

AGENDA

KEIZER CITY COUNCIL
REGULAR SESSION

Monday, August 19, 2019

7:00 p.m.

Robert L. Simon Council Chambers
Keizer, Oregon

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **FLAG SALUTE**

4. **SPECIAL ORDERS OF BUSINESS**

5. **COMMITTEE REPORTS**

6. **PUBLIC TESTIMONY**

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

7. **PUBLIC HEARINGS**

- a. **RESOLUTION** – Authorization for Supplemental Budget – General Fund – Community Development

8. **ADMINISTRATIVE ACTION**

- a. Waiver of Community Center Rental Fee for Keizer Chamber Foundation Event
- b. **ORDINANCE** – Amending Keizer Development Code Regarding Section 2.118 (Urban Transition); Amending Ordinance 98-389
- c. **ORDINANCE** – Amending Keizer Development Code Regarding Section 2.125 (Activity Center Overly Zone); Amending Ordinance 98-389
- d. **RESOLUTION** – Authorizing Mayor to Send Letter Not Supporting No-Build Alternative for Salem River Crossing Project
- e. Surplus Property Report Fiscal Year 2018-19

9. **CONSENT CALENDAR**

- a. **RESOLUTION** – Authorizing Community Development Director to Sign Local Agency Agreement with State of Oregon for Keizer Growth Transportation Impacts Study
- b. **RESOLUTION** – Authorizing City Manager and City Attorney to Sign Settlement Agreement and Stipulated Judgment in the Bauer/City of Keizer vs. Davis/Northwest Rock Litigation; Repeal of Resolution R2019-3011

- c. **RESOLUTION** – Authorizing the City Manager to Enter Into Oregon Department of Transportation Local Agency Certification Program Supplemental Project Agreement for Fiber Optic Interconnect – River Road: Shangri-Law Avenue to Wheatland Road
- d. **RESOLUTION** – Authorizing the City Manager to Enter Into Intergovernmental Agreement with Keizer Fire District for Collection of Fire and Life Safety Inspection Fees
- e. **RESOLUTION** – Authorizing the City Manager to Enter Into Amendment #1 to the Intergovernmental Agreement with Marion County for the Coordination of Permit Issuance and Inspections Regulated by the State of Oregon Building Codes
- f. **RESOLUTION** – Authorizing the Finance Director to Sign Service Agreement with T-Tech
- g. **RESOLUTION** – Authorizing the City Manager to Purchase Two 2020 K8A AWD Police Interceptor Utility Vehicles and a 2020 P0G Fusion S FWD Vehicle for Police Department
- h. **RESOLUTION** – Authorizing the City Manager to Sign Proposal with Thomas Kay Flooring for Community Center Carpet Replacement
- i. **Approval of August 5, 2019 City Council Regular Session Minutes**

10. COUNCIL LIAISON REPORTS

11. OTHER BUSINESS

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

12. WRITTEN COMMUNICATIONS

To inform the Council of significant written communications.

13. AGENDA INPUT

September 3, 2019 (Tuesday)

7:00 p.m. City Council Regular Session

September 9, 2019

6:00 p.m. – City Council Work Session

- Keizer Parks Tour

September 16, 2019

7:00 p.m. City Council Regular Session

14. ADJOURNMENT

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

COUNCIL MEETING: August 19, 2019

AGENDA ITEM NUMBER: _____

TO: MAYOR CLARK AND COUNCIL MEMBERS

THROUGH: CHRISTOPHER C. EPPLEY, CITY MANAGER

FROM: TIM WOOD, FINANCE DIRECTOR

SUBJECT: AUTHORIZATION FOR SUPPLEMENTAL BUDGET

ISSUE: Oregon Budget Law, when authorized by resolution of the governing body of a municipal corporation, provides that a supplemental budget may be adopted when an occurrence or condition which had not been ascertained at the time of the preparation of a budget for the current year which requires a change in financial plan.

General Fund – Community Development

The supplemental budget is to recognize and appropriate \$190,000 in State Local Project Program Funding for the Keizer Growth Transportation Impacts Study. The funding is on a reimbursement basis with the City fronting the cost of the project.

RECOMMENDATION: Staff recommends the council open the public hearing and receive any public testimony. Once the public hearing is closed the council should adopt the attached resolution authorizing the supplemental budget as described above.

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2019-_____

AUTHORIZATION FOR SUPPLEMENTAL BUDGET - General Fund - Community Development

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

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Keizer, that the following appropriations be made for fiscal year ending June 30, 2020:

	Adopted/ Amended Budget	Adjustment		Revised Budget
		Increase	Decrease	
General Fund - Community Development				
Resources	76,000	190,000		266,000
Expenditures - Materials and Services	97,400	190,000		287,400
To recognize and appropriate \$190,000 in State Local Project Program Funding for the Keizer Growth Transportation Impacts Study.				

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

PASSED this ____ day of _____, 2019

SIGNED this ____ day of _____, 2019

Mayor

City Recorder

COUNCIL MEETING: August 19, 2019

AGENDA ITEM NUMBER: _____

TO: MAYOR CLARK AND CITY COUNCIL MEMBERS

**FROM: CHRIS EPPLEY
CITY MANAGER**

**THROUGH: TRACY L. DAVIS, MMC
CITY RECORDER/COMMUNITY CENTER MANAGER**

**SUBJECT: WAIVER OF COMMUNITY CENTER RENTAL FEE - THE KEIZER CHAMBER
FOUNDATION ANNUAL VOLUNTEER BOARD TRAINING**

BACKGROUND:

On June 17, 2019 the request for a Community Center rental fee waiver was presented to the City Council. At that meeting, the City Council discussed the request and the benefit of the training to City Committee members and non-profits. Mayor Clark directed Councilor Herrera to check with the Chair of Keizer United to see if funding this event could be through a partnership of the two entities. It is staff's understanding that Keizer United believes this training is helpful and that it is a benefit to the Keizer community. This matter is back before the City Council for discussion and direction to staff.

The Keizer Chamber Foundation is a 501(c)(3) organization who works in conjunction with the Keizer Chamber of Commerce. The mission of the Keizer Chamber Foundation is to provide cultural and educational opportunities, charitable services, and personal development programs to citizens of Keizer in order to build a stronger community. The Keizer Chamber Foundation has scheduled their annual Volunteer Board Training for **Thursday, October 10, 2019**. Information on this event and the programs currently being offered by the Keizer Chamber Foundation can be found in the attached letter from Lore Christopher.

The Keizer Chamber Foundation is asking for a waiver of the room rental fee and the security/cleaning deposit for this event. The room rental fee for use of the room for this event would be \$450 with a refundable security/cleaning deposit of \$750. The rental fee is based 6 hours of use (1-hour pre-event for set up, 4-hours for the event, and 1-hour post event) and includes a 25% discount for Keizer Citizens or any Keizer Based 501(c) organization. Staffing costs are included in the room rental fee.

As outlined in City of Keizer Resolution 2018-2932, the City Council may reduce or waive rates, deposits or other costs for certain uses if, in the Council's sole discretion, the use is a significant benefit to the Keizer community considering such factors as the City's fixed and non-fixed costs, staff resources, wear and tear on the facility, and other factors deemed appropriate by the Council. The City Council does not have the ability to waive the requirement for proof of general liability insurance.

Options for Council Consideration:

1. Grant the request for a complete rental fee waiver (room rental including staffing and security/cleaning deposit)
2. Deny the request for a complete rental fee waiver (room rental including staffing and security/cleaning deposit)
3. Waive the security/cleaning deposit but charge the room rental fee of \$450 (includes staffing)
4. Waive the room rental fee and security/cleaning deposit but charge \$120 for the staffing costs.

In 2018, the City Council approved a waiver of the rental fee and the security/cleaning deposit for this event but charged for event staffing and required a certificate of general liability insurance.

RECOMMENDATION:

Staff recommends the City Council discuss the request, consider the options presented, and then direct staff accordingly.

June 10, 2019

Chris and Tracy,

I am writing to request continuation of our partnership for local volunteer board training.

Our annual training is scheduled for October 10, 2019 from 5-9pm and includes a catered buffet dinner. We would like to continue to use the Keizer Community Center in exchange for any City of Keizer volunteer to attend the training free of charge. I think you had 11 attendees last year.

This year, the Keizer Community Foundation will be partnering with the Oregon Community Foundation to bring low cost grant training to local non-profits. We expect a larger crowd this year because of the OCF presenters. They also will promote the event statewide.

These are big time trainers that will provide information about how to apply and be successful getting an Oregon Community Fund grant. (KAA has won two in the past).

The cost is \$25.00 for one OR \$25.00 BOGO, but two people will have to register OR \$100 for the entire registered Board. The point of this annual training is to train as many local boards on all aspects of non-profit, volunteer, Board Management. The cost covers the cost of the dinner, the training is free.

This is the third year we have presented training and the Oregon Community Foundation has noticed us! That's why they are willing to partner with us as the expert trainers!

As a reminder, the Keizer Community Foundation currently manages has three community programs consistent with our Mission:

The Keizer Foundation was formed for the community good, working for the advancement of quality of life through: public arts, leadership, and community giving.

- **Keizer Klosets** - Keizer kids are in need. Some student Kloset "customers" are homeless, others are in need due to food insecurity or poverty. The Klosets provide needed food and basic clothing provisions at no cost or student identification. To date this program has helped hundreds of local, Keizer kids.
- **Keizer Public Art** - Art in public spaces plays a distinguishing role in our country's history and culture. It provides an intersection between past, present, and future. Public art matters because our communities gain cultural, social, and economic value through public art.
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- **Keizer Leadership - Building Better Boards** - There are over 50 local, volunteer, non-profit boards currently working in Keizer. They are staffed by 7-9 volunteer board

members. The city of Keizer alone has almost 100 volunteer board members sitting on 14 advisory boards. Annual board training allows these and other board members an opportunity to learn about the awesome responsibility of being a non-profit board member.

I think our cost last year was approximately \$200.00 for security, so the questions are:

Is this date available and can we count on partnering again with the City of Keizer?

Thanks so much,

Lore Christopher

CITY COUNCIL MEETING: August 19, 2019

AGENDA ITEM NUMBER: _____

TO: MAYOR CLARK AND COUNCIL MEMBERS
THROUGH: CHRISTOPHER C. EPPLEY, CITY MANAGER
FROM: E. SHANNON JOHNSON, CITY ATTORNEY
SUBJECT: ORDINANCE AMENDING KEIZER DEVELOPMENT CODE

At the July 15, 2019 Council meeting, Council directed staff to prepare an Ordinance approving the Keizer Development Code text changes to revise the Code relating to the Urban Transition zone. Such Ordinance is attached for your review.

RECOMMENDATION:

Adopt the attached Ordinance.

Please let me know if you have any questions. Thank you.

ESJ/tmh

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A BILL
FOR

ORDINANCE NO.
2019-_____

AN ORDINANCE

AMENDING KEIZER DEVELOPMENT CODE REGARDING
SECTION 2.118 (URBAN TRANSITION); **AMENDING ORDINANCE
98-389**

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

WHEREAS, the City Council held a hearing on this matter on July 15, 2019
and considered the testimony given and the recommendation of the Keizer Planning
Commission; and

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

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

NOW, THEREFORE,

The City of Keizer ordains as follows:

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

1 Section 2. AMENDMENT TO THE KEIZER DEVELOPMENT CODE.

2 The Keizer Development Code (Ordinance No. 98-389) is hereby amended by the
3 adoption of the changes to Section 2.118 (Urban Transition) as set forth in Exhibit "B"
4 attached hereto, and by this reference incorporated herein.

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

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

15 PASSED this _____ day of _____, 2019.

16 SIGNED this _____ day of _____, 2019.

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Mayor

City Recorder

EXHIBIT “A”

Findings regarding the adoption of amendments to Section 2.118 (Urban Transition) of the Keizer Development Code (KDC).

The City of Keizer finds that:

1. General Findings.
The particulars of this case are found within Planning file Text Amendment 2019-03. Public hearings were held before the Planning Commission on March 6, 2019, April 10, 2019, and May 8, 2019, and before the City Council on July 15, 2019. Both the Planning Commission and the City Council unanimously supported the proposed revisions.
2. Criteria for approval are found in Section 3.111.04 of the Keizer Development Code. Amendments to the Comprehensive Plan or Development Code shall be approved if the evidence can substantiate the following. Amendments to the map shall be reviewed for compliance with each of the following, while text amendments shall only be reviewed for compliance with Section 3.111.04 B, C, and D. Given that this is a text amendment Section 3.111.04 A is not applicable.

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

Findings: The proposed revisions to the zone code reflect a demonstrated need. The proposed revisions update inaccurate and irrelevant language and requirements in the Urban Transition (UT) zone related to the availability of public services. In addition, the changes provide a simpler process for developing existing parcels with allowed uses. Public testimony was received at the Planning Commission expressing support for the proposed changes by property owners within the UT zone. Therefore, this text amendment is found to be necessary to update the Keizer Development Code with the regulations governing development within the UT zone. Therefore, this proposal complies with this review criterion.

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

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

Goal 1 – Citizen Involvement: The adoption of this ordinance followed notice, a public process involving public hearings, deliberation, and ordinance adoption. Public notice was provided in the Keizertimes. Public hearings were held before the Planning Commission on March 6, 2019, May 8, 2019, and April 10, 2019, as well as before the City Council on July 15, 2019. In addition, a postcard mailing was sent to all property owners within the UT zone informing them of the April 10th Planning Commission meeting, and inviting them to participate in a short

online survey regarding the proposed changes. This process is consistent with the provision for providing an opportunity for citizens to be involved in all phases of this proposed planning process as is required by this goal and with implementing administrative rules within Oregon Administrative Rules.

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

Goal 3 – Farm Land: The purpose of this goal is to protect lands that are designated for agricultural uses. Within the city limits the Exclusive Farm Use (EFU), Special Agriculture (SA), Urban Transition (UT), and Public (P) allow commercial agricultural uses. However, only the city’s SA zone is a state recognized EFU qualifying zone. While, the amendments involve regulations affecting the UT zone, the changes will not affect any established or proposed farm uses on the existing UT zoned parcels. In addition, the proposed changes do not affect lands that are outside the city limits or any lawful uses occurring on those lands, nor does it amend any of those existing zoning designations. The proposed amendments will comply with the Farm Land Goal and with implementing administrative rules.

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

Goal 5 – Natural Resources: The intent of the Natural Resources Goal is to protect various natural resources such as wetlands, waterways, big game habitat, etc. The city has a local wetland inventory of sites where wetland soils may be present. The city has an adopted Willamette River Greenway Overlay zone to protect resources along the Willamette River. There are no identified big game habitats within the city limits of Keizer. The city established a Resource Conservation overlay zone to maintain, preserve and protect the natural features adjacent to Claggett Creek. In addition, the city has storm water regulations to protect water quality of the local water ways. The proposed amendments will not affect or preclude any of the city’s natural resources protection regulations nor the lawful use of any properties that are within this overlay zone. Therefore, the proposed text amendments will be consistent with this goal and with administrative rules which implement this goal.

Goal 6 – Air, Water and Land Quality: The intent of this goal is to protect the city’s air, water and land qualities. The city provides its residents with city water from groundwater sources. The quality of the water is monitored to ensure that it complies with all state and federal water quality standards. New construction is required to be connected to the established sanitary sewer system thereby reducing the potential of groundwater contamination from failing on-site septic systems. The city has storm water regulations which are to maintain water quality in the Willamette River and local streams. Land quality is preserved through the city’s erosion control regulations and through zone code development regulations. Air quality is preserved through the city’s development code regulations which limit certain types of uses and are enforced by appropriate state agencies which govern air emission standards. The revisions to the UT zone will comply with this goal and with the administrative rules that implement this goal.

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

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

Goal 9 – Economic Development: The intent of this goal is to ensure that the city plans for its overall economic vitality. Current employment was projected forward based on regional job growth estimates and target industry goals. The growth forecast calls for a total of 3,774 new jobs over the next 20 years. The adopted Economic Opportunities Analysis found there is a net need for commercial and institutional lands amounting to 63.3 gross acres above and beyond what the City’s remaining buildable employment lands can accommodate. The proposed text amendments will not have any adverse impact on the economic development activities or uses within the city. Therefore, the proposal is consistent with this goal.

Goal 10 – Housing: This goal requires the city to plan and provide for the housing needs of its residents. The adopted Housing Needs Analysis found that for the upcoming 20-year period that there will be a need for 4,513 new units to house the future population. The inventory of buildable residential lands contain a supply of 315.2 acres which are vacant, partially vacant or re-developable and can accommodate an estimated 2,422 units resulting in 2,090 units which must be accommodated beyond the City’s existing capacity. When this remaining land need is apportioned to Keizer’s residential zones, the HNA estimates a 20-year need of 267 gross acres of residential land. The properties zoned UT are designated for Low Density Residential development in the Comprehensive Plan. The revisions to the UT zone will not prevent land from being used for residential purposes, and therefore will have no impact on this goal.

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

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

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

Goal 14 – Urbanization: The intent of this goal is to provide for an orderly and efficient transition from rural to urban land use. The city has an adopted Comprehensive Plan and zone code that complies with the goal. The UT zone is

properties are designated for Low Density Residential uses in the Comprehensive Plan. The proposed text amendments will affect only land that is within the city limits and will not impact the use of any land being transitioned from rural to urbanized uses and so is therefore consistent with this goal.

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

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

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

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

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

FINDINGS: The proposed text amendment will revise Section 2.118 (Urban Transition) of the Keizer Development Code to correct outdated language, and provide a simplified process for development within the UT zone. For smaller parcels (under ½ acre in size) an exemption to Conditional Use Permit approval (CUP) is provided to allow for a more streamlined process for residential development. Rezone provisions are expanded to include partiton approvals within the UT zone for clarity and consistency. The parcels within the UT zone are designated for Low-Density Residential development in the Comprehensive Plan. The Comprehensive Plan contains goals and policies for residential development intended to provide adequate opportunities for residential development at appropriate densities. The proposed amendment to the zone code represents a logical implementation of the Keizer Comprehensive Plan. The City Council has, by this adoption, determined that the text revisions are desirable, appropriate, and proper. As such, the proposal complies with this criterion.

2.118 URBAN TRANSITION (UT)

2.118.01 Purpose

The UT (URBAN TRANSITION) zone is generally located in the north part of Keizer and includes a number of parcels which are not contiguous to each other. The zone is intended to retain and protect for future urban use properties which are undeveloped or underdeveloped and do not have available urban facilities such as sanitary sewer, water, drainage, and streets. The zone allows the continuation of legally established uses and certain other limited uses that will not interfere with the efficient, later use of the land for urban development. Properties that have available urban services, or can be served by the City's infrastructure system will be allowed to develop with a demonstration that the efficient use of the land proposed for development will be made and will not impair the development of surrounding properties.^(5/98)

2.118.02 Permitted Uses

The following uses, when developed under the applicable development standards in this Zoning Ordinance, are permitted in the UT zone:

- A. Lawful uses other than those listed in this Section 2.118.02 on a property at the time of the effective date of this zone except as provided in Section 2.118.03.^(5/98)
- B. **Farm use.**^(5/98)
- C. The propagation of **forest products.**^(5/98)
- D. **Public and semi-public buildings and structures** rendering direct service to the public in local areas, such as fire stations, utility substations, pump stations, reservoirs, and electrical transmission lines.^(5/98)
- E. **A mobile home customarily provided in conjunction with farm use** subject to an agreement requiring removal if the property is subsequently placed in a zone that does not permit mobile homes.^(5/98)
- F. **A mobile home subject to an agreement** requiring removal if the property is subsequently placed in a zone that does not permit mobile homes, and subject to Sections 2.118.10 and other applicable standards¹, 2.118.12, and 2.118.13.^(5/98)
- D. **Nursery.**^(5/98)
- H. **Child foster home** for five or fewer children.^(6/99)

I. For parcels less than ½ acre in size, any permitted or special permitted use listed in the most restrictive zone in this zoning ordinance that can be applied in the applicable Comprehensive Plan designation.

2.118.03 Conditional Uses

The following uses may be permitted subject to obtaining a conditional use permit (see [Section 2.118.04](#)):

A. For parcels ½ acre or larger, any permitted use listed in the most restrictive zone in this zoning ordinance that can be applied in the applicable Comprehensive Plan designation subject to meeting the criteria in Section 3.103.03, as well as Section 2.118.04. (5/98)

~~B. Expansion or replacement of a use permitted under Section 2.118.02 subject to meeting the criteria in Section 3.103.03.~~ (5/98)

BG. Commercial and industrial activities in conjunction with farm or forest use occurring on the same parcel. (5/98)

CD. Use of a mobile home as a temporary hardship dwelling subject to Section 2.406. (5/98)

~~E. Single family dwelling meeting criteria in Section 2.118.04 and Sections 2.118.11, 2.118.12, and 2.118.13.~~ (5/98)

F. D. Child foster home for six, seven or eight children, providing such home:

1. Is properly accredited by the Council on Accreditation on Child and Family Programs;
2. Be located on a lot of no less than 16,000 square feet;
3. The lot shall be located on an arterial or major collector street;
4. Shall be no less than 2,400 square feet in size, excluding attached garages, carports, patios, and all unfinished space;
5. Shall have setbacks for all structures of no less than 16 feet on each side and 30 feet along the back of the property;
6. Shall have usable paved off-street parking for no less than 6 vehicles, plus one additional usable off-street paved parking space is to be provided for each foster child that owns or is the principal driver of any vehicle;
7. At least on half of the lot area (no less than 8,000 square feet) shall consist of open space, grass and landscaping, including landscaping area at least 8

feet wide for permanent visual screening along the sides and back of the property. (which landscaping along sides and back of the property shall be designed for a minimum height of no less than 6 feet after five years) Decks, patios, paved areas, and parking areas, (paved or unpaved) shall not be included when calculating the amount of required open space, grass and landscaping.

