### **What do I do if I believe my Equal Pay adjustment is wrong?**

If you have concerns about your Equal Pay amount, you can e-mail [utility.billing@newbergoregon.gov](mailto:utility.billing@newbergoregon.gov) or call 503-537-1205 for more information. We would be happy to review the amount with you and explain how and why the amount was calculated. Keep in mind that we will not be adjusting the amount if the number of people in your household changes.

### **Once I sign up, am I committed to being on the plan for the whole year?**

No. You can cancel the Equal Pay plan at any time. Upon cancellation, a true-up will be performed, and the difference between the amount consumed and the amount billed will be credited or charged to your account.

**When can I sign up for Equal Pay?**

You must reside at the current service address for one year and have good payment history in order to be eligible for the Equal Pay plan. Good payment history is defined as no more than two late payments and/or no service interruptions for non-payment in the last 12 months. Your account must have a zero balance (all charges paid in full). Your Equal Pay will be calculated and begin with your next monthly billing.

**Do I have to remember to sign up every year?**

No. As long as your account is in good standing, your plan will recalculate and reactivate every March and be applied to your April 1<sup>st</sup> statement.

**What happens if I move to a new address while I am on Equal Pay?**

You will need to reside for 12 months at your new address before you will be eligible to begin on Equal Pay. After 12 months you will need to sign up again at that time.

**How do I sign up?**

Please contact the Utility Billing Department at City Hall (414 E First St, Newberg, OR 97132) or by phone at (503) 537-1205. Customer must complete the Equal Pay plan enrollment form. Enrollment via the City's website will be available in the near future.

**What if I had a water leak?**

You need to let us know about any leak that you have repaired. We will verify that the leak has been fixed. The Equal Pay for the next year will be adjusted to reflect any leaks on the next Equal Pay period.

# NEWBERG CITY COUNCIL MEETING INFORMATION

Meeting Date: February 20th, 2018

Prepared by: Sue Ryan

Councilors	Roll Call	Consent Minutes from 1/16 & 2/5 Res 3439 YCAHC appt. Res 3440 Radio Comm Financing Res 3445 WCCCA contract amendment	Ord 2828 TUF changes Waiver of 2 <sup>nd</sup> reading Bacon/Corey 7/0	Res 3437 AFSCME contract			
ANDREWS, Bob, Mayor	X	Yes	Yes	Yes			
BACON, Denise	X	Yes	Yes	Yes			
COREY, Mike	X	Yes	Yes	Yes			
ESSIN, Scott	X	Yes	Yes	Yes			
JOHNSON, Patrick	X	Yes	Yes	Yes			
McKINNEY, Stephen	X	Yes	Yes	Yes			
MURRAY, Matt	X	Yes	Yes	Yes			
ROLL CALL VOTES		YES: 7 NO: 0	YES: 7 NO: 0	YES: 7 NO: 0			
MOTION (1 <sup>st</sup> /2 <sup>nd</sup> ):		Bacon/Johnson	Bacon/Murray	Murray/Corey			

Meeting adjourned at 8:10 p.m.