8. Is not located within one-half (1/2) mile of another child foster home of six to eight children, as measured between the closest lot lines of the existing child foster home and the proposed child foster home.

All child foster homes shall meet all applicable laws and regulations, including, but not limited to, applicable building codes.(6/99)

2.118.04 Conditional Use Criteria

Before a conditional use permit may be approved, it must be found that the following criteria applicable to the proposed use will be satisfied:

- A. The use will not increase traffic beyond the capacity of existing roads. (5/98)
- B. It will be located in such a manner that any significant unused portion of the property has adequate development options and will not restrict development options on adjacent properties. (5/98)
- C. The use can utilize rural services or existing urban services, and will not individually or together with nearby uses increase pressure for installation of new urban services. (5/98)
- D. The use meets the development standards of the most restrictive zone in the zoning ordinance consistent with the Comprehensive Plan designation. (5/98)
- E. The expansion will result in an accumulated increase of no greater than 50 percent of the total ground floor and outside storage area lawfully existing on the effective date of the application of this zone to the property. (5/98)
- F. The Comprehensive Plan designation clearly indicates that the use to be expanded will be a permitted use in the zones typically applied in the applicable designation. (5/98)
- G. No new residential structures or mobile homes except as provided for in section 2.118.02.E are permitted unless the area is designated for residential development and the most restrictive zone would permit the residential use or mobile home. (5/98)

2.118.05 Development Standards

The standards and regulations in this chapter and the additional standards and regulations referenced in the Development Code apply to all lots, structures and uses

unless indicated otherwise.—No structure or use shall be approved until all requirements in this chapter have been satisfied. (5/98)

The provisions of this chapter are complementary and supplementary to other provisions of this ordinance. In the event of a conflict between a provision of this chapter and a more restrictive provision of this ordinance applicable to a particular lot, structure or use, the more restrictive provision shall apply. (5/98)

2.118.06 Height

Within an UT zone, there is no height limit except a maximum of 35 feet for dwellings, and structures associated with special uses, and conditional uses. Buildings and structures erected, altered, or enlarged shall not exceed 45 feet in height. ~~Greater height may be requested and approved as a conditional use.~~ (5/98)

2.118.07 Dimensional Standards

The following dimensional standards shall be the minimum requirements for all development in the UT Zone except for modifications permitted under Section 2.202, General Exceptions or as required in Section 2.4. (5/98)

A. Minimum Yard Setback Requirements

SETBACKS	Residential Uses	Non-Residential Uses
Front	10 feet (5)	20 feet
Side	5 feet (1)	10 feet
Rear	(2)	20 feet
Street-side (3)	10 feet	20 feet
Garage Entrance (4)	20 feet	20 feet

- (1) *Zero side yard dwelling units are subject to the setback provisions in Section 2.404. (5/98)*
- (2) *The rear yard setback shall be as follows: 14 feet for a 1-story home; 20 feet for a 2-story home. (5/98)*
- (3) *Setbacks are measured from property lines, not easement lines. However, no structure shall be placed any closer than five feet from the edge of an access easement or 20 feet from the right-of-way of an arterial or collector street. (5/98)*
- (4) *The garage entrance setback shall be measured from the property line or edge of private access easement to the entrance of the garage. The centerline of the driveway shall be measured if the driveway to the garage entrance is not perpendicular to the property line or private access easement. In no case shall a garage be set back less than the minimum front, side, and rear setbacks. (5/98)*
- (5) *The minimum front setback from an access easement shall be ten (10) feet. (10/15)*

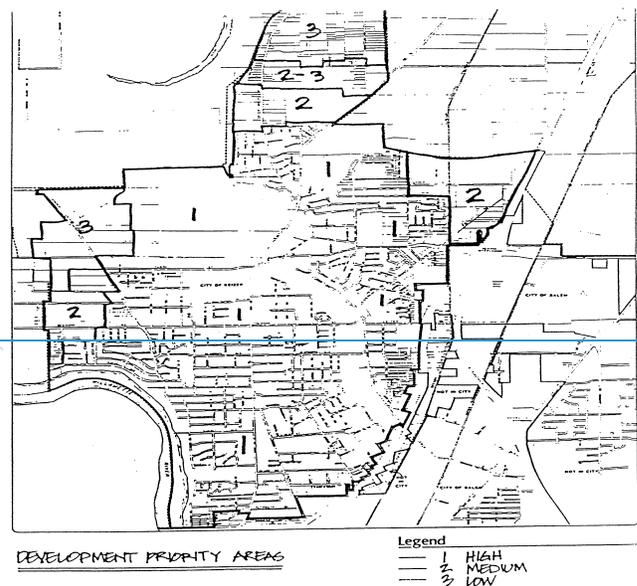
2.118.08 Other Development Standards

All development in the UT Zone shall comply with the applicable provisions of this Ordinance. The following includes referenced items as well as additional development requirements:

- A. **Off Street Parking:** Parking shall be as specified in Section 2.303. (5/98)
- B. **Subdivisions and Partitions:** Land divisions shall comply with provisions of Section 2.310. (5/98)
- C. **Yards and Lots:** Yards and lots shall conform to the standards of Section 2.312. (5/98)
- D. **Design Standards** - Unless specifically modified by provisions in this Section, buildings located within the UT zone shall comply with the following standards: (5/98)
 - 1. Single family homes shall comply with the design standards in Section 2.314. (5/98)
- E. **Signs:** Signs shall conform to the requirements of Section 2.308. (5/98)
- F. **Accessory Structures:** Accessory structures shall conform to requirements in Section 2.313. (5/98)
- G. **Landscaping:** A minimum of 30% of the property shall be landscaped, including all required yards. Landscaped areas shall be landscaped as provided in Section 2.309. (5/98)
- H. **Lot Coverage:** The maximum coverage allowed for buildings, accessory structures and paved parking shall be 70%. (5/98)

2.118.09 Development Priorities and Growth Management

The City of Keizer Comprehensive Plan establishes priorities for the future expansion of public facilities and services to currently unserved areas in the City. These unserved areas are in an UT or EFU zone. The map shown on Figure 2.118-1



indicates three development priorities for the UT and EFU zoned areas in the City. Priority 1 areas are surrounded by or are immediately adjacent to areas where public sewer and water currently exists, where LIDs or other commitments for service extension are approved, and where new growth is likely during the next 10 years. Priority 2 areas have a medium priority for service extensions, and will likely experience new growth in 5 to 15 years. Priority 3 areas have a low priority for service extensions, and are not expected to experience growth for 10 to 20 years. The following development standards apply to these development priority areas. (5/98)

2.118.0910 Divisions of Land and Automatic Rezoning

- A. A subdivision, residential planned development or other residential development involving the division of land into 4 or more lots intended to be occupied by dwellings or mobile homes, or the establishment of a mobile home park, may be considered on property in the UT zone if public sewer and water will be available at the time of development. Notwithstanding the zone change procedures in Section 3.1, upon approval and recordation of the plat, or establishment of the mobile home park, the land included in the plat or park shall automatically be rezoned to the RS (SINGLE-FAMILY RESIDENTIAL) Zone. (5/98)
- B. Residential developments that are not allowable in the RS zone may only be considered as part of, or subsequent to, a change to a zone that allows the proposed development. (5/98)
- C. Notwithstanding the zone change procedures in Section 3.110, upon approval and recordation of a partition plat, the land included in the plat shall automatically be rezoned to the RS (SINGLE FAMILY RESIDENTIAL) Zone. The following regulations shall apply when property line adjustments and partitionings of land within the UT zone are proposed: (6/16)
1. Existing parcels with dwellings may be separated from the remaining property provided the dwelling parcel does not preclude future redevelopment of the remaining parcel to maximum densities allowed in the Comprehensive Plan designation, and any additional street right-of-way required by adopted standards is dedicated along the parcel's street frontage. In addition, the following minimum lot sizes apply for the parcel containing the dwelling: (5/98)
 - a. Served by both public sewer and water: 65,000 square feet. (5/98)
 - b. Lacking public sewer or water: 20,000 square feet. (5/98)

- c. Lacking both public sewer and water: 1 acre ~~in priority 1 and 2 development areas, 2 acres in priority 3 development areas~~. (5/98)
- 2. Street and drainage improvements applicable to any parcel created under Subsection 1 shall be imposed at the time the remnant parcel is developed for urban use. (5/98)
- 3. The location of parcel lines shall not significantly reduce feasible options for the future location of urban roads or services, or preclude basic development options on the property or adjacent properties. A development plan may be required which indicates how the proposed division will not preclude future development at densities allowed in the Comprehensive Plan. (5/98)
- ~~4. Partitioning of land creating an undeveloped parcel of less than 5 acres in area shall not be allowed in Priority 2 and 3 areas. Minimum lot dimension standards in Priority 2 and 3 areas are: (5/98)~~
 - ~~a. The property shall have no dimension less than 100 feet. (5/98)~~
 - ~~b. The property shall have not less than 100 feet of frontage on a dedicated street that shall have a right-of-way width of not less than 40 feet. (5/98)~~

2.118.101 Requirements for On-Site Sewage Disposal Permits

The following conditions shall be met prior to the approval of an on-site sewage disposal system permit in conjunction with other criteria when applicable:

- A. The property shall not lie within the boundary of a sewer service district as it was drawn prior to the inclusion within the City limits or within the boundary of an improvement district for sewer services that has been proposed by the City. (5/98)
- B. The property must lie more than 300 feet in a straight line from an existing sewer line which can be extended to the property to provide gravity sewer service. (5/98)
- C. The property shall not be serviced by a city or district water system. (5/98)
- D. The property owner shall sign a non-remonstrance agreement for future sewer service by the City. (5/98)
- E. The property shall have no dimension less than 100 feet. (5/98)
- F. The property shall have not less than 100 feet of frontage on a dedicated street which shall have a right-of-way of not less than 40 feet. (5/98)
- G. Applicant shall have obtained from the County Sanitarian a favorable site evaluation to install an on-site sewage disposal system. (5/98)

- H. The applicant will be required to connect the proposed improvements to the public sewer system if, in the future, the public sewer system comes to within 300 feet of the [buildingproperty](#). (5/98)

CITY COUNCIL MEETING: August 19, 2019

AGENDA ITEM NUMBER: _____

TO: MAYOR CLARK AND COUNCIL MEMBERS

THROUGH: CHRISTOPHER C. EPPLEY, CITY MANAGER

FROM: E. SHANNON JOHNSON, CITY ATTORNEY

SUBJECT: ORDINANCE AMENDING KEIZER DEVELOPMENT CODE

At the August 5, 2019 Council meeting, Council directed staff to prepare an Ordinance approving the Keizer Development Code text changes to revise the Code relating to the Activity Center Overlay zone. This amendment adds “Auto and Home Supply Stores” and “Automotive Services, Except Repair” to the allowed Flexible Space Uses in the Industrial Business Park zone in Keizer Station. Such Ordinance is attached for your review.

RECOMMENDATION:

Adopt the attached Ordinance.

Please let me know if you have any questions. Thank you.

ESJ/tmh

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A BILL
FOR

ORDINANCE NO.
2019-_____

AN ORDINANCE

AMENDING KEIZER DEVELOPMENT CODE REGARDING SECTION 2.125 (ACTIVITY CENTER OVERLY ZONE); **AMENDING ORDINANCE 98-389**

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

WHEREAS, the City Council held a hearing on this matter on August 5, 2019 and considered the testimony given and the recommendation of the Keizer Planning Commission; and

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

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

NOW, THEREFORE,

The City of Keizer ordains as follows:

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

1 Section 2. AMENDMENT TO THE KEIZER DEVELOPMENT CODE.

2 The Keizer Development Code (Ordinance No. 98-389) is hereby amended by the
3 adoption of the changes to Section 2.125 (Activity Center Overlay Zone) as set forth
4 in Exhibit "B" attached hereto, and by this reference incorporated herein.

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

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

15 PASSED this _____ day of _____, 2019.

16 SIGNED this _____ day of _____, 2019.

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Mayor

City Recorder

EXHIBIT “A”

Findings regarding the adoption of amendments to Section 2.125 (Activity Center Overlay Zone) in the Keizer Development Code (KDC)

The City of Keizer finds that:

1. General Findings.
The particulars of this case are found within Planning file Text Amendment 2019-14. Public hearings were held before the Planning Commission on July 10, 2019, and before the City Council on August 5, 2019.
2. Criteria for approval are found in Section 3.111.04 of the Keizer Development Code. Amendments to the Comprehensive Plan or Development Code shall be approved if the evidence can substantiate the following. Amendments to the map shall be reviewed for compliance with each of the following, while text amendments shall only be reviewed for compliance with Section 3.111.04 B, C, and D. Given that this is a text amendment Section 3.111.04 A is not applicable.

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

Findings: The proposed revisions to the zone code reflect a demonstrated need. Representatives of the property owner in Keizer Station Area D approached the City seeking clarification on allowed flexible space uses, due to ambiguity within the Keizer Development Code and inconsistencies with the Standard Industrial Classification Manual. The property owner’s desire was to allow certain uses within the zone and it was found that in order to allow those uses and eliminate ambiguity, the Keizer Development Code needed to be changed. Specifically, the change will clearly allow for *Auto and Home Supply Stores*, and *Automotive Services, Except Repair* as permitted flexible space uses. Therefore, this proposal complies with this review criterion.

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

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

Goal 1 – Citizen Involvement: The adoption of this ordinance followed notice, a public process involving public hearings, deliberation, and ordinance adoption. Public notice was provided in the Keizertimes. Public hearings were held before the Planning Commission on July 10, 2019, and before the City Council on August 5, 2019. Citizens were afforded the opportunity to participate in the public process. This process is consistent with the provision for providing an opportunity for citizens to be involved in all phases of this proposed planning

process as is required by this goal and with implementing administrative rules within Oregon Administrative Rules.

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

Goal 3 – Farm Land: The purpose of this goal is to protect lands that are designated for agricultural uses. Within the city limits the Exclusive Farm Use (EFU), Special Agriculture (SA), Urban Transition (UT), and Public (P) zone allow commercial agricultural uses. However, only the city’s SA zone is a state recognized EFU qualifying zone. The amendments involve regulations affecting the use of land zoned Industrial Business Park (IBP) within Keizer Station Area D and will not affect lands that are outside the city limits or any lawful uses occurring on those lands, nor does it amend any of those existing zoning designations. Therefore, the proposed amendments will comply with the Farm Land Goal and with implementing administrative rules.

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

Goal 5 – Natural Resources: The intent of the Natural Resources Goal is to protect various natural resources such as wetlands, waterways, big game habitat, etc. The city has a local wetland inventory of sites where wetland soils may be present. The city has an adopted Willamette River Greenway Overlay zone to protect resources along the Willamette River. There are no identified big game habitats within the city limits of Keizer. The city established a Resource Conservation overlay zone to maintain, preserve and protect the natural features adjacent to Claggett Creek. In addition, the city has storm water regulations to protect water quality of the local water ways. The proposed amendments will not affect or preclude any of the city’s natural resources protection regulations nor the lawful use of any properties that are within this overlay zone. Therefore, the proposed text amendments will be consistent with this goal and with administrative rules which implement this goal.

Goal 6 – Air, Water and Land Quality: The intent of this goal is to protect the city’s air, water and land qualities. The city provides its residents with city water from groundwater sources. The quality of the water is monitored to ensure that it

complies with all state and federal water quality standards. New construction is required to be connected to the established sanitary sewer system thereby reducing the potential of groundwater contamination from failing on-site septic systems. The city has storm water regulations which are to maintain water quality in the Willamette River and local streams. Land quality is preserved through the city's erosion control regulations and through zone code development regulations. Air quality is preserved through the city's development code regulations which limit certain types of uses and are enforced by appropriate state agencies which govern air emission standards. The revisions to the city's standards regarding the uses allowed in Keizer Station Area D will comply with this goal and with the administrative rules that implement this goal.

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

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

Goal 9 – Economic Development: The intent of this goal is to ensure that the city plans for its overall economic vitality. Current employment rates were projected forward based on regional job growth estimates and the above target industry goals. The growth forecast calls for a total of 3,774 new jobs over the next 20 years. The adopted Economic Opportunities Analysis found there is a net need for commercial and institutional lands amounting to 63.3 gross acres above and beyond what the City's remaining buildable employment lands can accommodate. The proposed text amendments will not have any adverse impact on the economic development activities or uses within the city. In fact, since the proposed amendment will allow a broader range of uses within Keizer Station Area D, additional economic development opportunities may be realized, providing consistency with the overall goal of economic vitality. Therefore, the proposal is consistent with this goal.

Goal 10 – Housing: This goal requires the city to plan and provide for the housing needs of its residents. The adopted Housing Needs Analysis found that for the upcoming 20-year period that there will be a need for 4,513 new units to house the future population. The inventory of buildable residential lands contain a supply of 315.2 acres which are vacant, partially vacant or re-developable and can accommodate an estimated 2,422 units resulting in 2,090 units which must be accommodated beyond the City’s existing capacity. When this remaining land need is apportioned to Keizer’s residential zones, the HNA estimates a 20-year need of 267 gross acres of residential land. The revisions to the Activity Center Overlay zone will only impact the Industrial Business Park zone which is not designated for residential use. Therefore, the proposed amendments will have no impact on this goal.

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

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

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

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

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

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

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

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

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

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

FINDINGS: The proposed text amendment will revise Section 2.125 of the Keizer Development Code to allow *Auto and Home Supply Stores*, and *Automotive Services, Except Repair* as flexible space uses subject to meeting City adopted standards. While there are no specific Comprehensive Plan goals or policies that offer guidance, it is determined that the proposed amendment to the zone code represents a logical implementation of the Keizer Comprehensive Plan. The City Council has, by this adoption, determined that the text revisions are desirable, appropriate, and proper. As such, the proposal complies with this criterion.

2.125 ACTIVITY CENTER OVERLAY ZONE (ACO)

2.125.01 Purpose

The ACO (ACTIVITY CENTER OVERLAY) zone is adopted to implement the policies of the Comprehensive Plan for Activity Centers which include provisions for a mixture of intensive land uses emphasizing employment opportunities, transit and pedestrian facilities, and circulation. (5/98)

2.125.02 Application

The provisions of this Section apply to Activity Centers as identified in the Comprehensive Plan. (5/98)

2.125.03 Uses

Uses allowed in an Activity Center shall be as specified in the underlying district. (5/98)

2.125.04 General Development Standards

All development within an Activity Center is subject to City review as provided in Chapter 3.101, and shall also include the following factors: (2/03)

- A. Activity Center Design Plan. All new developments and expansions of existing developments shall comply with the adopted activity center design plan for each Activity Center. (5/98)
- B. Master Plan. Developments in an activity center shall be required to submit a Master Plan application for approval. The elements of such Master Plan shall include, but are not limited to, the following: (10/18)
 - 1. A Master Plan map showing the location of land uses, open spaces, and pedestrian and vehicular circulation and a written explanation showing how these features achieve the purpose of the activity center design plan. (10/18)
 - 2. For any project for which the projected average daily traffic will exceed 250 vehicle trips per day, in accordance with the Institute of Traffic Generation Manual, a traffic impact analysis will be required and a written explanation how negative impacts will be mitigated. (5/98)

2.125.05 Keizer Station Plan Development Standards – IBP Zone

All development within the Keizer Station Activity Center, which is zoned Industrial Business Park (IBP) shall be subject to the following additional requirements. (2/03)

- A. Specific Use Restrictions. A limitation of the total floor area of specified IBP uses applies to all of Area A – Sports Center and Area D – Commerce Center of the Keizer Station Plan. The uses identified in Sections 2.113.02 (J) and (N) shall be subject to total floor area limitations. This maximum floor area is set forth in the Keizer Station Plan, however this maximum floor area may change as part of an approved Master Plan. (10/18)

- B. Flexible Space Uses. The following uses, when restricted, developed, and conducted as required in Section 2.113.02 N. 2. are also permitted in the IBP district: (2/03)
 - 1. Within Area A “Sports” of the Keizer Station Plan boundary: (2/03)
 - a. Recreational Vehicle Parks and Campsites (7033), provided, however, that such uses are not subject to the limitation in Section 2.113.02 N. 2. (c). (2/03)

 - 2. Within Area D of the Keizer Station Plan boundary: (2/03)
 - a. General Merchandise Stores (5399). (2/03)

 - b. Gasoline Service Stations (554) in accordance with Section 2.419. (2/03)

 - c. [Auto and Home Supply Stores \(553\).](#)

 - d. [Automotive Services, Except Repair \(754\)](#)

2.125.06 Keizer Station Plan Prohibited Uses – IBP and EG Zones

The following uses are prohibited on properties within the Keizer Station Plan boundary, which are zoned IBP or EG: (2/03)

- A. Manufacturing of grain mill products (204) (2/03)

- B. Manufacturing of biological products, except diagnostic substances (2836) (2/03)

- C. Soaps, detergents, and cleaning preparations, perfumes, cosmetics, and other toilet preparations (284) (2/03)

- D. Miscellaneous plastic products (308) (2/03)
- E. Motor freight transportation and warehousing (42) (2/03)

2.125.07 Conditions of Approval

The City may attach conditions to any development within an Activity Center to achieve the following objectives:

- A. Transit Orientation. The development shall emphasize transit usage by residents, employees and customers. This may require: (5/98)
 - 1. Orienting building and facilities towards transit services. (5/98)
 - 2. Minimizing transit/auto conflicts. (5/98)
 - 3. Encouraging transit supportive uses. (5/98)
 - 4. Minimizing walking distance to transit stops. (5/98)
 - 5. Avoiding excess parking areas. (5/98)
 - 6. Encouraging shared parking and structures or understructure parking. (5/98)
- B. Pedestrian/Bicycle Circulation. The development shall facilitate pedestrian/bicycle circulation. This may require: (5/98)
 - 1. Providing efficient, convenient, and continuous pedestrian and bicycle transit circulation systems, linking developments with the Activity Center facilities, and surrounding development. (5/98)
 - 2. Separating auto and truck circulation and activities from pedestrian areas. (5/98)
 - 3. Pedestrian-oriented design. (5/98)
 - 4. Pedestrian amenities. (5/98)
 - 5. Bicycle parking. (5/98)
 - 6. Outdoor lighting. (5/98)
- C. Coordination. Coordination of development within an Activity Center area. This may require: (5/98)

1. Continuity and/or compatibility of landscaping, circulation, access, public facilities, and other improvements. (5/98)
 2. Siting and orientation of land uses. (5/98)
 3. Frontage roads or shared access. (5/98)
- D. Compatibility. Developments within the Activity Center should be compatible with, and complement the surrounding neighborhood. This may require: (5/98)
1. Sensitive use of landscaping, building heights, building scale, materials, lighting, circulation systems, and architectural features. (5/98)
 2. Buffering of adjacent residential uses. (5/98)

CITY COUNCIL MEETING: August 19, 2019

AGENDA ITEM NUMBER: _____

TO: MAYOR CLARK AND COUNCIL MEMBERS

THROUGH: CHRISTOPHER C. EPPLEY, CITY MANAGER

FROM: E. SHANNON JOHNSON, CITY ATTORNEY

SUBJECT: LETTER NOT SUPPORTING NO BUILD ALTERNATIVE FOR SALEM RIVER CROSSING PROJECT

As part of the grant process, the Oregon Department of Transportation (ODOT) needs to prepare the final documentation prior to September 30, 2019 to avoid having to pay back federal funds expended in the development of the project. In March, the Salem City Council voted to not address issues raised in the Land Use Board of Appeals remand. Therefore, ODOT is preparing documentation with a no-build alternative.

The Polk County Board of Commissioners have sent a letter to ODOT indicating that they do not accept the outcome of a no-build alternative. The Mayor is requesting that the Council authorize her to send a letter indicating that Keizer does not support the no-build alternative for the Salem River Crossing project.

RECOMMENDATION:

Adopt the attached Resolution which authorizes the Mayor to send the letter attached to the Resolution.

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

ESJ/tmh

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2019-_____

AUTHORIZING MAYOR TO SEND LETTER NOT SUPPORTING NO-BUILD ALTERNATIVE FOR SALEM RIVER CROSSING PROJECT

WHEREAS, the City received a letter from the Oregon Department of Transportation indicating the need to prepare the final documentation of the project to avoid having to pay back federal funds expended in the development of the project;

WHEREAS, because the City of Salem voted to not address issues raised in the Land Use Board of Appeals remand, the Oregon Department of Transportation is proceeding with a no-build alternative for the final documentation;

WHEREAS, the City Council desires to have the Mayor send a letter not supporting the no-build alternative;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that the Mayor is authorized to send the attached letter not supporting the no-build alternative.

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

PASSED this _____ day of _____, 2019.

SIGNED this _____ day of _____, 2019.

Mayor

City Recorder

August 14, 2019

Sonny Chickering, Region 2 Manager
Oregon Department of Transportation
455 Airport Road SE, Building B
Salem OR 97301

Dear Mr. Chickering,

The Keizer City Council has received your letter dated July 15, 2019, regarding the Status of the Salem River Crossing Project Documentation. We understand the problem of breaching the Federal grant obligations that was created by one of the project partners, the city of Salem, not completing the steps necessary to advance the preferred alternative in the Final Environmental Impact statement.

However, the City of Keizer, as one of the project partners, has completed all steps necessary as a city and as a regional partner to ensure the preferred alternative and FEIS could be completed and submitted to the US Department of Transportation for a Record of Decision for the bridge alignment. The need for more and reliable river crossings has been evident for decades. The data continue to show us on a daily basis that the “no build” alternative does not reflect the current or future needs of our region. We want to be very clear that the “no build” alternative is an outcome not supported by the Keizer City Council.

The City of Keizer remains committed to working with our regional partners to provide essential transportation infrastructure such as this bridge to serve the needs of all our residents. We look forward to working with ODOT and the US Department of Transportation on options to appropriately meet the needs of the people in our growing region.

Sincerely,

Cathy Clark, Mayor
City of Keizer, Oregon
clarkc@keizer.org

Cc: Philip Ditzler, FWHA Oregon Division
Mayor Chuck Bennet, City of Salem
Commissioner Craig Pope, Polk County Chair
Commissioner Kevin Cameron, Marion County Chair

COUNCIL MEETING: August 19, 2019

AGENDA ITEM NUMBER: _____

TO: MAYOR CLARK AND CITY COUNCIL MEMBERS

THROUGH: Christopher C. Eppley, City Manager

FROM: Tim Wood, Finance Director

SUBJECT: Surplus Property Report Fiscal Year 2018-19

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

ISSUE: The following items have been disposed of during Fiscal Year 2018-19:

1. 2007 Ford Five Hundred - \$3,650.00
2. Two Elliptical Exercise Machines - \$120.00
3. 2000 Dodge Durango - \$420.27
4. 2013 Dodge Chargers – \$0.00
5. 1996 Ford F-450 – trade in credit of \$5,000.00
6. Community Center Stage - \$500.00
7. Coffee Maker – trade in credit of \$100.00
8. Police Unclaimed Personal Property
 - a. Three ASUS Laptops - \$245.00
 - b. Misc Clothing - \$130.00
 - c. Lenovo Ideapad - \$105.00
 - d. Three ASUS Laptops - \$110.00
 - e. Three Asus Laptops - \$135.00
 - f. Three ASUS Laptops - \$102.00
 - g. Dyson Vacuum - \$189.00
 - h. Fitbit and UP 24 - \$50.00
 - i. TOPPS Baseball Cards - \$50.00
 - j. Coleman Grill and Tent Fans - \$75.00
 - k. Lot of 11 Bicycles and parts - \$166.89

According to City Staff, there was no computer equipment, vehicles, real property, heavy equipment or other items disposed of in fiscal year 2018-19 other than those identified above.

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

CITY COUNCIL MEETING: August 19, 2019

AGENDA ITEM NUMBER: _____

TO: MAYOR CLARK AND COUNCIL MEMBERS

THROUGH: CHRISTOPHER C. EPPLEY, CITY MANAGER

FROM: E. SHANNON JOHNSON, CITY ATTORNEY

**SUBJECT: LOCAL AGENCY AGREEMENT – KEIZER
GROWTH TRANSPORTATION IMPACTS
STUDY**

The City applied for a grant from the Transportation and Growth Management (TGM) Program for assistance with transportation planning projects. The Grant has been awarded to the City.

The total project cost for the work is estimated at \$190,000 with the state funding allocated for the project to be \$170,487.

While preparing the scope of work and negotiating the contract, it was determined that the consultant would be hired directly by the City and therefore, the grant funds will be routed through the City's budget. The grant match (the difference between the state funds and the total project cost) may be comprised of soft costs, such as publication costs, mailings, etc. and any amount remaining after the soft cost contribution offset is to be paid from the General Fund - Community Development.

The State of Oregon, acting by and through its Development of Transportation has prepared an agreement and it is attached for your consideration.

RECOMMENDATION:

Adopt the attached Resolution authorizing the Community Development Director to sign the Local Agency Agreement for the Keizer Growth Transportation Impacts Study.

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

ESJ/tmh

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2019-_____

AUTHORIZING COMMUNITY DEVELOPMENT DIRECTOR TO SIGN LOCAL AGENCY AGREEMENT WITH STATE OF OREGON FOR KEIZER GROWTH TRANSPORTATION IMPACTS STUDY

WHEREAS, the City of Keizer has applied for a grant from the Transportation and Growth Management (TGM) Program for assistance with transportation planning projects;

WHEREAS, the City has been awarded the grant;

WHEREAS, the City desires to transfer the unspent federal funds to the state funded local project program;

WHEREAS, the State of Oregon, acting by and through its Department of Transportation and the City are authorized to enter into agreements under Oregon Revised Statutes Chapter 190;

WHEREAS, the State and the City wish to enter into the attached Local Agency Agreement;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that the Community Development Director is authorized to sign the attached Local Agency Agreement for the Keizer Growth Transportation Impacts Study.

1 BE IT FURTHER RESOLVED that the Community Development Director is
2 directed and authorized to take all action necessary and appropriate in connection with
3 such Local Agency Agreement within the normal budgetary constraints of the City of
4 Keizer, including soliciting a consultant and entering into an agreement with the
5 consultant.

6 BE IT FURTHER RESOLVED that the matching funds shall be paid out of the
7 General Fund - Community Development line item.

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

10 PASSED this _____ day of _____, 2019.

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12 SIGNED this _____ day of _____, 2019.

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Mayor

City Recorder

LOCAL AGENCY AGREEMENT
State Funded Local Project Program
Keizer Growth Transportation Impacts Study
City of Keizer

THIS AGREEMENT is made and entered into by and between THE STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State" or "ODOT;" and the CITY OF KEIZER, acting by and through its elected officials, hereinafter referred to as "Agency," both herein referred to individually or collectively as "Party" or "Parties."

RECITALS

1. Agency wishes to exchange unspent federal for state funds, in order to fund the Project using state funding. State has determined that Agency is eligible for state funds for the work to be performed under this Agreement through the State Funded Local Project Program. The Parties enter into this Agreement to exchange these funds, identify the Project that will be funded with the state funds, and describe the method State will use to reimburse Agency for work performed on the Project using the state funds, including establishing invoicing requirements and the proportional reimbursement rate.
2. By the authority granted in Oregon Revised Statute (ORS) 190.110, 366.572 and 366.576, state agencies may enter into cooperative agreements with counties, cities, and units of local government for the performance of any or all functions and activities that a party to the Agreement, its officers, or agents have the authority to perform.

NOW THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. State and Agency agree to Agency conducting a planning study to evaluate the transportation impacts of three different growth scenarios within the City of Keizer, hereinafter referred to as "Project." The Project study is attached and marked "Exhibit A," and by this reference made a part hereof.
2. The total Project cost for the work to be performed under this Agreement is estimated at \$190,000, which is subject to change. Prior to exchanging funds, the federal share of the total Project cost is \$170,487.00.
 - a. Per the 1:1 fund exchange ratio of state dollars to federal dollars, Agency will exchange \$170,487.00 of federal dollars allocated for this Project for \$170,487.00 of state dollars.

- b. State funds under this Agreement are limited to \$170,487.00.
3. Upon receipt and approval of Agency's invoice(s), State shall proportionately reimburse Agency 89.73 percent of eligible, actual costs incurred in carrying out the Project, up to the maximum amount of state funds committed for the Project.
4. Agency is solely responsible for any and all costs incurred in excess of the state funds identified in this Agreement. Any unspent state funds will be retained by State and will not be available for Agency use. State funds transferred to Agency must be used for the Project.
5. To be eligible for reimbursement, expenditures must comply with the requirements of Article IX, Section 3a of the Oregon Constitution. Eligible costs are defined as reasonable and necessary costs incurred by the Agency in performance of the Project.
6. The term of this Agreement will begin upon the date all required signatures are obtained and will terminate upon completion of the Project and final payment or ten (10) calendar years following the date of final execution, whichever is sooner.

AGENCY OBLIGATIONS

1. Agency shall perform the work described in TERMS OF AGREEMENT, Paragraph 1 of this Agreement.
2. **Americans with Disabilities Act Compliance:**

Agency shall ensure that its activities under this Agreement comply with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended (together, "ADA"). Agency agrees that all planning products and financial planning processes identified in Terms of Agreement, paragraph 1, shall be ADA-compliant, and that all options and alternatives evaluated as part of such planning products and financial planning processes shall meet ADA requirements. Agency agrees to ensure that each of its planners responsible for carrying out activities under this Agreement attend at least one ADA-related ODOT training course within two years of the effective date of this Agreement.

3. Agency shall present invoices for the eligible, actual costs incurred by Agency on behalf of the Project directly to State's Project Manager listed in this Agreement for review and approval. Such invoices shall be in a form identifying the Project, Key Number, the Agreement number, the Project phase and amount charged to each (such as preliminary engineering, right of way, and construction), the invoice number, and will itemize all expenses for which reimbursement is claimed. Invoices shall be presented for periods greater than one month, based on actual expenses incurred, and must clearly specify the percentage of completion of the Project. Agency shall also include with the invoice a Project progress report or summary that describes work accomplished for the period being invoiced and work expected for the next invoicing period. Travel expenses will not be reimbursed.

City of Keizer/ODOT
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4. Agency, or its consultant, shall conduct the necessary planning work required to produce plans in accordance with current state and federal laws and regulations; award all contracts; and make all contractor payments required to complete the Project.
5. Agency shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Agency expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
6. Agency shall perform the services under this Agreement as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement including, but not limited to, retirement contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.
7. All employers, including Agency, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. Agency shall ensure that each of its subcontractors complies with these requirements.
8. State and Agency agree that the useful life of this Project is defined as 20 years. Maintenance and power responsibilities shall survive any termination of the Project Agreement.
9. Agency certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within Agency's current appropriation or limitation of the current budget. Agency further agrees that they will only submit invoices to State for reimbursement on work that has been performed and paid for by Agency as described in this Agreement.
10. Agency shall require its contractor(s) and subcontractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon, Oregon Transportation Commission and its members, Oregon Department of Transportation and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses,

including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260 (Claims), to the extent such Claims are caused, or alleged to be caused by the negligent or willful acts or omissions of Agency's contractor or any of the officers, agents, employees or subcontractors of the contractor. It is the specific intention of the Parties that State shall, in all instances, except to the extent Claims arise from the negligent or willful acts or omissions of the State, be indemnified from and against all Claims caused or alleged to be caused by the contractor or subcontractor.

11. Any such indemnification shall also provide that neither Agency's contractor and subcontractor nor any attorney engaged by Agency's contractor and subcontractor shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at anytime at its election assume its own defense and settlement in the event that it determines that Agency's contractor is prohibited from defending the State of Oregon, or that Agency's contractor is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue claims it may have against Agency's contractor if the State of Oregon elects to assume its own defense.

12. If Agency enters into a consultant contract ("Contractor") for performance of work for the Project, then Agency will include provisions in that contract requiring its contractor to comply with the following:
 - a. Contractor and Agency shall name State as a third party beneficiary of the resulting contract.
 - b. Contractor shall indemnify, defend and hold harmless State from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of, or relating to the activities of Consultant or its officers, employees, sub-contractors, or agents under the resulting contract.
 - c. Commercial General Liability. Contractor shall obtain, at Contractor's expense, and keep in effect during the term of the resulting contract, Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverages that are satisfactory to State. This insurance shall include personal and advertising injury liability, products and completed operations. Coverage may be written in combination with Automobile Liability Insurance (with separate limits). Coverage shall be written on an occurrence basis. If written in conjunction with Automobile Liability the combined single limit per occurrence shall not be less than **\$1,000,000** for each job site or location. Each annual aggregate limit shall not be less than **\$1,000,000**.
 - d. Automobile Liability. Contractor shall obtain, at Contractor's expense, and keep in

effect during the term of the resulting contract, Commercial Business Automobile Liability Insurance covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits). Combined single limit per occurrence shall not be less than \$1,000,000.

- e. Additional Insured Endorsement. The liability insurance coverage, except Professional Liability, Errors and Omissions, or Workers' Compensation, if included, required for performance of the resulting contract will include State and its divisions, officers and employees as Additional Insured but only with respect to the Contractor's activities to be performed under the resulting contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.
 - f. Notice of Cancellation or Change. There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to State as consistent with standard insurance company endorsements. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of the resulting contract and shall be grounds for immediate termination of the resulting contract and this Agreement.
13. Agency acknowledges and agrees that State, the Oregon Secretary of State's Office, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts during the course of the Project and for a period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.
14. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
15. Agency's Project Manager for this Agreement is Nate Brown, Community Development Director, City of Keizer, PO Box 21000, Keizer, Oregon 97307; telephone: (503) 856-3441; email: brownn@keizer.org, or assigned designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

STATE OBLIGATIONS

1. In consideration for the services performed under this Agreement, State shall reimburse Agency 89.73 percent of eligible costs incurred in carrying out the Project up to the maximum amount of state funds committed for the Project in Terms of Agreement, Paragraph 3 of this Agreement. Reimbursements shall be made by State within forty-five (45) days of State's approval of a request for reimbursement from

Agency, except that final payment will be withheld until the State's Project Manager has completed final project inspection and project acceptance.

2. State's Project Manager, upon notification from Agency of Project completion, will confirm project completeness and fulfillment of Agreement obligations, prior to final payment.
3. State's Project Manager for this Agreement is Dan Fricke, Region 2 Senior Planner, 455 Airport Road SE, Building B, Salem, Oregon 97301; telephone: (503) 986-2663; email: Daniel.L.Fricke@odot.state.or.us, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.

GENERAL PROVISIONS

1. This Agreement may be terminated by mutual consent of both Parties.
2. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
 - a. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If Agency fails to perform any of the other provisions of this Agreement or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.
 - c. If Agency fails to provide payment of its share of the cost of the Project.
 - d. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - e. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or if State is prohibited from paying for such work from the planned funding source.
3. If State terminates this Agreement for the reasons described in General Provisions 2(a) or (b) above, Agency must reimburse State for all state funds expended. If Agency fails to reimburse State, State may withhold Agency's proportional share of State Highway Fund distribution necessary to reimburse State for costs incurred by such Agency breach.
4. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

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5. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
6. With respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.
7. With respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
8. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

City of Keizer/ODOT
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9. State and Agency are the only Parties to this Agreement and, as such, are the only Parties entitled to enforce its terms. Nothing in this Agreement gives or shall be construed to give or provide any benefit, direct, indirect or otherwise to third persons unless such third persons are expressly identified by name and specifically described as intended to be beneficiaries of its terms.
10. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
11. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by that Party of that or any other provision.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

This Project is in the 2018-2021 Statewide Transportation Improvement Program (STIP), (Key #20742) that was adopted by the Oregon Transportation Commission on July 20, 2017 (or subsequently by amendment to the STIP).

Signature Page to Follow

City of Keizer/ODOT
Agreement No. 33295

CITY OF KEIZER, by and through its
elected officials

By _____
Title:

By _____
Title:

Date _____

**LEGAL REVIEW APPROVAL (If required
in Agency's process)**

By _____
Agency Counsel

Date _____

Agency Contact:

Nate Brown, Community Dev. Director
City of Keizer
P.O. Box 21000
Keizer, Oregon 97307
(503) 856-3441
brownn@Keizer.org

STATE OF OREGON, by and through
its Department of Transportation

By _____
Region 2 Manager

Date _____

APPROVAL RECOMMENDED

By _____
Region 2 Planning and Development
Review Manager

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____
Assistant Attorney General

Date _____

State Contact:

Dan Fricke, Senior Planner
ODOT, Region 2
455 Airport Road SE, Building B
Salem, Oregon 97301
(503) 986-2663
Daniel.L.Fricke@odot.state.or.us

EXHIBIT A

Keizer Growth Transportation Impacts Study

The purpose of this transportation study is to better understand the impacts of growth both within and of a potential urban growth boundary expansion in the City of Keizer. For each land use alternative, this transportation study will:

- Evaluate the potential transportation system impacts using the SKATS 2043 Travel Demand Model extrapolated to project for 2040.
- Identify the potential location and type of system improvements required to meet the Agency's mobility, safety and livability goals from both housing needs and employment lands.
- Identify any potential amendments to the Agency's Transportation System Plan to support alternative plans.
- Provide initial planning-level cost estimates of system improvements.

SCOPE OF SERVICES

Task 1: Review Land Use

Together with the existing MPO Transportation System Plan, Agency shall provide two (2) alternative growth scenarios for consideration of impacts to the transportation system in the MPO boundary. These three land use scenarios will be:

- (1) No change in the established growth plans--assumed to be identical to the land use currently forecasted in the SKATS travel demand model;
- (2) An expansion of the UGB to accommodate, independent of the shared UGB, enough land to address all deficits in needed land (possibly 500 acres for residential lands and 50 acres of employment land); and
- (3) An alternative representing a modest expansion of the UGB bordering the City of Keizer with the remaining land use needs elsewhere in the current UGB, also independent of the shared UGB.

The Agency shall provide the land use assumptions for Alternatives 2 and 3 to the consultant. The consultant shall provide a QC review of the land use allocation assumptions for Alternatives 2 and 3, and will convert the scenario data into SKATS travel demand model inputs. As part of the travel demand model, COG will also provide:

1. Basic plots showing travel demand volume on streets for all scenarios;
2. Volume/Demand Capacity plots for each scenario;
3. Origin-Destination Flow bundle analysis from TIA zones to different areas in Keizer and Salem (downtown hubs, Keizer Station, etc.).

These will be used by the consultant in developing an alternative comparison.

Task 2: Update 2040 Baseline Condition

The consultant will update the 2040 Alternative 1 using the SKATS travel demand model to serve as a basis for comparison of the two proposed land use alternatives. The Agency will provide a list of up to twenty-five (25) study intersections to be included. Traffic volume data for these locations either will be taken from recent study sources (Synchro files maintained by the Agency), or the Consultant will collect new counts at a cost of \$200 per location. The consultant will post-process the 2040 model forecasts and re-assess the 2040 Baseline conditions for each location.

Task 3: 2040 Travel Demand Modeling for Future Land Use Alternatives

The consultant shall create two 2040 scenarios with the SKATS travel demand model representing land use Alternative 2 and Alternative 3. As needed, the consultant may refine the travel demand model street network to reasonably serve the growth expansion area. The consultant shall complete full travel demand model runs for each scenario, and will create maps showing the changes in traffic volumes between Alternatives 2 and 3 and Alternative 1, which is assumed to be the same as the current 2040 SKATS Financially Constrained scenario. In addition, the Consultant will indicate which corridors and major intersections have significant congestion in the 2040 Baseline condition. Consultant will schedule and facilitate a meeting to discuss the result of the volume-difference plots and the 2040 Baseline Conditions.

Deliverable: Visum volume difference plots showing the PM peak hour changes in traffic volumes from the different Land Use Alternatives, plus a map layer showing 2040 Baseline congested corridors and major intersections.

Task 4: Assess 2040 Transportation System Impacts

The consultant shall post-process travel demand model output from Land Use Alternatives 2 and 3, to generate turn volume forecasts for all study intersections. The consultant will assess the future intersection operating conditions for Alternatives 2 and 3 relative to the 2040 Baseline, as represented by Alternative 1. The Synchro outputs will be used to summarize conditions for the three alternatives.

In addition to intersection performance, the system assessment will consider other planning metrics, such as vehicle-miles travelled and system connectivity to supplement the mobility performance data. This study intersection list may be reduced based on Agency staff approval for intersections that have little to no change in traffic volume or operations between alternatives.

It should be noted that the Transportation System Plans do not identify new intersections in alternatives 1 and 2. Agency will provide a general concept of arterial and collector streets in the proposed areas.

Deliverable: Operations tables will be submitted to Agency showing the changes in operations and other key planning metrics between Alternatives 1, 2 and 3. Findings will be documented in the Task 6 memorandum.

Task 5: Project Identification and Prioritization

The future conditions will be reviewed by the Consultant to identify potential system improvements that will be needed to adequately serve the proposed growth alternatives. This could include upgrading rural roads to comply with urban standards, expanding capacity and major study intersections, and upgrading traffic controls to serve higher peak period demands. In addition, the Consultant will make recommendations for issues to be considered with future interchange area management plans for the Brooks interchange.

Deliverable: The Identification of potential roadway system improvements to serve each Alternative and a prioritization will be summarized in the Task 6 memorandum.

Task 6: Summary Memorandum of Findings and Projected Costs of improvements

The roadway system improvements identified in Task 5 will be reviewed and initial long-range planning level cost estimates will be prepared. The overall process and findings from the foregoing technical analysis will be described for a general public audience. This memorandum will be submitted in draft format to the City for their review, and a final version will be prepared to address the City's comments.

Deliverable: Summary of needed improvements to implement Scenarios #2 and #3, with general associated costs.

CITY COUNCIL MEETING: August 19, 2019**AGENDA ITEM NUMBER: _____**

TO: MAYOR CLARK AND COUNCIL MEMBERS

THROUGH: CHRISTOPHER C. EPPLEY, CITY MANAGER

FROM: E. SHANNON JOHNSON, CITY ATTORNEY

SUBJECT: QUARRY LITIGATION - SETTLEMENT

At its August 5, 2019 meeting, the Council authorized the City Attorney to sign the stipulated judgment and the City Manager to sign the settlement agreement in this litigation. Following that meeting, the parties have been reviewing the language further and have negotiated minor changes on the first page of the settlement agreement in three of the recitals. Those changes are shown on the attached page. Therefore, it is appropriate to bring this item back to Council for repeal of the previous Resolution and authorization to sign the revised documents.

RECOMMENDATION:

Adopt the attached Resolution repealing Resolution R2019-3011 and authorizing the City Attorney to sign the stipulated judgment and the City Manager to sign the settlement agreement.

Please let me know if you have any questions. Thank you.

ESJ/tmh

SETTLEMENT AGREEMENT OF EQUITABLE CLAIMS

This Settlement Agreement of Equitable claims is entered into by and between City of Keizer (“Keizer”), Tom and Sheryl Bauer (“Bauers”), Lance Davis (“Davis”), and Northwest Rock, Inc., an Oregon corporation (“NW Rock”) this ____ day of August, 2019.

Whereas, Davis is the owner of certain real property commonly known as 4000 Riverbend Rd., Salem, OR 97304, which property is ~~described in more particulars~~ described in more particulars ~~more~~ particularly on Exhibit A attached hereto (“Property”); and

Whereas, NW Rock operates a gravel mining and processing facility on the Property; and

Whereas, Bauers allege a bullet was fired ~~from~~ from the Property, that entered the Bauers’ home; and

Whereas, Bauers initiated litigation against Davis and NW Rock in the Circuit Court of Marion County, Oregon, which case was assigned Case No. 18CV38037 (“Lawsuit”), in which case Bauers sought an order against Davis restricting the discharging of firearms ~~fire~~ of ~~weapons~~ on the Property; and

Whereas, Keizer intervened in the lawsuit, seeking similar relief to the Bauers; and

Whereas, the parties reached an agreement resolving the equitable claims in dispute in the Lawsuit and wish to reflect that agreement in writing; now, therefore,

* * * W I T N E S S E T H * * *

1. The parties shall cause the stipulated judgment attached hereto as Exhibit B, or similar form approved by the Court, if the Court does not approve of Exhibit B, to be entered in the Lawsuit.

2. This agreement will be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties at such time as all signatories herein have signed a counterpart of this agreement. All counterparts so executed shall constitute one agreement binding on all the parties hereto, notwithstanding that all the parties are not signatory to the same counterpart. Photocopied or electronic signatures will be deemed originals for the purpose of this agreement.

3. The agreement shall be governed by, construed and enforced in accordance with the laws of the State of Oregon, and venue for such action with respect to its enforcement shall lie in Marion County, Oregon Circuit Court.

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2019-_____

AUTHORIZING CITY MANAGER AND CITY ATTORNEY TO SIGN SETTLEMENT AGREEMENT AND STIPULATED JUDGMENT IN THE BAUER/CITY OF KEIZER VS. DAVIS/NORTHWEST ROCK LITIGATION; **REPEAL OF RESOLUTION R2019-3011**

WHEREAS, Lance Davis (hereinafter “Davis”) is the owner of certain real property commonly known as 4000 Riverbed Rd., Salem, OR (hereinafter “Property”) and the owner of Northwest Rock, Inc. an Oregon Corporation which operates a gravel mining and processing facility on the Property;

WHEREAS, Tom and Sheryl Bauer (hereinafter “Bauers”) allege a bullet was fired on the Property that entered the Bauers’ home;

WHEREAS, Bauers initiated litigation against Davis and Northwest Rock in the Circuit Court of Marion County, Oregon, which case was assigned Case No. 18CV38037 (hereinafter “Lawsuit”) in which case Bauers sought an order restricting firing of weapons on the Property;

WHEREAS, the City of Keizer intervened in the lawsuit seeking similar injunctive relief to the Bauers;

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1 WHEREAS, the parties reached an agreement resolving the injunctive claims in
2 dispute in the Lawsuit in which Davis agrees to allow only use of shotguns on the
3 property;

4 WHEREAS, the parties wish to reflect that agreement in writing;

5 WHEREAS, Council authorized the City Manager and City Attorney to sign the
6 settlement documents by Resolution R2019-3011;

7 WHEREAS, the settlement documents have been revised and it is appropriate to
8 repeal Resolution R2019-3011 and give authorizing to sign the revised settlement
9 documents;

10 NOW, THEREFORE,

11 BE IT RESOLVED by the City Council of the City of Keizer that the City
12 Manager is authorized to sign the Settlement Agreement of Equitable Claims attached
13 hereto and by this reference incorporated herein.

14 BE IT FURTHER RESOLVED that the City Attorney is authorized to sign the
15 General Judgment Granting Injunctive Relief attached hereto and by this reference
16 incorporated herein.

17 BE IT FURTHER RESOLVED that the City Attorney and City Manager are
18 authorized to take all reasonable actions to effectuate the settlement referenced herein.

19 BE IT FURTHER RESOLVED that Resolution R2019-3011 shall be repealed in
20 its entirety.

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

3 PASSED this _____ day of _____, 2019.

4

5 SIGNED this _____ day of _____, 2019.

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7

8

9

Mayor

10

11

City Recorder

12

SETTLEMENT AGREEMENT OF EQUITABLE CLAIMS

This Settlement Agreement of Equitable claims is entered into by and between City of Keizer (“Keizer”), Tom and Sheryl Bauer (“Bauers”), Lance Davis (“Davis”), and Northwest Rock, Inc., an Oregon corporation (“NW Rock”) this ____ day of August, 2019.

Whereas, Davis is the owner of certain real property commonly known as 4000 Riverbend Rd., Salem, OR 97304, which property is described in more particulars on Exhibit A attached hereto (“Property”); and

Whereas, NW Rock operates a gravel mining and processing facility on the Property; and

Whereas, Bauers allege a bullet was fired from the Property, that entered the Bauers’ home; and

Whereas, Bauers initiated litigation against Davis and NW Rock in the Circuit Court of Marion County, Oregon, which case was assigned Case No. 18CV38037 (“Lawsuit”), in which case Bauers sought an order against Davis restricting the discharging of firearms on the Property; and

Whereas, Keizer intervened in the lawsuit, seeking similar relief to the Bauers; and

Whereas, the parties reached an agreement resolving the equitable claims in dispute in the Lawsuit and wish to reflect that agreement in writing; now, therefore,

* * * W I T N E S S E T H * * *

1. The parties shall cause the stipulated judgment attached hereto as Exhibit B, or similar form approved by the Court, if the Court does not approve of Exhibit B, to be entered in the Lawsuit.

2. This agreement will be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties at such time as all signatories herein have signed a counterpart of this agreement. All counterparts so executed shall constitute one agreement binding on all the parties hereto, notwithstanding that all the parties are not signatory to the same counterpart. Photocopied or electronic signatures will be deemed originals for the purpose of this agreement.

3. The agreement shall be governed by, construed and enforced in accordance with the laws of the State of Oregon, and venue for such action with respect to its enforcement shall lie in Marion County, Oregon Circuit Court.

4. The provisions of this agreement are contractual, not mere recitals, and shall be considered severable so that if any provision or part of this agreement shall at any time be held invalid, that provision, or part thereof, shall remain in force and effect, only to the extent allowed by law, and all other provisions of the agreement shall remain in full force and effect.

5. The agreement shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, executors, administrators, representatives and assigns.

6. No breach of any of the provisions hereof can be waived unless in writing and signed by the waiving party. The waiver of one breach shall not be deemed to be a waiver of any other breach of the same or any other provision hereof. This agreement may be amended only by written amendment executed by the parties at interest at the time of the modification.

7. This agreement supersedes any previous agreements between the parties, whether oral or written, and embodied all terms and conditions of the agreement between the parties with respect to the lawsuit. No other agreement, statement, or promise made by or to any party will be binding on the parties unless (a) it is in writing and signed by all parties; and (b) specifically refers to this agreement.

8. The parties represent and declare that in entering into and executing this agreement, each relied solely on their own judgment, belief, and knowledge, and the advice and recommendation of their own independently selected counsel concerning the nature, extent, and duration of the rights and claims and that they have not been influenced to any extent whatsoever in executing this agreement by any representations, warranties, or statements governing any matter made by the other not set forth herein.

9. The parties represent and declare they have carefully read this agreement and know the contents thereof and they signed the same freely and voluntarily.

10. The parties agree to execute such other and further documents as may be necessary to effectuate the provision of this agreement and to cooperate, in good faith, for that purpose.

11. The parties agree they will each bear their own costs and expenses, including attorneys' fees associated with the lawsuit and this agreement.

12. Each of the parties signing below represents and warrants that they are authorized to execute this agreement and that any and all actions, necessary or required, to authorize the execution of the agreement were taken and are in effect on behalf of any entity on whose behalf they execute the agreement.

2 – SETTLEMENT AGREEMENT OF EQUITABLE CLAIMS

EXHIBIT A

LEGAL DESCRIPTION: Real property in the County of Polk, State of Oregon, described as follows:

BEGINNING AT A 1 INCH IRON BOLT WITH A 2 INCH SQUARE HEAD AT 16.47 CHAINS SOUTH 89°40' EAST FROM AN IRON BAR AT THE SOUTHWEST CORNER OF SECTION 3 OF TOWNSHIP 7 SOUTH, RANGE 3 WEST OF THE WILLAMETTE MERIDIAN, POLK COUNTY, OREGON; THENCE SOUTH 89°40' EAST 30.78 CHAINS, MORE OR LESS, TO THE WEST OF LEFT BANK OF THE WILLAMETTE RIVER; THENCE DOWNSTREAM ON THE SAID LEFT BANK TO A POINT DUE NORTH OF THE PLACE OF BEGINNING; THENCE SOUTH 25.00 CHAINS; MORE OR LESS, TO THE POINT OF BEGINNING, FROM WHICH POINT A STEEL BAR IS NORTH 21.93 CHAINS FOR A WITNESS.

ALSO TOGETHER WITH:

BEGINNING AT A POINT WHICH IS 2267.76 FEET SOUTH 89°40' EAST FROM THE SOUTHWEST CORNER OF SECTION 3, TOWNSHIP 7 SOUTH, RANGE 3 WEST OF THE WILLAMETTE MERIDIAN IN POLK COUNTY, OREGON, SAID POINT BEING THE POINT OF BEGINNING OF AN 40 FOOT ACCESS EASEMENT ON THE SOUTH LINE OF A TRACT OF LAND CONVEYED TO D. LANCE DAVIS AND RECORDED IN BOOK OF RECORDS 228, PAGE 1357 DEED RECORDS FOR SAID COUNTY AND STATE AND THE SOUTH LINE OF SAID SECTION 3; THENCE SOUTH 58°40' EAST 155.76 FEET; THENCE RUNNING ALONG THE ARC OF A 286.47 FOOT RADIUS CURVE TO THE RIGHT A DISTANCE OF 339.07 FEET (THE CHORD OF WHICH BEARS SOUTH 24°45'30" EAST 319.62 FEET; THENCE SOUTH 09°09' WEST 93.41 FEET TO A POINT ON THE SOUTH LINE OF A TRACT OF LAND CONVEYED TO RIVERKAID FARM, INC. AND RECORDED IN BOOK OF RECORDS 42, PAGE 529 DEED RECORDS FOR SAID COUNTY AND STATE; THENCE SOUTH 89°40' EAST 598.69 FEET TO THE SOUTHEAST CORNER OF SAID TRACT OF LAND; THENCE NORTH, ALONG THE EAST LINE OF SAID TRACT, 462.00 FEET TO THE NORTHEAST CORNER THEREOF; THENCE NORTH 89°40' WEST, ALONG THE NORTH LINE OF SAID TRACT, 850.74 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

SAVE AND EXCEPT:

BEGINNING AT A POINT WHICH IS 2267.76 FEET SOUTH 89°40' EAST FROM THE SOUTHWEST CORNER OF SECTION 3, TOWNSHIP 7 SOUTH, RANGE 3 WEST OF THE WILLAMETTE MERIDIAN IN POLK COUNTY, OREGON, SAID POINT BEING THE POINT OF BEGINNING OF A 40 FOOT ACCESS EASEMENT ON THE SOUTH LINE OF A TRACT OF LAND CONVEYED TO D. LANCE DAVIS AND RECORDED IN BOOK OF RECORDS 228, PAGE 1357, DEED RECORDS FOR SAID COUNTY AND STATE; THENCE NORTH 74°29'14" WEST 61.22 FEET; THENCE NORTH 46°03'39" WEST 94.32 FEET; THENCE SOUTH 82°20' WEST 582.14 FEET TO A POINT ON THE SOUTH LINE OF SAID DAVIS TRACT, THENCE SOUTH 89°40' EAST, ALONG SAID SOUTH LINE, 703.92 FEET TO THE PLACE OF BEGINNING.

TOGETHER WITH AN EASEMENT OR RIGHT OF WAY OVER A 40.00 FOOT ROAD FOR THE PURPOSES OF INGRESS AND EGRESS TO THE ABOVE DESCRIBED PROPERTY, THE CENTERLINE OF WHICH SAID ROAD IS DESCRIBED AS FOLLOWS, TO-WIT; BEGINNING AT A POINT ON THE NORTH BOUNDARY OF SECTION 10 OF TOWNSHIP 7 SOUTH, RANGE 3 WEST AT SOUTH 89°40' EAST 34.36 CHAINS FROM THE NORTHWEST CORNER OF SAID SECTION 10; THENCE SOUTH 58°40' EAST 2.36 CHAINS TO THE BEGINNING OF A CURVE TO THE LEFT; THENCE ALONG THE ARC OF A 20° CURVE TO THE LEFT, (WHOSE CENTRAL ANGLE IS 67°49'), A DISTANCE OF 338.00 FEET OR 5.12 CHAINS TO THE END OF THE CURVE; THENCE SOUTH 09°09' WEST 77.50 FEET TO AN IRON PIPE ON THE SOUTH LINE OF A.W. ZYSSET AND THE NORTH END OF THE CENTER LINE OF THE COUNTY ROAD.

NOTE: This legal description was created prior to January 1, 2008.

Exhibit "B"

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**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION**

**THOMAS G. BAUER and SHERYL
A. BAUER,**

Plaintiffs,

v.

**NORTHWEST ROCK, INC., dba
SALEM MOBILE MIX, an Oregon
corporation, and D. LANCE DAVIS,
JR.,**

Defendants,

And

**CITY OF KEIZER, an Oregon
Municipal Corporation,**

Intervenor.

Case No. 18CV38037

**GENERAL JUDGMENT GRANTING
INJUNCTIVE RELIEF**

SHERMAN, SHERMAN, JOHNNIE, & HOYT, LLP
693 Chemeketa Street NE / Post Office Box 2247
Salem, Oregon 97308-2247
(503)364-2281 FAX: (503)370-4308

This matter came before the Court based upon the stipulation of plaintiffs, Tom and Cheryl Bauer, by and through their counsel, Mark C. Hoyt, of Sherman Sherman Johnnie & Hoyt, LLP, City of Keizer, by and through its counsel, Shannon Johnson, Lance Davis, by and through his counsel, Larry Blunck and Leonard Williamson, and NW Rock by and through its counsel, Ralph Spooner and Leonard Williamson, for entry of judgment based upon the stipulation of the parties.

NOW THEREFORE:

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Dated: _____

Leonard W. Williamson,
OSB No. 910020
Of Attorneys for Defendants

IT IS SO ORDERED.

JUDGE CHANNING BENNETT

SHERMAN, SHERMAN, SHERMAN, JOHNNIE, & HOYT, LLP
693 Chemeketa Street NE / Post Office Box 2247
Salem, Oregon 97308-2247
(503)364-2281 FAX: (503)370-4308

CERTIFICATE OF COMPLIANCE WITH UTCR 5.100

The undersigned counsel for Plaintiffs hereby certifies as follows with respect to this proposed form of General Judgment Granting Injunctive Relief:

This proposed order is ready for judicial signature because:

- 1. [] Each opposing party affected by this order or judgment has stipulated to the order or judgment, as shown by each opposing party's signature on the document being submitted.
- 2. [X] Each opposing party affected by this order or judgment has approved the order or judgment, as shown by signature on the document being submitted or by written confirmation of approval sent to me.

SHERMAN, SHERMAN, JOHNNIE & HOYT, LLP

Mark C. Hoyt, OSB No. 923419
Of Attorneys for Plaintiffs

SHERMAN, SHERMAN, JOHNNIE, & HOYT, LLP
693 Chemeketa Street NE / Post Office Box 2247
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CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of _____, 2019, I served or caused to be served a true and correct copy of **GENERAL JUDGMENT GRANTING INJUNCTIVE RELIEF** on the following at their last-known addresses as shown below:

Lawrence P. Blunck
Blunck & Walhood, LLC
2350 Willamette Falls Drive
West Linn, OR 97068
larry@bluncklaw.com
**Of Attorneys for Defendant
D. Lance Davis, Jr.**

Ralph C. Spooner
Spooner & Much, P.C.
530 Center Street NE, Ste. 712
Salem, OR 97301
rspooner@smapc.com
**Of Attorneys for Defendant Northwest
Rock, Inc., dba Salem Mobile Mix**

Leonard W. Williamson
Van Ness, Williamson LLP
285 Liberty Street NE, Ste. 360
Salem, OR 97301
l.williamson@vwllp.com
Of Attorneys for Defendants

E. Shannon Johnson
Keizer City Hall
PO Box 21000
Keizer, OR 97307
JohnsonS@Keizer.org
Of Attorneys for Intervenor

BY REGULAR MAIL: I placed copies of the document(s) in a sealed envelope and caused such envelope to be deposited in the United States Mail at Salem, Oregon, with postage thereon fully prepaid and addressed as listed above.

BY HAND DELIVERY: I arranged for the documents to be hand delivered to the address(es) listed above.

BY ELECTRONIC MAIL: I served the documents by electronic mail to the electronic mail address(es) listed above.

BY FACSIMILE: I served the documents by facsimile to the facsimile number(s) listed above.

SHERMAN, SHERMAN, JOHNNIE & HOYT, LLP

Mark C. Hoyt, OSB No. 923419
Of Attorneys for Plaintiffs

SHERMAN, SHERMAN, JOHNNIE, & HOYT, LLP
693 Chemeketa Street NE / Post Office Box 2247
Salem, Oregon 97308-2247
(503)364-2281 FAX: (503)370-4308

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION

**THOMAS G. BAUER and SHERYL
A. BAUER,**

Plaintiffs,

v.

**NORTHWEST ROCK, INC., dba
SALEM MOBILE MIX, an Oregon
corporation, and D. LANCE DAVIS,
JR.,**

Defendants,

And

**CITY OF KEIZER, an Oregon
Municipal Corporation,**

Intervenor.

Case No. 18CV38037

**GENERAL JUDGMENT GRANTING
INJUNCTIVE RELIEF**

SHERMAN, SHERMAN, JOHNNIE, & HOYT, LLP
693 Chemeketa Street NE / Post Office Box 2247
Salem, Oregon 97308-2247
(503)364-2281 FAX: (503)370-4308

This matter came before the Court based upon the stipulation of plaintiffs, Tom and Cheryl Bauer, by and through their counsel, Mark C. Hoyt, of Sherman Sherman Johnnie & Hoyt, LLP, City of Keizer, by and through its counsel, Shannon Johnson, Lance Davis, by and through his counsel, Larry Blunck and Leonard Williamson, and NW Rock by and through its counsel, Ralph Spooner and Leonard Williamson, for entry of judgment based upon the stipulation of the parties.

NOW THEREFORE:

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Dated: _____

Leonard W. Williamson,
OSB No. 910020
Of Attorneys for Defendants

IT IS SO ORDERED.

JUDGE CHANNING BENNETT

SHERMAN, SHERMAN, SHERMAN, JOHNNIE, & HOYT, LLP
693 Chemeketa Street NE / Post Office Box 2247
Salem, Oregon 97308-2247
(503)364-2281 FAX: (503)370-4308

CERTIFICATE OF COMPLIANCE WITH UTCR 5.100

The undersigned counsel for Plaintiffs hereby certifies as follows with respect to this proposed form of General Judgment Granting Injunctive Relief:

This proposed order is ready for judicial signature because:

- 1. [] Each opposing party affected by this order or judgment has stipulated to the order or judgment, as shown by each opposing party's signature on the document being submitted.
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SHERMAN, SHERMAN, JOHNNIE & HOYT, LLP

Mark C. Hoyt, OSB No. 923419
Of Attorneys for Plaintiffs

SHERMAN, SHERMAN, JOHNNIE, & HOYT, LLP
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CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of _____, 2019, I served or caused to be served a true and correct copy of **GENERAL JUDGMENT GRANTING INJUNCTIVE RELIEF** on the following at their last-known addresses as shown below:

Lawrence P. Blunck
Blunck & Walhood, LLC
2350 Willamette Falls Drive
West Linn, OR 97068
larry@bluncklaw.com
**Of Attorneys for Defendant
D. Lance Davis, Jr.**

Ralph C. Spooner
Spooner & Much, P.C.
530 Center Street NE, Ste. 712
Salem, OR 97301
rspooner@smapc.com
**Of Attorneys for Defendant Northwest
Rock, Inc., dba Salem Mobile Mix**

Leonard W. Williamson
Van Ness, Williamson LLP
285 Liberty Street NE, Ste. 360
Salem, OR 97301
l.williamson@vwllp.com
Of Attorneys for Defendants

E. Shannon Johnson
Keizer City Hall
PO Box 21000
Keizer, OR 97307
JohnsonS@Keizer.org
Of Attorneys for Intervenor

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SHERMAN, SHERMAN, JOHNNIE & HOYT, LLP

Mark C. Hoyt, OSB No. 923419
Of Attorneys for Plaintiffs

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BEGINNING AT A POINT WHICH IS 2267.76 FEET SOUTH 89°40' EAST FROM THE SOUTHWEST CORNER OF SECTION 3, TOWNSHIP 7 SOUTH, RANGE 3 WEST OF THE WILLAMETTE MERIDIAN IN POLK COUNTY, OREGON, SAID POINT BEING THE POINT OF BEGINNING OF AN 40 FOOT ACCESS EASEMENT ON THE SOUTH LINE OF A TRACT OF LAND CONVEYED TO D. LANCE DAVIS AND RECORDED IN BOOK OF RECORDS 228, PAGE 1357 DEED RECORDS FOR SAID COUNTY AND STATE AND THE SOUTH LINE OF SAID SECTION 3; THENCE SOUTH 58°40' EAST 155.76 FEET; THENCE RUNNING ALONG THE ARC OF A 286.47 FOOT RADIUS CURVE TO THE RIGHT A DISTANCE OF 339.07 FEET (THE CHORD OF WHICH BEARS SOUTH 24°45'30" EAST 319.62 FEET; THENCE SOUTH 09°09' WEST 93.41 FEET TO A POINT ON THE SOUTH LINE OF A TRACT OF LAND CONVEYED TO RIVERKAID FARM, INC. AND RECORDED IN BOOK OF RECORDS 42, PAGE 529 DEED RECORDS FOR SAID COUNTY AND STATE; THENCE SOUTH 89°40' EAST 598.69 FEET TO THE SOUTHEAST CORNER OF SAID TRACT OF LAND; THENCE NORTH, ALONG THE EAST LINE OF SAID TRACT, 462.00 FEET TO THE NORTHEAST CORNER THEREOF; THENCE NORTH 89°40' WEST, ALONG THE NORTH LINE OF SAID TRACT, 850.74 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

SAVE AND EXCEPT:

BEGINNING AT A POINT WHICH IS 2267.76 FEET SOUTH 89°40' EAST FROM THE SOUTHWEST CORNER OF SECTION 3, TOWNSHIP 7 SOUTH, RANGE 3 WEST OF THE WILLAMETTE MERIDIAN IN POLK COUNTY, OREGON, SAID POINT BEING THE POINT OF BEGINNING OF A 40 FOOT ACCESS EASEMENT ON THE SOUTH LINE OF A TRACT OF LAND CONVEYED TO D. LANCE DAVIS AND RECORDED IN BOOK OF RECORDS 228, PAGE 1357, DEED RECORDS FOR SAID COUNTY AND STATE; THENCE NORTH 74°29'14" WEST 61.22 FEET; THENCE NORTH 46°03'39" WEST 94.32 FEET; THENCE SOUTH 82°20' WEST 582.14 FEET TO A POINT ON THE SOUTH LINE OF SAID DAVIS TRACT, THENCE SOUTH 89°40' EAST, ALONG SAID SOUTH LINE, 703.92 FEET TO THE PLACE OF BEGINNING.

TOGETHER WITH AN EASEMENT OR RIGHT OF WAY OVER A 40.00 FOOT ROAD FOR THE PURPOSES OF INGRESS AND EGRESS TO THE ABOVE DESCRIBED PROPERTY, THE CENTERLINE OF WHICH SAID ROAD IS DESCRIBED AS FOLLOWS, TO-WIT; BEGINNING AT A POINT ON THE NORTH BOUNDARY OF SECTION 10 OF TOWNSHIP 7 SOUTH, RANGE 3 WEST AT SOUTH 89°40' EAST 34.36 CHAINS FROM THE NORTHWEST CORNER OF SAID SECTION 10; THENCE SOUTH 58°40' EAST 2.36 CHAINS TO THE BEGINNING OF A CURVE TO THE LEFT; THENCE ALONG THE ARC OF A 20° CURVE TO THE LEFT, (WHOSE CENTRAL ANGLE IS 67°49'), A DISTANCE OF 338.00 FEET OR 5.12 CHAINS TO THE END OF THE CURVE; THENCE SOUTH 09°09' WEST 77.50 FEET TO AN IRON PIPE ON THE SOUTH LINE OF A.W. ZYSSET AND THE NORTH END OF THE CENTER LINE OF THE COUNTY ROAD.

NOTE: This legal description was created prior to January 1, 2008.

CITY COUNCIL MEETING: August 19, 2019**AGENDA ITEM NUMBER: _____**

TO: MAYOR CLARK AND COUNCIL MEMBERS

THROUGH: CHRISTOPHER C. EPPLEY, CITY MANAGER

FROM: E. SHANNON JOHNSON, CITY ATTORNEY

SUBJECT: FIBER OPTIC INTERCONNECT – RIVER ROAD: SHANGRI-LA AVENUE TO WHEATLAND ROAD

The Oregon Department of Transportation and the City of Salem entered into a local agency certification program agreement on March 9, 2016. Such program agreement allows a certified agency to perform work on behalf of non-certified agency for projects eligible for federal reimbursement. The fiber optic interconnect project is one of the projects and the Oregon Department of Transportation has requested that the City enter into a supplemental project agreement for such project. The fiber optic upgrade will provide greater coordination between the traffic signals.

The estimated cost of the project is \$1,970,000 of which \$1,767,681 is from federal and state funds. The City's match is 10.27 percent. Funds are available in the Street Fund.

The attached Resolution authorizes the City Manager to sign the supplemental agreement. In addition, it allows the City Manager to take further action consistent with the agreement without further Council involvement.

RECOMMENDATION:

Adopt the attached Resolution.

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

ESJ/tmh

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2019-_____

AUTHORIZING THE CITY MANAGER TO ENTER INTO OREGON DEPARTMENT OF TRANSPORTATION LOCAL AGENCY CERTIFICATION PROGRAM SUPPLEMENTAL PROJECT AGREEMENT FOR FIBER OPTIC INTERCONNECT – RIVER ROAD: SHANGRI-LA AVENUE TO WHEATLAND ROAD

WHEREAS, the Oregon Department of Transportation is requesting the City to enter into the Oregon Department of Transportation Local Agency Certification Program Supplemental Project Agreement between the City of Salem, ODOT and the City for the fiber optic interconnect project on River Road between Shangri-La Avenue to Wheatland Road;

WHEREAS, the project cost is estimated at \$1,970,000 of which \$1,767,681 is from federal and state funds;

WHEREAS, the City’s match is 10.27 percent and will be paid from the Street Fund;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that the City Manager is hereby authorized to enter into the Oregon Department of Transportation Local Agency Certification Program Supplemental Project Agreement, a copy of which is attached hereto and by this reference incorporated herein.

1 BE IT FURTHER RESOLVED by the City Council of the City of Keizer that the
2 City Manager is authorized to take any other actions consistent with this agreement.

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

5 PASSED this _____ day of _____, 2019.

6

7 SIGNED this _____ day of _____, 2019.

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9

10

Mayor

11

12

13

City Recorder

14

Misc. Contracts and Agreements No. 33250
Cross Ref. Master Certification Agreement No. 29113

A157-G092418

**OREGON DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY CERTIFICATION PROGRAM
SUPPLEMENTAL PROJECT AGREEMENT NO. 33250
CERTIFIED AGENCY PERFORMING ON BEHALF OF A NON-CERTIFIED AGENCY**
River Road: Shangri-La Avenue to Wheatland Road (Keizer)
City of Salem / City of Keizer

THIS SUPPLEMENTAL PROJECT AGREEMENT (Agreement) is made and entered into by and between THE STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State" or "ODOT;" CITY OF SALEM, acting by and through its designated officials, hereinafter referred to as "Certified Agency;" and CITY OF KEIZER, acting by and through its designated officials, hereinafter referred to as "Non-certified Agency," all herein referred to individually as "Party" or collectively as "Parties."

RECITALS

1. By the authority granted in Oregon Revised Statutes (ORS) 190.110, 366.572 and 366.576, State may enter into cooperative agreements with counties, cities and units of local governments for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.
2. ODOT and Certified Agency entered into Local Agency Certification Program Agreement No. 29113, executed on March 9, 2016 (Local Agency Certification Program Agreement). The Certification Program allows ODOT to certify a Local Agency's procedures and delegates authority to the certified Local Agency to administer federal-aid projects. The Local Agency Certification Program Agreement also allows a certified agency to perform work on behalf of a non-certified agency. The certified agency is a subrecipient of federal funds and will be eligible for reimbursement as the delivering agency. The non-certified agency is a third party and is not eligible for federal reimbursement.
3. Certification status information as of the date of execution of this Agreement:
 - a. Certified Agency is fully certified in the following functional area:
 - "advertise, bid, and award" for construction contracts
 - b. Certified Agency is conditionally certified in the following functional areas:
 - consultant selection (direct appoint, formal and informal processes)
 - design (excluding bridge design)
 - construction contract administration

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- c. Certified Agency is not currently seeking certification in the following functional area:
 - bridge design
- d. Certified Agency has completed or is in the process of completing the number of test project(s) required by ODOT for the Certified Agency to become fully certified in the following functional areas:
 - consultant selection (direct appoint, formal and informal processes)
 - design (excluding bridge design)
 - construction contract administration

Parties are in the process of assessing the Certified Agency's test project(s) and required program documents to transition the Certified Agency from conditional to full certification for these listed functional areas, and anticipate a successful transition. Therefore, the project described in this Agreement is not one of the test project(s) described in the Local Agency Certification Program Agreement for these listed functional areas.

- e. Certified Agency is in the process of having its Americans with Disabilities Act (ADA)-related design exception and curb ramp inspection processes reviewed and approved by ODOT and FHWA for use on federal-aid projects. Certified Agency is preparing additional documentation describing its ADA-related processes and anticipates submitting the documentation to ODOT for review by December 31, 2019. Certified Agency and ODOT have agreed to pursue completing the review of Certified Agency's ADA-related processes within six months of the date of Certified Agency's completed submission. Certified Agency and ODOT would prefer to have Certified Agency's ADA-related process approved prior to the commencement of the construction phase of the Project, provided Certified Agency meets ODOT and FHWA's approval requirements and has received a formal letter from ODOT notifying Agency of this approval.
4. The purpose of this Agreement is to establish the Parties' terms and obligations to deliver the River Road: Shangri-La Avenue to Wheatland Road (Keizer) Project through the Local Agency Certification Program as a Certified Agency Supplemental Project.
 5. River Road is a part of the Certified and Non-certified Agencies' street systems under the jurisdiction and control of both Parties.
 6. The Project was selected as part of the Congestion Mitigation and Air Quality program and may include a combination of federal, state, and local funds.
 7. The Parties recognize that the Local Agency Certification Program Agreement was entered into between ODOT and Certified Agency only, and that this Agreement

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includes Non-Certified Agency as an additional third party. Accordingly, some terms in this Agreement have been modified to address the rights and obligations of all three parties. The Parties intend these modified terms to supersede any corresponding terms in the Local Agency Certification Program Agreement.

NOW THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

I. Project Overview

1. The Parties agree that Certified Agency shall perform work for Non-certified Agency in accordance with the Local Agency Certification Program Agreement No. 29113, which is hereby incorporated by reference, and the terms of this Supplemental Project Agreement. Non-certified Agency acknowledges that it is not a Party to Agreement No. 29113 and that Agreement No. 29113 confers no obligations or benefits to Non-certified Agency.
2. The Parties agree to Certified Agency delivering the River Road: Shangri-La Avenue to Wheatland Road (Keizer) project, hereinafter referred to as "Project." The Project includes installation of underground fiber optic interconnect on River Road NE from Salem city limits north through Keizer to Wheatland Road. Connections will be made to the traffic signal controllers at each of the 12 signalized intersections described on the sketch map attached hereto, marked Exhibit A, and by this reference made a part hereof.
3. Non-certified Agency grants ODOT and Certified Agency the authority to enter onto Non-certified Agency's right of way as needed to complete this Project. Certified Agency grants ODOT and Non-certified Agency the authority to enter onto Certified Agency's right of way as needed to complete this Project.
4. The total Project cost is estimated at \$1,970,000, which is subject to change. The federal and state funds for this Project are limited to \$1,767,681. Non-certified Agency shall be responsible for all remaining costs, including any non-participating costs, all costs in excess of the federal or state funds, and the 10.27 percent match for all eligible costs. Any unused federal or state funds obligated to this project will not be paid out by the applicable funding agency, and will not be available for use by Certified Agency or Non-certified Agency for this Agreement. "Total Project Cost" means the estimated cost to complete the entire Project, and includes any federal funds, state funds, local matching funds, and any other funds. Certified Agency will report the final cost of each phase of the Project at the completion of each phase, as well as the Total Project Cost at the end of the Project, to the ODOT Regional Local Agency Liaison.

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5. The Parties agree ODOT will perform Project oversight in accordance with the Local Agency Certification Program Agreement, and ODOT will provide Certified Agency and Non-certified Agency with a preliminary estimate for the cost of ODOT's work. Certified Agency and Non-certified Agency understand that ODOT's costs are estimates only and Certified Agency agrees to pay ODOT's actual cost incurred per the Terms of this Agreement.
6. State may conduct periodic inspections during the useful life of the Project to verify that Project is being properly maintained and continues to serve the purpose for which federal funds were provided.
7. The Parties agree that the useful life of the Project is twenty (20) years.

II. Funding

1. The Parties acknowledge that the Federal funds are provided under Title 23, United States Code and agree to meet all applicable federal requirements.
2. ODOT considers Certified Agency a subrecipient of the federal funds it receives as reimbursement under this Agreement. The Catalog of Federal Domestic Assistance (CFDA) number and title for this Project is 20.205, Highway Planning and Construction.
3. By signing this Agreement, Certified Agency agrees to comply with the provisions of the Federal Funding Accountability and Transparency Act (FFATA) and is subject to the following award terms:
 - <http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf>, and
 - <http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf>.

If, in the preceding fiscal year, Certified Agency received more than 80% of its gross revenues from the federal government, those federal funds exceed \$25,000,000 annually, and the public does not have access to information about the compensation of executives through reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 or section 6104 of the Internal Revenue Code of 1986, Certified Agency shall report the total compensation and names of its top five executives to ODOT. Certified Agency shall report said information to ODOT within 14 calendar days of execution of this Agreement and annually thereafter, utilizing the FFATA form attached hereto as Exhibit B.

4. Certified Agency, as a recipient of federal funds, pursuant to this Agreement with ODOT, shall assume sole liability for Certified Agency's breach of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds, and shall, upon Certified Agency's breach of any such conditions that requires ODOT to return funds to the United States Department of Transportation (USDOT) Federal Highway Administration (FHWA), hold harmless and indemnify ODOT for an amount equal to the funds received under this

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Agreement; or if legal limitations apply to the indemnification ability of Certified Agency, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.

5. If Certified Agency fails to meet the requirements of this Agreement or the underlying federal regulations, ODOT may withhold the Certified Agency's proportional share of Highway Fund distribution necessary to reimburse ODOT for costs incurred by such Certified Agency breach.
6. Information required of pass-through entities by 2 CFR 200.331(a)(1) shall be contained in the USDOT FHWA Federal Aid Project Agreement between ODOT and FHWA for this Project, a copy of which shall be provided by ODOT to Certified Agency with the Notice to Proceed.
7. ODOT will submit the requests for federal funding to the FHWA. The federal funding for this Project is contingent upon approval of each funding request by FHWA. Any work performed outside the period of performance approved by FHWA or outside the scope of work will be considered nonparticipating and paid for at Certified Agency expense.
8. ODOT's Regional Local Agency Liaison or designee will provide Certified Agency with a written notice to proceed for the Project when FHWA approval has been secured and funds are available for expenditure on this Project.
9. Certified Agency guarantees the availability of Certified Agency funding in an amount required to fully fund Certified Agency's participation in the Project.
10. Non-certified Agency guarantees the availability of funding in an amount required to fully reimburse Certified Agency for the match, any non-participating costs, and any costs not covered by state and federal funding that Certified Agency expends on behalf of the Project.

III. Invoicing and Payments

1. Certified Agency shall make all payments for work performed on the Project, including all consultant and contractor costs, and invoice ODOT for one-hundred percent (100%) of its costs. ODOT shall reimburse approved Certified Agency invoices at the pro-rated federal share of 89.73 percent. Certified Agency is responsible for 100% of all costs beyond the federal and state reimbursement including the 10.27 percent match for all eligible costs, any non-participating costs, and all costs in excess of the federal or state funds.

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2. Indirect Cost Rate:

- a. Certified Agency shall invoice ODOT using the current, approved indirect cost rate on file with ODOT.
- b. As required by 2 CFR 200.331(a)(4), the indirect cost rates for this project at the time the agreement is written is:

Planning and Development	170.69%
Engineering	129.96%
Transportation	141.97%
WW Treatment	141.14%
Operations	169.89%
Parks & Recreation	138.22%

This rate may change during the term of this Agreement upon notice to ODOT and ODOT's subsequent written approval.

- c. If the approved rates change during the term of this Agreement, Certified Agency shall invoice ODOT using the current indirect cost rates for the Project on file with ODOT at the time the work is performed. If Certified Agency does not have an approved indirect cost rate on file with ODOT at the time the work is performed, Certified Agency shall invoice ODOT using a zero percent (0%) rate.
3. Certified Agency shall invoice Non-certified Agency for the federal match share, any non-participating costs, and all costs expended for the Project not reimbursed by ODOT. Upon receipt of Certified Agency invoice(s), Non-certified Agency shall reimburse Certified Agency for the federal match share, any non-participating costs, and all costs expended for the Project not reimbursed by ODOT. Failure of Non-certified Agency to make such match payments to Certified Agency may result in ODOT withholding of Non-certified Agency's proportional allocation of State Highway Trust Funds until such costs are paid.
 4. Non-certified Agency and Certified Agency agree that any disputes arising on this Project regarding Certified Agency's invoices or Non-certified Agency payment of invoices identified in the preceding paragraph are to be resolved between the Non-certified Agency and Certified Agency only, except to the extent otherwise provided in Section III, Paragraph 3 above.
 5. ODOT will invoice FHWA and Certified Agency for ODOT's Project costs, and Certified Agency agrees to reimburse ODOT for the federal-aid matching state share and any non-participating costs as determined in accordance with Section III Paragraph 3, above, upon receipt of invoice. Failure of Certified Agency to make such payments to ODOT may result in withholding of Certified Agency's proportional allocation of State Highway Trust Funds until such costs are paid.

IV. Certified Agency Obligations

1. Certified Agency Work on this Project:

- a. Certified Agency shall perform the following functional area in which Certified Agency is fully certified and as authorized by the Local Agency Certification Program Agreement:
 - “advertise, bid, and award” the construction contract
- b. While Certified Agency is in the process of transitioning from conditional to full certification, by the terms of this Agreement and for only this Project, Certified Agency is authorized and shall perform as if fully certified in the following functional areas:
 - consultant selection (formal and informal processes)
 - design (excluding bridge design)
 - construction contract administration

Certified Agency understands that this Project is subject to the terms and conditions of the Local Agency Certification Program Agreement and may also be subject to the terms of a corrective action plan and increased monitoring if ODOT’s evaluation of Certified Agency’s test project(s) or program documents identifies the need for corrective action.

2. **Independent Contractor Requirement:** Certified Agency shall perform the services under this Agreement as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement including, but not limited to, retirement contributions, workers’ compensation, unemployment taxes, and state and federal income tax withholdings.

3. Contractor and Subcontractor Indemnification:

- a. To the fullest extent permitted by law, and except to the extent otherwise void under ORS 30.140, Certified Agency shall require its contractor(s) and subcontractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon, Oregon Transportation Commission and its members, Oregon Department of Transportation and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys’ fees, arising from a tort, as now or hereafter defined in ORS 30.260 (hereafter, referred to individually and collectively as “Claims”), to the extent such Claims are caused, or alleged to be caused, by the negligent or willful acts or omissions of Certified Agency’s contractor or any of the officers,

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agents, employees or subcontractors of the contractor. It is the specific intention of the Parties that State shall, in all instances, except to the extent Claims arise solely from the negligent or willful acts or omissions of State, be indemnified from and against all Claims caused or alleged to be caused by the contractor or subcontractor.

- b. Any such indemnification shall also provide that neither Certified Agency's contractor and subcontractor nor any attorney engaged by Certified Agency's contractor and subcontractor shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at any time at its election assume its own defense and settlement in the event that it determines that Certified Agency's contractor is prohibited from defending the State of Oregon, or that Certified Agency's contractor is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue claims it may have against Certified Agency's contractor if the State of Oregon elects to assume its own defense.

4. **Cargo Preference Act:** Certified Agency shall ensure compliance with the Cargo Preference Act and implementing regulations (46 CFR Part 381) for use of United States-flag ocean vessels transporting materials or equipment acquired specifically for the Project. Strict compliance is required, including but not limited to the clauses in 46 CFR 381.7(a) and (b) which are incorporated by reference. Certified Agency shall also include this requirement in all contracts and ensure that contractors include the requirement in their subcontracts.

V. Americans with Disabilities Act Compliance:

Option 1. *If ODOT has issued a formal letter notifying Certified Agency that its ADA-related processes have been approved by ODOT and FHWA prior to ODOT's issuance of notice to proceed with the construction phase of the Project, the Certified Agency's and Non-certified Agency's obligations for ADA compliance for the Project are as follows:*

1. **General:** Certified Agency agrees to comply with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended (together, "ADA") as identified in paragraph 1 of the **General Provisions** section of the Local Agency Certification Program Agreement.
2. **ADA Design Standards, Construction Specifications, and Inspections:** Certified Agency agrees to comply with the design and construction standards and the design exception documentation and approval requirements agreed to in the **Standards** section of the Local Agency Certification Program Agreement. In

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addition, with respect to ADA-related design standards, design exception approvals, construction specifications, and inspections, Certified Agency agrees to comply with the following:

- a. For portions of the Project on or along the Oregon State Highway System (state highway), Certified Agency shall apply ODOT's current ADA-related design standards, construction specifications, and design exception documentation and approval requirements for design, construction, or alteration of Project sidewalks, curb ramps, and pedestrian-activated signals, as applicable to the Project, **including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, and providing a temporary pedestrian accessible route plan and current ODOT Curb Ramp Inspection form.** Certified Agency further agrees to utilize ODOT standards to assess and ensure Project compliance with the ADA, and to document ramp inspections per subsection (3.)(a.) below. Design exceptions on State-owned facilities must be approved by State. For project locations on or along State-owned portions of the National Highway System ("NHS") design exceptions must be approved by State and/or FHWA.
 - b. For portions of the Project **not** on or along a state highway, including locally-owned portions of the NHS, Certified Agency shall apply its own ADA-compliant design standards, construction specifications, design exception documentation and approval process, and inspection documentation process, as approved by State and FHWA for use on federally funded projects.
3. **ADA Inspection Forms:** Prior to issuing the Second Notification, per Oregon Standard Specification 00180.50(g) or Certified Agency's approved equivalent, Certified Agency agrees to submit to State the following:
- a. For all curb ramps constructed or altered as part of this Project on or along a state highway, submit completed ODOT Curb Ramp Inspection Form 734-5020 to the address on the form as well as to State's Regional Local Agency Liaison. The completed form is the required documentation from Certified Agency that each curb ramp meets ODOT standards and is ADA compliant. ODOT's fillable Curb Ramp Inspection Form 734-5020 and instructions are available at the following website:

<https://www.oregon.gov/ODOT/Engineering/Pages/Accessibility.aspx>
 - b. For all curb ramps not located on or along a state highway, Certified Agency shall complete and keep on file Certified Agency's ODOT- and FHWA-approved ADA curb ramp inspection form (or other approved document) to show that each Project curb ramp meets Certified Agency's curb ramp

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standards and is ADA compliant or conforms to Certified Agency's approved ADA design exception.

4. **State inspection:** Certified Agency shall promptly notify State of Project completion and allow State to inspect Project sidewalks, curb ramps, and pedestrian-activated signals, as applicable to the Project, located on or along the state highway prior to acceptance of Project by Certified Agency and prior to release of any Certified Agency contractor.
5. **Work Zone Access:** Certified Agency shall ensure that temporary pedestrian routes are provided through or around any Project work zone in accordance with the applicable ODOT or Certified Agency Standards, as set forth in subsections (1) through (3) above. For any work zone on or along the state highway, any such temporary pedestrian route shall include directional and informational signs and include accessibility features equal to or better than the features present in the existing pedestrian facility. Certified Agency shall also ensure that advance notice of any temporary pedestrian route on or along the state highway is provided in accessible format to the public, people with disabilities, and disability organizations at least 10 days prior to the start of construction in accordance with ODOT standards and processes.
6. **Reimbursement:** Unless Certified Agency has an approved design exception, State will only reimburse Certified Agency for work that meets the applicable ODOT or Certified Agency standards as set forth in subsections (a) through (c) above, regardless of whether the work is on a State-owned or a local agency-owned facility.
7. **On-going Maintenance Obligation:** Certified Agency and Non-certified Agency shall each ensure that any portions of the Project under their respective maintenance jurisdiction are maintained in compliance with the ADA throughout the useful life of the Project. This includes, but is not limited to Certified Agency and Non-certified Agency ensuring that:
 - a. Pedestrian access is maintained as required by the ADA,
 - b. Any complaints received by Certified Agency or Non-certified Agency identifying sidewalk, curb ramp, or pedestrian-activated signal safety or access issues are promptly evaluated and addressed,
 - c. Certified Agency, Non-certified Agency, or abutting property owner, pursuant to local code provisions, performs any repair or removal of obstructions needed to maintain the facility in compliance with the ADA requirements that were in effect at the time the facility was constructed or altered,

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- d. Any future alteration work on Project or Project features during the useful life of the Project complies with the ADA requirements in effect at the time the future alteration work is performed, and
- e. Applicable permitting and regulatory actions are consistent with ADA requirements.

8. **Survival:** Maintenance obligations in this section shall survive termination of this Agreement through the useful life of the Project.

Option 2. *If ODOT has not issued a formal letter notifying Certified Agency that its ADA-related processes have been approved by ODOT and FHWA prior to ODOT's issuance of notice to proceed with the construction phase of the Project, the Certified Agency's and Non-certified Agency's obligations for ADA compliance for the Project are as follows:*

1. **General:** Certified Agency agrees to comply with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended (together, "ADA") as identified in paragraph 1 of the **General Provisions** section of the Local Agency Certification Program Agreement, and to utilize ODOT standards to assess and ensure Project compliance with the ADA.
2. **ADA Design Standards and Construction Specifications:** Certified Agency agrees to comply with ODOT's current ADA-related design standards, construction specifications, and design exception documentation and approval requirements for the design, construction, or alteration of all Project sidewalks, curb ramps, and pedestrian activated signals under this Agreement, on both the Oregon State Highway System (state highway) and on the local agency system, **including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, and providing a temporary pedestrian accessible route plan and current ODOT Curb Ramp Inspection form.**
 - a. **ADA Inspection Forms:** Prior to issuing the Second Notification pursuant to Oregon Standard Specification 00180.50(g), or Certified Agency's approved equivalent, Certified Agency agrees to submit a completed ODOT Curb Ramp Inspection Form 734-5020 to the address on the form as well as to State's Regional Local Agency Liason for each curb ramp constructed or altered for this Project. The completed form is the required documentation from Certified Agency showing that each curb ramp meets ODOT standards and is ADA compliant. ODOT's fillable Curb Ramp Inspection Form 734-5020 and instructions are available at the following website:

<https://www.oregon.gov/ODOT/Engineering/Pages/Accessibility.aspx>

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VI. Term and Termination

1. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate upon completion of the Project and final payment or Ten (10) calendar years following the date all required signatures are obtained, whichever is sooner.
2. This Agreement may be terminated by mutual written consent of all Parties.
3. ODOT may terminate this Agreement effective upon delivery of written notice to Certified Agency and Non-certified Agency, or at such later date as may be established by ODOT, under any of the following conditions:
 - a. If Certified Agency or Non-certified Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If Certified Agency or Non-certified Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from ODOT fails to correct such failures within ten (10) days or such longer period as ODOT may authorize.
 - c. If Certified Agency or Non-certified Agency fails to provide payment of its share of the cost of the Project.
 - d. If ODOT fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow ODOT, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - e. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or if ODOT is prohibited from paying for such work from the planned funding source.
4. Any termination of this Agreement shall not extinguish or prejudice any rights or obligations accrued to the Parties prior to termination.
5. Notwithstanding anything in this Agreement or implied to the contrary, the rights and obligations set out in **Sections I.3; I.6; II.4; II.5; III.4; IV.2; IV.3; V. Option 1, subsections 7 and 8 or V. Option 2, subsections 5 and 6, as applicable; VI.4, VI.5, VII.1, and VII.2** shall survive Agreement expiration or termination and continue throughout the useful life of the Project.

ODOT / City of Salem / City of Keizer
Agreement No. 33250

VII. Other Terms and Conditions

1. Contribution:

- a. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a Party with respect to which any other Party may have liability, the notified Party must promptly notify the other Parties in writing of the Third Party Claim and deliver to the other Parties a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
- b. With respect to a Third Party Claim for which State is jointly liable with Certified Agency or Non-certified Agency (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Certified Agency or Non-certified Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Certified Agency and Non-certified Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Certified Agency and Non-certified Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.
- c. With respect to a Third Party Claim for which Certified Agency or Non-certified Agency is jointly liable with State (or would be if joined in the Third Party Claim), Certified Agency and Non-certified Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Certified Agency and

ODOT / City of Salem / City of Keizer
Agreement No. 33250

Non-certified Agency on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Certified Agency and Non-certified Agency on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Certified Agency and Non-certified Agency's contribution amount(s) in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

2. The Parties hereto agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
3. State certifies and represents that each individual signing this Agreement has been authorized to enter into and execute this Agreement on behalf of State, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind State.
4. Certified Agency certifies and represents that each individual signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Certified Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Certified Agency.
5. Non-certified Agency certifies and represents that each individual signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Non-certified Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Non-certified Agency.
6. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
7. This Agreement and the Local Agency Certification Program Agreement No. 29113, as amended and all attached exhibits constitutes the entire agreement

ODOT / City of Salem / City of Keizer
 Agreement No. 33250

between the Parties on the subject matter hereof. In the event of conflict, the body of this Agreement and the attached Exhibits will control over Project application and documents provided by Certified Agency or Non-certified Agency to ODOT. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind a Party unless in writing and signed by all Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of a Party to enforce any provision of this Agreement shall not constitute a waiver by that Party of that or any other provision. Notwithstanding this provision, the Parties may enter into a Right of Way Services Agreement in furtherance of the Project.

VIII. Contacts

1. Kumar Rethnasamy, Transportation Project Leader, ODOT Region 2, Area 3, 455 Airport Road SE, Building B, Salem, Oregon 97301; phone: (503) 986-2692; email: kumar.rethnasamy@odot.state.or.us, or assigned designee upon individual's absence, is ODOT's contact for this Agreement. ODOT shall notify the other Party in writing of any contact information changes during the term of this Agreement.
2. Julie Titchbourne, P.E., Engineering Program Manager, City of Salem Public Works, 555 Liberty Street SE, Room 325, Salem, Oregon 97301; phone: (503) 588-6211; email: jtitchbourne@cityofsalem.net, or assigned designee upon individual's absence, is Certified Agency's contact for this Agreement. Certified Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.
3. Bill Lawyer, Public Works Director, City of Keizer, PO Box 21000, Keizer, Oregon 97307; phone: (503) 856-3555; email: lawyerb@keizer.org, or assigned designee upon individual's absence, is Non-certified Agency's contact for this Agreement. Non-Certified Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

This Project is in the 2018-2021 Statewide Transportation Improvement Program (STIP), (Key No. 20740) that was adopted by the Oregon Transportation Commission on July 20, 2017 (or subsequently approved by amendment to the STIP).

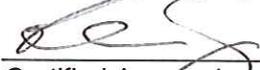
ODOT / City of Salem / City of Keizer
Agreement No. 33250

Certified Agency, **CITY OF SALEM**, acting
by and through its designated officials

By 
City Manager

Date 08/07/2019

LEGAL REVIEW APPROVAL (If required
in Certified Agency's process)

By 
Certified Agency Legal Counsel

Date 8/6/19

Non-certified Agency, **CITY OF KEIZER**,
acting by and through its elected officials

By _____
City Manager

Date _____

LEGAL REVIEW APPROVAL (If required
in Non-Certified Agency's process)

By _____
Non-certified Agency Legal Counsel

Date _____

Certified Agency Contact:

Julie Titchbourne, Engineering Prog. Mgr.
City of Salem Public Works Dept.
555 Liberty Street SE, Room 325
Salem, OR 97301
Phone: (503) 588-6211
Email: jtitchbourne@cityofsalem.net

Non-certified Agency Contact:

Bill Lawyer, Public Works Director
City of Keizer
PO Box 21000
Keizer, OR 97307
Phone: (503) 856-3555
Email: lawyerb@keizer.org

STATE OF OREGON, acting by and
through its Department of Transportation

By _____
Deputy Highway Division Administrator

Date _____

APPROVAL RECOMMENDED

By _____
Certification Program Manager

Date _____

By _____
State Traffic/Roadway Engineer

Date _____

By _____
Region 2 Manager

Date _____

By _____
Region 2 Project Delivery Manager

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____
Assistant Attorney General

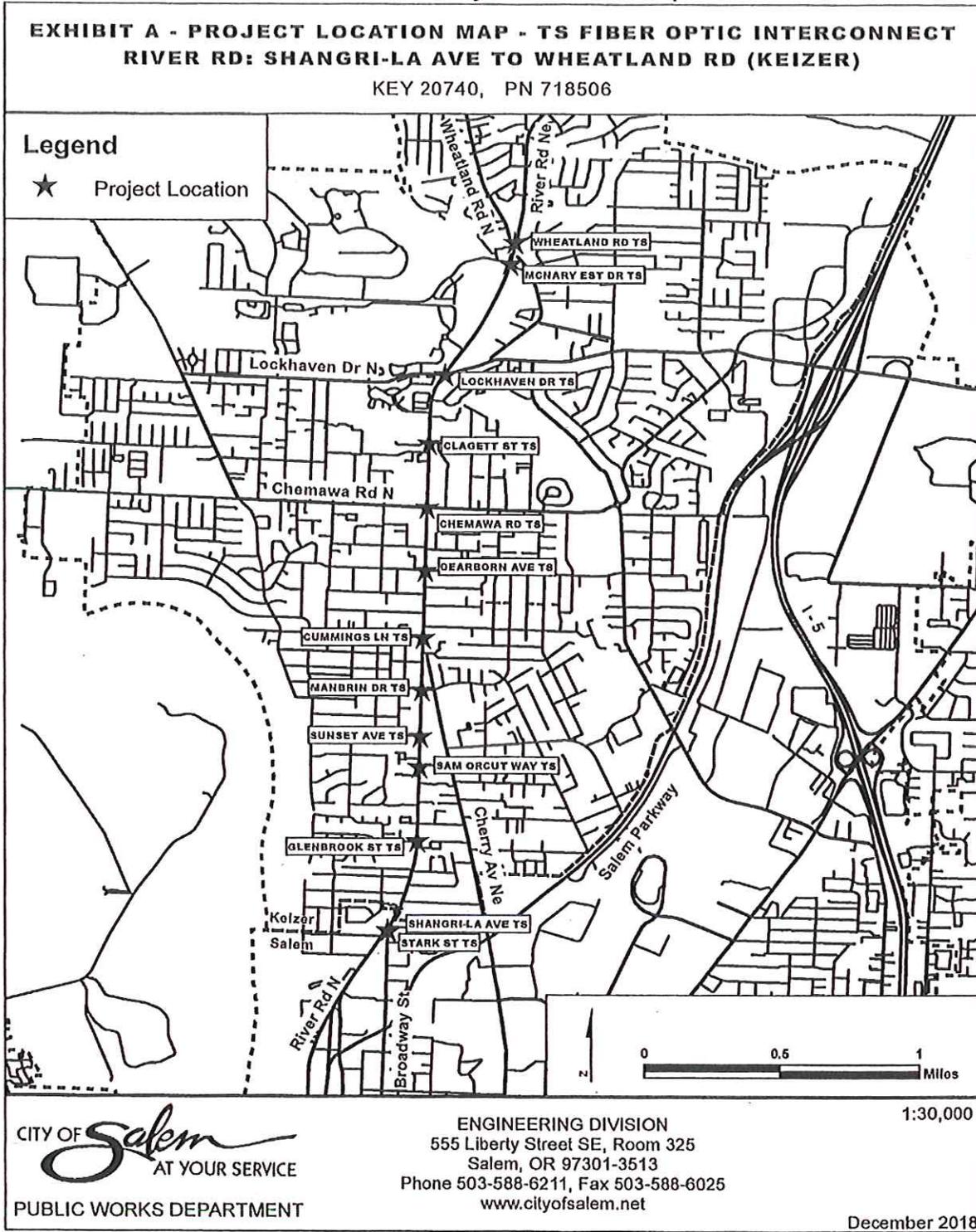
Date _____

ODOT Contact:

Kumar Rethnasamy
Transportation Project Leader
ODOT Region 2, Area 3
455 Airport Road SE, Bldg. B
Salem, OR 97301
Phone: (503) 986-2692
Email: kumar.rethnasamy@odot.state.or.us

ODOT / City of Salem / City of Keizer
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Exhibit A – Project Location Map



ODOT / City of Salem / City of Keizer
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**Exhibit B
 Federal Funding Accountability and Transparency Act (FFATA)
 Subaward Reporting**

(For purposes of this Exhibit, references to "your organization" shall mean "Certified Agency" and references to "ODOT" shall mean "State.")

The Oregon Department of Transportation (ODOT) is required to fulfill a federal requirement for contracting under the Federal Funding Accountability and Transparency Act (FFATA) Subaward Reporting System (FSRS). FFATA reporting is a requirement for subawards (also known as subrecipients) of federal awards in excess of \$25,000,000. Your organization will enter into an agreement with ODOT where the funding source is a federal grant with a subrecipient relationship. Your organization is required to submit the information below to the Oregon Department of Transportation within fourteen calendar days of execution of the Agreement and annually thereafter, if applicable. (See the following page for further details.)

Legal entity name: _____

Data Universal Number System (DUNS) number: _____

Executive compensation

Executive compensation information is also required to determine whether or not the following information must be reported in FSRS:

a. In your organization's previous fiscal year, did your organization receive 80% or more of its annual gross revenue and \$25,000,000 or more in federal procurement contracts, subcontracts, loans, grants, subgrants, cooperative agreements and federal financial assistance awards subject to the Transparency Act? (Include parent organization, all branches, and all affiliates worldwide.)
 Yes No If "yes," proceed to b. If "no," no further action is required and submittal of this form is not required.

b. Does the public have access to information about the compensation of the senior executives in your organization (including parent organization, all branches, and all affiliates worldwide) through periodic reports filed under section 13(a) or 15(d) of the Securities and Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986?
 Yes No If "yes," provide a link to the SEC: <http://www.sec.gov> where this information is located and return form to the ODOT contact shown at the bottom of this form.

Provide link here:
 If "no," provide compensation information below.

Names and annual compensation amounts of the five most highly compensated executives:

1.	\$
2.	\$
3.	\$
4.	\$
5.	\$

Business entity contact information (person completing form):

Type name	Title	Date
-----------	-------	------

Return completed form to: Jeff Flowers, Program and Funding Services Manager; Oregon Department of Transportation; 555 13th Street NE; Salem, OR 97301; Jeffrey.A.FLOWERS@odot.state.or.us

ODOT / City of Salem / City of Keizer
Agreement No. 33250

Background on FFATA requirements

The Federal Funding Accountability and Transparency Act (FFATA) was signed on September 26, 2006. The intent of the Act is to empower every American with the ability to hold the government accountable for each spending decision. The end result is to reduce wasteful spending in the government. The FFATA legislation requires information on federal awards (federal financial assistance and expenditures) be made available to the public via a single, searchable website, which is www.USASpending.gov.

Definition of compensation

Your organization is considered a subrecipient of federal funds. Unless your organization is exempt, FFATA requires you to report total compensation for each of your five most highly compensated executives for the preceding completed year. Total compensation means the cash and non-cash dollar value earned by the executive during the subrecipient's preceding fiscal year and includes the following: salary and bonus; awards of stock, stock options, and stock appropriation rights; earnings for services under non-equity incentive plans; change in pension value; above-market earnings on deferred compensation which is not tax-qualified; and other compensation as defined in 2 CFR Part 170, Section 170.330(b)(5)(vi).

More detailed information about the FFATA can be found at: <http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf>

If you have any questions, contact:

Jeff Flowers
Program and Funding Services Manager
Oregon Department of Transportation
555 13th Street NE
Salem, OR 97301
Jeffrey.A.FLOWERS@odot.state.or.us
Telephone: 503-986-4453

CITY COUNCIL MEETING: August 19, 2019

AGENDA ITEM NUMBER: _____

TO: MAYOR CLARK AND COUNCIL MEMBERS

THROUGH: CHRISTOPHER C. EPPLEY, CITY MANAGER

FROM: E. SHANNON JOHNSON, CITY ATTORNEY

SUBJECT: INTERGOVERNMENTAL AGREEMENT FOR COLLECTION OF FIRE AND LIFE SAFETY INSPECTION FEES

The Fire District adopted Ordinances establishing a fee for Fire and Life Safety Plan review and requests the City to collect the fee as part of the normal permit process. The parties have negotiated an Intergovernmental Agreement to establish the procedures for the collection of the Fire and Life Safety Plan review fee and such Agreement is attached to the Resolution for your consideration. The fee is six percent of the subdivision/partition application fee and six percent of the base fee for non-residential building permits.

RECOMMENDATION:

Adopt the attached Resolution authorizing the City Manager to enter into Intergovernmental Agreement with Keizer Fire District for collection of Fire and Life Safety Inspection fees.

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

ESJ/tmh

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2019-_____

AUTHORIZING THE CITY MANAGER TO ENTER INTO INTERGOVERNMENTAL AGREEMENT WITH KEIZER FIRE DISTRICT FOR COLLECTION OF FIRE AND LIFE SAFETY INSPECTION FEES

WHEREAS, ORS Chapter 190 authorizes governmental entities to enter into written agreements for the performance of any or all functions and activities that it has authority to perform;

WHEREAS, the Keizer Fire District adopted Ordinance establishing a fee for Fire and Life Safety Plan review;

WHEREAS, the City, through Marion County, administers and enforces the building inspection program within the city limits;

WHEREAS, as part of the administration of the building inspection program, the City collects fees;

WHEREAS, the Keizer Fire District requests that the City collect its fee for Fire and Life Safety Plan review to the other permit fees it collects;

WHEREAS, City and Keizer Fire District desire to enter into an Intergovernmental Agreement to establish the procedures for the collection of the Fire and Life Safety Plan review fee;

NOW, THEREFORE,

1 BE IT RESOLVED by the City Council of the City of Keizer hereby authorizes
2 the City Manager to enter into the Intergovernmental Agreement for the collection of
3 Fire and Life Safety Inspection Fees with Keizer Fire District, a copy of which is
4 attached hereto and by this reference incorporated herein.

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

7 PASSED this _____ day of _____, 2019.

8

9 SIGNED this _____ day of _____, 2019.

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16

Mayor

City Recorder

Intergovernmental Agreement for Collection of Fire and Life Safety Inspection Fees

PARTIES

Keizer Fire District (“Fire District”);

And

City of Keizer (“City”).

RECITALS

- A. ORS Chapter 190 authorizes City and Fire District to enter into written agreements for the performance of any or all functions and activities that either entity has the authority to perform on its own.
- B. Under the authority of ORS 478.410, Fire District adopted Ordinance 2013-1 establishing a fee schedule for Fire District Services. Pursuant to Ordinance 2013-1, the Fire District adopted Resolution 2019-01 amending certain fees in the fee schedule for Fire District Services. Together Ordinance 2013-1 and Resolution 2019-01 establish a fee for Fire and Life Safety Plan review (“Plan Review Fee”).
- C. Pursuant to ORS 455.148 (or ORS 455.150), the City has assumed the administration and enforcement of a building inspection program within the city limits of City (“Building Inspection Program”). In addition, as required by ORS 197.175 and ORS 227.175, the City has adopted procedures for responding to land use permit applications for the development of properties within the city limits of City (“Land Use Permit Program”). Together the City’s Building Inspection Program and Land Use Permit Program shall be referred to as the City’s “Development Permit Program.” Part of City’s Development Permit Program is the collection of building permit fees, building inspection fees, and land use application fees from those seeking development permits within the City.
- D. As authorized by the State Fire Marshal, Fire District is the responsible agency for administration of the State Fire Code within the territory of the Fire District. Among its duties under the State Fire Code, Fire District is responsible for reviewing plans for certain applications within the City’s Development Permit Program subject to review under the State Fire Code. The Plan Review Fee is intended to reimburse the Fire District for its direct costs in reviewing applicable Development Permit Program plans for Fire Code compliance. The responsible party for paying the Plan Review Fee is the applicant for the applicable Development Permit Program permit requiring fire and life safety plan review.
- E. The Plan Review Fee shall only apply to the base building permit application fee and base subdivision/partition fee. It is not applicable to other land use applications.
- F. City and Fire District desire to establish certain procedures whereby City will collect Fire District Plan Review Fees as part of City’s Development Permit Program.

AGREEMENT

Fire District and City agree as follows:

1. Plan Review Fee Information. Fire District will provide City with current information about the amount of its Plan Review Fee, which is currently set at 6% of the Development Permit Program application fee. If Fire District adjusts the Plan Review Fee, it will provide City with at least 30 days' notice before the adjusted Plan Review Fee becomes effective. The Plan Review fee shall apply only to subdivision/partition application fees and commercial building permit fees, excluding all other fees and surcharges. "Commercial" shall mean all structures except single-family and duplex structures.
2. Staffing. City shall provide sufficient staff to calculate and collect the Plan Review Fee from applicable Development Permit Program permits in accordance with the terms of this IGA. Fire District shall provide sufficient staff to perform the fire and life safety plan review services.
3. Collection; Start Date. City will collect the Plan Review Fee on behalf of Fire District for those Development Permit Program permit applications requiring fire and life safety plan review.
 - a. City will begin collecting the Plan Review Fee on October 15, 2019, provided City has first received the information from Fire District under Section 1 and a fully executed copy of this IGA.
 - b. City will continue collection of the Plan Review Fee until the Plan Review Fee is terminated by the Fire District, the underlying legal authority is repealed, or this IGA is terminated.
4. Remittance. Quarterly, City will remit the collected Plan Review Fees to Fire District. City shall retain an administrative fee equal to 5% of the total fee collected. With each quarterly remittance, City will notify Fire District of the amount of the Plan Review Fees collected for each permit.
5. Failure to Pay Plan Review Fee. The City will collect the Plan Review Fee from the each applicable Development Permit Program permit applicant at the time that the application is submitted to the City. Upon refusal or failure to pay the Plan Review Fee by an applicant, the City will not issue the corresponding permit. However, in no event is the City liable to Fire District for failure to collect Plan Review Fees when due.
6. Records. Unless submitted in confidence or required by law to not be disclosed, City shall make all records relating to the Development Permit Program application subject to the Plan Review Fee and Plan Review Fee collections available to Fire District, or its designated auditors, as necessary for Fire District to audit collections.
7. Integration and Amendment. The parties agree that this IGA constitutes the entire agreement between the parties on the subject of Plan Review Fee collections. No

waiver, consent, modification or change to the terms of this IGA shall bind either party unless such is made in writing and signed by both parties. There are no understandings, agreements, or representations not specified in this IGA regarding the subject of Plan Review Fee collections. City and Fire District further agree to negotiate in good faith to amend this IGA should controlling law be amended by subsequent legislation or judicial proceedings so that this IGA is consistent with the most current law.

8. Defense and Indemnification. Fire District agrees to defend, indemnify and hold harmless the City, and its officers, agents and employees, against all claims and actions, and all damages and expenses related thereto, arising from the City’s collection of Plan Review Fees under this IGA, except for those caused by the gross negligence of the City or its officers and employees.

9. Termination. Either party may terminate this IGA for any or no reason upon 90 days written notice to the other party.

10. Notice. Any notice required to be given under the IGA shall be sufficient if given, in writing, by sending to the other party via first class mail or in person as follows:

Fire District
c/o Fire Chief
Keizer Fire District
661 Chemawa Road NE
Keizer, OR 97307

City
c/o City Recorder
City of Keizer
PO Box 21000
Keizer, OR 97307

11. Compliance with Applicable Laws. The parties agree to each comply with all federal, state, and local laws applicable to each party’s respective obligations under this IGA.

12. Counterparts. This IGA may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.

Keizer Fire District

City of Keizer

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

CITY COUNCIL MEETING: August 19, 2019

AGENDA ITEM NUMBER: _____

TO: MAYOR CLARK AND COUNCIL MEMBERS

THROUGH: CHRISTOPHER C. EPPLEY, CITY MANAGER

FROM: E. SHANNON JOHNSON, CITY ATTORNEY

SUBJECT: AMENDMENT #1 TO THE BUILDING PERMIT INTERGOVERNMENTAL AGREEMENT

The Fire District adopted Ordinances to allow collection of Fire and Life Safety Plan review fees. Because Marion County implements the City's permit issuance and building code inspections, the Intergovernmental Agreement (IGA) with Marion County requires an amendment to allow the fire department review fee collection.

Marion County has requested that the City sign the amendment that allows for the fire department review fee collection. In addition, another revision included in the amendment is to the inspection of footing/foundation wall elevations. It has been determined that these revisions to the IGA are appropriate to implement the processes outlined in the amendment.

RECOMMENDATION:

Adopt the attached Resolution authorizing the City Manager to enter into Amendment #1 to the IGA.

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

ESJ/tmh

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2019-_____

AUTHORIZING THE CITY MANAGER TO ENTER INTO AMENDMENT #1 TO THE INTERGOVERNMENTAL AGREEMENT WITH MARION COUNTY FOR THE COORDINATION OF PERMIT ISSUANCE AND INSPECTIONS REGULATED BY THE STATE OF OREGON BUILDING CODES

WHEREAS, the City and Marion County previously entered into an Intergovernmental Agreement for the coordination of permit issuance and inspections regulated by the building codes dated June 3, 2013;

WHEREAS, Marion County has requested that the City enter into an Amendment #1 to such agreement to allow collection of a fire department review fee and to add inspection of footing/foundation wall elevations;

WHEREAS, ORS Chapter 190 authorizes governmental entities to enter into written agreements for the performance of any or all functions and activities that it has authority to perform;

WHEREAS, the City desires to enter into Amendment #1 to the Intergovernmental Agreement with Marion County for the coordination of permit issuance and inspections regulated by the State of Oregon Building Codes;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer hereby authorizes the City Manager to enter into Amendment #1 to the Intergovernmental Agreement for

1 the coordination of permit issuance and inspections regulated by the State of Oregon
2 Building Codes with Marion County, a copy of which is attached hereto and by this
3 reference incorporated herein.

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

6 PASSED this _____ day of _____, 2019.

7

8 SIGNED this _____ day of _____, 2019.

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Mayor

City Recorder



AMENDMENT #1 to the
INTERGOVERNMENTAL AGREEMENT
between
MARION COUNTY and CITY OF KEIZER

The Intergovernmental Agreement, entered into pursuant to ORS Chapter 190, as may be amended from time to time, the "Agreement," between Marion County, "County", a political subdivision of the State of Oregon, and City of Keizer, "City", dated June 3, 2013.

The Agreement is hereby amended as follows (new language is indicated by underlining and deleted language is indicated by brackets):

Starting on page 2, under item (2) Fee Collection and Disbursement:

Items "b)" through "g)" are hereby renamed as "c)" through "h)"

Add new item "b)" to read: b) The City may collect a fire department review fee in an amount determined by the City for structural permits requiring a fire department review. The fire department review fee is currently 6% of the structure permit fee. The City will notify the County 60 days prior to any change in the fire department review fee. The total fire department fee collected shall be retained by the City.

Starting on page 3, under item (3) Land Use Regulations:

Items "c)" through "d)" are hereby renamed as "d)" through "e)"

Add new item "c)" to read: c) The County shall inspect footing/foundation wall elevations relative to the adjacent street level using a hand-held sight level when corresponding elevations are noted and identified on the approved site plan.

Except as expressly amended above, all other terms and conditions of the original Agreement are still in full force and effect. The Parties certify that the representations, warranties and certifications contained in the original Agreement are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

MARION COUNTY SIGNATURES:

BOARD OF COMMISSIONERS

N/A
Chair _____ Date _____

N/A
Commissioner _____ Date _____

N/A
Commissioner _____ Date _____

Amendment 1

Coordination of Permit Issuance and Inspections IGA between Marion County and City of Keizer
Page 2

Authorized Signature: Brian Nicholas 1/23/2019
Department Director or designee Date

Authorized Signature: [Signature] 02/04/19
Chief Administrative Officer Date

Reviewed by Signature: [Signature] 2/4/2019
Marion County Legal Counsel Date

Reviewed by Signature: [Signature] 2/4/2019
Marion County Contracts & Procurement Date

CITY OF KEIZER SIGNATURES:

Authorized Signature: _____
City Manager Date

Reviewed by Signature: _____
City Attorney Date

CITY COUNCIL MEETING: August 19, 2019

AGENDA ITEM NUMBER: _____

TO: MAYOR CLARK AND COUNCIL MEMBERS

THROUGH: CHRISTOPHER C. EPPLEY, CITY MANAGER

FROM: E. SHANNON JOHNSON, CITY ATTORNEY

SUBJECT: ONLINE BILL PAYMENT – CREDIT CARDS

The City entered into a Springbrook agreement for online bill payments that would interface with the accounting system to provide better customer service to the citizens of Keizer. Springbrook uses an outside vendor to process online credit card bill payments and has requested that the City enter into the Service Agreement with such vendor. I have attached a Resolution to accomplish this request.

RECOMMENDATION:

Adopt the attached Resolution authorizing the Finance Director to sign the Service Agreement with T Tech for online bill payment services.

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

ESJ/tmh

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2019-_____

AUTHORIZING THE FINANCE DIRECTOR TO SIGN
SERVICE AGREEMENT WITH T TECH

WHEREAS, in March 2019 the City entered into an agreement with Springbrook to process online bill payments;

WHEREAS, Springbrook uses an outside vendor for part of the services relating to online bill payments;

WHEREAS, T Tech performs the credit card bill payment services on behalf of Springbrook;

WHEREAS, the City wishes to enter into an agreement with T Tech in accordance with the attached agreement;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that the Finance Director is hereby authorized to sign the Service Agreement with T Tech as outlined on the attached agreement.

BE IT FURTHER RESOLVED by the City Council of the City of Keizer that the Finance Director is hereby authorized to take any other action necessary to implement the services outlined in the T Tech Service Agreement.

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

PASSED this _____ day of _____, 2019.

SIGNED this _____ day of _____, 2019.

Mayor

City Recorder

Service Agreement

This agreement is entered into between T TECH, LLC. (Hereinafter called T TECH) and City of Keizer (hereinafter called Merchant). Merchant acknowledges that it has read and understands the Terms and Conditions of this agreement, including the provisions contained on the back page hereof, and the information completed below is accurate.

Merchant's Legal Name City of Keizer, Oregon	Date August 8, 2019
Merchant's "Doing Business As" Name	Fed Tax ID # or SSN
Store Number (if any)	Description of Business Local Government
Street Address 930 Chemawa Rd NE	SIC Code
City, State, Zip Keizer, OR 97303	Phone Number 503-856-3413
Contact Name: Tim Wood	E-Mail Address: woodt@keizer.org
Contact Title: Finance Director	

Automated Clearing House (ACH) Transactions	
ACH Service Type: WEB: <input checked="" type="checkbox"/> PPD & CCD: <input checked="" type="checkbox"/>	
Monthly Fee	\$.
ACH Transaction Fee	\$.30
ACH Discount Rate	.450 %
ACH Return Fee	\$ 3.00
ACH Reject Fee – TTech Administrative Fee for a Merchant's returned debit	15.00

AUTHORIZATION FOR PRE-ARRANGED PAYMENT (ACH): Please attach "voided check"

Merchant hereby authorizes T TECH, LLC. or its designated agent to initiate ACH deposit and / or debit entries for the one-time, monthly, per transaction, chargeback and adjustment entries, and percentage fees described above, as well as applicable tax, to be automatically deducted from the Merchant's Checking account indicated below at the depository named below (hereinafter called DEPOSITORY)

Depository Bank _____
 Transit / ABA Number _____
 Account # _____

This authority is to remain in full force and effect until T TECH and DEPOSITORY have received written notification from Merchant of its termination in such time and in such manner as to afford T TECH and DEPOSITORY an opportunity to act on it. If Merchant refuses or fails to honor a valid returned ACH transaction initiated by T Tech, T Tech shall have the right to charge Merchant with T Tech's usual administrative fee and Merchant agrees to pay such fee upon demand by T Tech. Merchant has the right to stop payment of a debit entry and to have an erroneous debit credited to its account in accordance with the all rules and operating guidelines of the National Automated Clearing House Association.

Note that although most of the transactions will be deposits, there will be a need for some debits to this account. If this account was previously setup with any debit restrictions, Merchant will need to provide the following Company ID to its Bank Rep to be included in the ACH filter:

T562207579 for your Returns, i.e. insufficient funds, account closed, invalid account number, etc., via **TTECH SETTLE** or **TTech ACH Billing**

By authorizing this agreement you acknowledge you accept the Terms and Conditions set forth herein:

T Tech LLC (Merchant) City of Keizer

By: _____ By: _____

Print: Scott Haskins Print: Timothy E Wood

Title: President Title: Finance Director

Terms and Conditions

SERVICES: T TECH agrees to provide the services selected by Merchant on page 1 of the Service Agreement. All such services shall be provided by T TECH in a diligent and professional manner and in accordance with laws applicable to the services and subject to the terms and conditions of this agreement.

AUTHORIZATION REQUIREMENTS FOR ACH ITEMS: Merchants originating entries being submitted into the ACH Network for electronic settlement, must follow and adhere to the terms and conditions of this agreement. Merchant agrees to comply with all National Automated Clearing House Association ("NACHA") operating rules (the "Rules"). These rules may be found at www.nacha.org/rules or such other successor site as NACHA designates from time to time. T Tech shall provide written notice to Merchant of any material changes to its guidelines and rules. Further discussion regarding the Rules is set forth in the "Compliance with Laws" section below. Merchant shall strictly comply with all guidelines and rules established by T Tech regarding the quality of data submitted to T Tech, input schedules and deadlines, and all other matters pertinent to the processing and delivery of entry data.

MERCHANT ACCOUNT RESPONSIBILITIES: Merchant understands and agrees that sufficient balances in available funds must be maintained in its account to cover all debit transactions, if any, submitted by Merchant or T Tech to Depository. If the account does not have sufficient balances, Depository may decline to forward such transactions. Merchant shall immediately reimburse Depository for any overdrafts created on the account, whether through the originating credit transactions for which there were not sufficient funds, or for returns received by Depository in respect of originating debit transactions from the account.

MERCHANT'S RESPONSIBILITY: Merchant is responsible for the results of using ACH services and for the accuracy and adequacy of the data provided by Merchant which T Tech then provides to Depository. Depository is not responsible to third parties for Merchant's use of ACH services (such as, but not limited to, the third parties to whom ACH debit or credits are transmitted hereunder on behalf of Merchant). If a third party claim is made against Depository arising out of Merchant's use of the ACH services, breach of this Agreement, or breach of any warranty under the Rules, Merchant agrees to defend, indemnify and hold Depository harmless against such claim. The foregoing obligation of Merchant shall be primary and independent of, and Depository shall have no obligation to assert or pursue, any indemnification or other rights it may have pursuant to its agreement with T Tech.

NOTICE: Credit given by Depository to Merchant with respect to an ACH credit entry is provisional until Depository receives final settlement for such entry through a Federal Reserve Bank. If Depository does not receive such final settlement, Merchant is hereby notified and agrees that Depository is entitled to a refund of the amount credited to Merchant in connection with such entry, and the party making payment to Merchant via such entry (i.e., the originator of the entry) shall not be deemed to have paid Merchant in the amount of such entry. Under the operating rules of the National Automated Clearing House Association, which are applicable to ACH transactions involving Merchant's Account, Depository is not required to give next day notice to Merchant of receipt of an ACH item and Depository will not do so. However, Depository will continue to notify Merchant of the receipt of payments in the periodic statements Depository provides to Merchant. Depository may accept on Merchant's behalf payments to Merchant's account which have been transmitted through one or more Automated Clearing Houses and which are not subject to the Electronic Fund Transfer Act and Merchant's rights and obligations with respect to such payments shall be construed in accordance with and governed by the laws of the state of Oregon unless it has been otherwise specified in a separate agreement that the law of some other state shall govern.

COMPLIANCE WITH LAW

- a. **Regulation E: NACHA Rules:** Merchant and T Tech agree to comply with the Electronic Fund Transfer Act, Federal Reserve Regulation E, the Fair Credit Reporting Act and similar state laws and regulations, to the extent the same may be applicable to the ACH transactions processed hereunder. Merchant agrees that all ACH entries T Tech is requested to originate are the result of bona fide business transactions between Merchant and its customers and no such entries are, directly or indirectly, for the benefit of any third party whether in a service bureau or other context. Merchant understands that Merchant will be considered the "Originator" of ACH transactions submitted hereunder, and agrees to comply with the Rules applicable to Originators, as the same may be applicable to ACH transactions processed hereunder
- b. **Other Compliance:** Merchant is prohibited from using T Tech services in any manner or in furtherance of any activity that constitutes a violation of any law or regulation or that may reasonably be expected to subject T Tech or its vendors to investigation, prosecution or legal action. Merchant further agrees: (1) to receive, resolve and respond to consumer-alleged errors under applicable laws, regulations and the Rules; and (2) Merchant is responsible for promptly handling and, if necessary, responding to and resolving at Merchant's expense any Special Handling Claims (as defined in the NACHA Rules).

PRE AUTHORIZED PAYMENT PROCEDURES:

PPD ENTRY: A PPD entry is defined as a consumer initiated ACH debit entry to a Consumer DDA Account (personal DDA number) initiated by the consumer to a Merchant-Business, for goods or services provided by said merchant. CCD entry refers to items being submitted to Corporate DDA Accounts. T-Tech will electronically submit transactions to debit funds from a customer's account, on behalf of Merchant, via the Automated Clearing House (ACH) Network, for the purpose of securing payments for Merchant's goods or services provided.

AUTHORIZATION REQUIREMENTS FOR ACH ITEMS: Merchant hereby acknowledges and agrees that in order to utilize PPD services, its customers must have (a) authorized the transaction as a direct payment for recurring or multiple payments, or (b) authorized the transaction as a one-time debit for a purchase or payment, and (c) provided account information including routing number and transit number. Merchants originating PPD/CCD entries being submitted into the ACH Network for electronic settlement must obtain the consumer's written authorization prior to initiating a debit entry under this application. The language for the PPD authorization must conform to the requirements of the NACHA Operating Rules, which require that the authorization: (1) be in a writing (2) be readily identifiable as an ACH debit authorization, (3) clearly and conspicuously state its terms, and (4) must (for recurring payments only) provide the Consumer with a method to revoke their authorization by notifying the Merchant in the manner prescribed (5) merchant provide each Customer with an electronic or hard copy of the Customer's authorization for ALL Debit Entries to be initiated to a Consumer's Account. Merchant further agrees to retain, or have retained on their behalf by an outside vendor, the customers' transaction information for 2 years following the settlement date using commercially reasonable methods to secure the same and shall make this information available to T Tech upon demand.

WEB SALES PROCEDURES:

WEB ENTRY: A WEB entry is defined as an ACH debit entry to a Consumer Account (personal DDA number) initiated by the consumer to a Merchant-Business, via the Internet, for goods or services provided by said merchant.

AUTHORIZATION REQUIREMENTS FOR ACH ITEMS: Merchants originating WEB entries being submitted into the ACH Network for electronic settlement, must obtain the consumer's authorization prior to initiating a debit entry under this application. Although the Rules do not prescribe specific authorization language for the WEB application, the authorization must conform to the requirements of the NACHA Operating Rules, which require that the authorization (1) be in a writing that is signed or similarly authenticated by the Consumer, (2) be readily identifiable as an ACH debit authorization, (3) clearly and conspicuously state its terms, and (4) must (for recurring payments only) provide the Consumer with a method to revoke their authorization by notifying the Merchant in the manner prescribed. The Merchant should prompt the consumer to print the authorization and retain a copy. The Merchant must be able to provide the consumer with a hard copy of the authorization if requested to do so. Only the consumer may authorize the WEB transaction, and not a Third-Party Service Provider on behalf of the consumer. The NACHA Operating Rules include the use of a digital signature or code to similarly authenticate a written authorization. This does not exclude other methods of similarly authenticating an authorization, such as passwords, biometrics, etc.

"WEB" CHECK CONVERSION OBLIGATIONS: Merchant agrees to comply with all NACHA Operating Rules (the "Rules"). The Rules are incorporated herein by reference. Merchant agrees to retain, or have retained on their behalf by an outside vendor, authorization from each customer prior to transmitting a WEB based ACH entry to the customer's account. The authorization shall conform to the requirements of the Rules for WEB based transactions as stated above. Merchant shall retain a copy of such authorization for a period of two (2) years following the date the authorization is initiated. Merchant agrees and acknowledges that it will provide reasonable assistance in resolving all consumer disputes in a timely manner, and will allow T Tech to refer inquiring Financial Institutions directly to Merchant, or to Merchant's supporting vendors, for information regarding the nature and conditions of each transaction initiated to the customer's account.

ADDITIONAL ITEMS

DISCLAIMER. MERCHANT UNDERSTANDS AND AGREES THAT (i) T TECH'S SOLE LIABILITY WITH RESPECT TO SERVICES PROVIDED HEREUNDER SHALL BE AS SET FORTH HEREIN; AND (ii) ALL MERCHANT COMPLAINTS AND CLAIMS CONCERNING THE SERVICES PROVIDED HEREUNDER ARE TO BE MADE SOLELY AND EXCLUSIVELY AGAINST T TECH. IN THE EVENT THAT T TECH FAILS TO PERFORM SERVICES PROPERLY, MERCHANT'S SOLE AND EXCLUSIVE REMEDY AND T TECH'S SOLE OBLIGATION SHALL BE FOR T TECH TO REPERFORM THE SERVICES AT ITS OWN EXPENSE. T TECH DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, WRITTEN OR ORAL IN RESPECT OF THE SERVICES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SERVICES ARE NOT WARRANTED TO BE FREE FROM ERROR OR INTERRUPTION. T TECH SHALL HAVE NO LIABILITY, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE, TO MERCHANT ARISING OUT OF OR RELATED TO THIS AGREEMENT OR T TECH'S SERVICES. IN NO EVENT WILL T TECH BE LIABLE TO MERCHANT FOR SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR EXEMPLARY DAMAGES, REGARDLESS OF WHETHER T TECH WAS INFORMED OF THEIR POSSIBILITY AND REGARDLESS OF WHETHER ANY LIMITED REMEDY HEREIN FAILS OF ITS ESSENTIAL PURPOSE. MERCHANT ACKNOWLEDGES AND AGREES THAT THE FOREGOING LIMITATIONS OF LIABILITY ARE REASONABLE GIVEN THE FACT THAT NO COMPENSATION IS BEING PAID TO DEPOSITORY BY MERCHANT HEREUNDER. MERCHANT'S REMEDIES HEREIN ARE EXCLUSIVE AND IN LIEU OF ALL OTHER REMEDIES IN LAW OR EQUITY.

RISK MANAGEMENT. Merchant is solely responsible for all acts and omissions of its officers, directors, partners, employees, agents, representatives, contractors, and third party service providers (such as third party payroll administrators), including Merchant's Third Party Originator and including persons granted signature authority on Merchant's accounts and personnel who are permitted to initiate and/or give Depository instructions in respect of Merchant's entries (collectively, "Your Personnel"). Depository is entitled, without further inquiry or investigation, to assume that the actions of Your Personnel are appropriate and authorized by Merchant. This authorization will remain in effect unless Depository receives written notice to the contrary from Merchant and has a reasonable opportunity to react thereto. Merchant is strongly advised to establish and maintain policies and procedures and accounting and auditing controls that will prevent (or at least allow the early detection of) fraud or other unauthorized activity by Your Personnel.

NO LIABILITY FOR LOSSES: Merchant further agrees and understands that TTECH is not guaranteeing or insuring any consumer transactions. TTECH has no liability for any losses the Merchant may incur as the result of a consumer or business transaction that has been authorized by the Merchant using T TECH.

CONSUMER INQUIRY ASSISTANCE: Merchant agrees to provide to T TECH, or other requesting Financial Institutions or Government Agencies, all supporting documents or materials (as required by Merchant to keep as prior reference within this agreement) being held in connection with consumer transactions generated under the terms of this agreement. Merchant further agrees to provide said records within 5 days of being notified by T TECH or other Institution. Merchant will supply records in the manner that will provide the fastest and clearest copy.

TERMINATION: Either party reserves the right to terminate this agreement for any reason or no reason upon ten (10) days' prior written notice to the other party. Additionally, T TECH may immediately discontinue providing check processing to Merchant in the event Merchant fails to comply with or otherwise breaches the terms of this agreement. In the event Merchant has transaction returns that exceed 15% of their monthly volume, T TECH may, at its option, terminate this agreement. In the event Merchant stops conducting business in the normal course, becomes insolvent, or becomes subject to proceedings under the Federal Bankruptcy Act. T TECH may, at its option, immediately terminate this agreement. In the event Merchant provides written notice to cancel T TECH services, T Tech will continue to provide the T TECH services and Merchant will continue to be charged for transaction activity. Terminations shall be effective as to prospective transactions only, and shall not alter the rights of the parties as to transactions prior to the effective date of termination. Termination of this Agreement shall not relieve either party from any obligation accrued through the date of termination or from the terms and conditions in this Agreement that continue beyond termination (or that reasonably should continue beyond termination); including, without limitation the provision of Merchant's Account Responsibilities.

INDEMNIFICATION: Merchant shall indemnify and hold harmless T TECH, their agents and employees against and from all actions, suits, losses, liabilities, damages, costs, and expenses, including court costs and attorneys' fees, relating to or arising from any and all claims asserted by a third party against T TECH due to Merchant's grossly negligent or willful misuse of the T TECH services.

PRICING: Merchant agrees to pay T TECH, according to the "Fee Schedule" set forth on page 1 hereof and pursuant T TECH's fees for services performed under this agreement. Further, Merchant agrees to pay T TECH for any fees, fines, or penalties that result from violations or sanctions assessed or levied by NACHA against T Tech due Ver Y2019: pg3

to Merchant’s failure to comply with the Rules.

REPRESENTED ITEMS: Merchant represents and warrants with respect to all entries T Tech processes for Merchant that: (a) each customer of Merchant has authorized the debiting and/or crediting of his, her, or its account and also for the collection of any returned check or transaction check fees, (b) each entry is for an amount agreed to by the customer, (c) each entry is in accordance with the Rules. Merchant shall cease initiating entries immediately upon receiving actual or constructive notice of the termination or revocation by Merchant.

ENTIRE AGREEMENT: This agreement makes up the entire agreement between the parties concerning T Tech’s services. If any provision of this agreement is deemed unenforceable, the remaining provisions shall remain enforceable. There are no third party beneficiaries of this agreement.

CHANGES TO THESE TERMS AND CONDITIONS MUST BE APPROVED BY AN AUTHORIZED OFFICER OF DEPOSITORY. SALES REPRESENTATIVES ARE NOT PERMITTED TO MAKE ANY REPRESENTATION OR WARRANTY NOT CONTAINED HEREIN AND CANNOT WAIVE, ALTER OR AMEND THE PRINTED TERMS AND CONDITIONS HEREOF.

Expected Monthly Activity (Transactions and Amounts)

Transactions	Number: 275	Amount: \$45,000
Returned Items	Number: 0	Amount: 0
Unauthorized Returned Items	Number: 0	Amount: 0

ACH PROCESSING LIMITS: In accordance with NACHA Operating Rules, TTech will assign daily dollar limits to each merchant for processing transactions. These will be reviewed annually by TTech for movement up or down based upon the financial condition of each merchant. TTech may request documentation from the merchant as part of this annual review, as outlined in the ACH rules.

Please provide copies of the following documents:

- ___ Most recent FYE and interim financial statements (income statement, balance sheet, etc.)
- ___ Documents verifying the existence of the entity [e.g. Articles of Incorporation, Partnership Agreement, Articles of organization (Limited Liability Companies), Fictitious Business Name Statement (Sole Proprietorships)]
- ___ Form W-9, Request for Taxpayer Identification Number (TIN) and Certification
- ___ Government-issued identification of beneficial owners, officers, principals, attorneys-in-fact, or other authorized signers (i.e. Copy of DL)
- ___ Copy of Statement of previous ACH provider

CITY COUNCIL MEETING: August 19, 2019

AGENDA ITEM NUMBER: _____

TO: MAYOR CLARK AND CITY COUNCIL MEMBERS

THROUGH: CHRISTOPHER C. EPPLEY, CITY MANAGER

FROM: TIM WOOD, FINANCE DIRECTOR

SUBJECT: POLICE VEHICLE PURCHASE

BACKGROUND:

The 2019-20 Adopted City of Keizer budget includes appropriations to purchase three additional police vehicles. City Staff has determined that two Ford K8A AWD Police Interceptor Utility vehicles and one Ford P0G Fusion S FWD vehicle will meet the Police Department needs and is available utilizing the State of Oregon purchasing contract number 5551 with Gresham Ford.

FISCAL IMPACT:

The acquisition of the three vehicles for \$83,260.24 is included in the 2019-20 Adopted City of Keizer budget.

RECOMMENDATION:

Staff recommends the City Council adopt the attached Resolution authorizing the City Manager to issue a purchase order to Gresham Ford for the acquisition of two Ford K8A AWD Police Interceptor Utility vehicles and one Ford P0G Fusion S FWD vehicle using the State of Oregon purchasing contract number 5551.

Please contact me with any questions or concerns.

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2019-_____

AUTHORIZING THE CITY MANAGER TO PURCHASE TWO 2020 K8A AWD POLICE INTERCEPTOR UTILITY VEHICLES AND A 2020 P0G FUSION S FWD VEHICLE FOR POLICE DEPARTMENT

WHEREAS, the City of Keizer budgeted funds in the 2019-2020 Police Services Fee to purchase vehicles for the Police Department;

WHEREAS, it has been determined that two 2020 K8A AWD Police Interception Utility vehicles and one 2020 P0G Fusion S FWD vehicle meet the needs of the Police Department;

WHEREAS, the City has determined procurement through the Oregon Cooperative Procurement Program (ORCPP) provided the best price of \$83,260.24 from Gresham Ford;

WHEREAS, State of Oregon Contract No. 5551 authorizes ORCPP participants to purchase vehicles from Gresham Ford by issuance of a Purchase Order;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that the City Manager is hereby authorized to purchase two 2020 K8A AWD Police Interception Utility vehicles and one 2020 P0G Fusion S FWD vehicle from Gresham Ford for a purchase price of \$83,260.24 by issuing a Purchase Order containing the mandatory language as shown on the attached exhibit.

1 BE IT FURTHER RESOLVED that the City Manager is authorized to take any
2 and all necessary acts to effectuate the purchase of the vehicle.

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

5 PASSED this _____ day of _____, 2019.

6

7 SIGNED this _____ day of _____, 2019.

8

9

10

Mayor

11

12

13

City Recorder



City of Keizer

PO Box 21000
 Keizer OR 97307-1000
 Phone: 503-390-3713

PURCHASE ORDER

Number
19-

TO:
 Gresham Ford
 1999 East Powell Blvd.
 Gresham, OR 97080

SHIP TO:
 Lt. Trevor Wenning
 Keizer Police Dept
 930 Chemawa Rd NE
 Keizer OR 97303

PLEASE ENTER OUR ORDER FOR THE FOLLOWING:

DATE REQUIRED	SHIP VIA	TERMS 30 NET	ACCOUNT OR JOB NO.	ORDER DATE
QUANTITY	DESCRIPTION		UNIT PRICE	AMOUNT
2	K8A AWD Police Interceptor Utility vehicle as specified in attached quote.		32,394.17	64,788.34
1	POG Fusion S FWD as specified in attached quote.		18,471.90	18,471.90
	This purchase order, in addition to any exhibits or addenda			
	Attached is placed against State of Oregon Price Agreement #5551.			
	The terms and conditions contained in the Price Agreement apply			
	to this purchase and take precedence over all other conflicting terms			
	and conditions, express or implied. There are no understandings,			
	agreements or representations, oral or written, not specified herein.			

PLEASE ACKNOWLEDGE IMMEDIATELY AND STATE WHEN YOU WILL SHIP - OUR ORDER NO. MUST APPEAR ON ALL RELATED PACKAGES AND FORMS

 Christopher C. Eppley, Purchasing Agent

BILLING ADDRESS IS:
 PO BOX 21000
 KEIZER OR 97307

Fleet Price Quote

Gresham Ford - 1999 East Powell Blvd. Gresham, OR 97080

Paul Blankenship

Government and Commercial Fleet Manager
 Military Deliveries
 State of Oregon Contract #5551

Cell 503-490-6510
 FAX 503-665-0497
 Paul@GreshamFord.com

Quoted to:

City of Keizer
 Lt. Trevor Wenning

Cell/Phone
 E-Mail

Date Quoted

2/27/2019

Contract FIN

QS045

This Quote is per one vehicle

Contract Sale

QH099

Vehicle Quoted:

Model Code

K8A AWD Police Interceptor Utility

Model Year

2020

Quote:

Item Code

Item Description

Price

Base	K8A AWD Police Interceptor Utility		\$	35,108.00
WB	119 In. Wheel Base			
GVRW	Lb. GVRW			
Color	UM Agate Black			incl.
Interior	9 Cloth Buckets/Vinyl Rear			incl.
Interior Color	6 Ebony Interior			incl.
Trim	500A Equip Group, AM/FM Stereo			incl.
Engine	99B 3.3L V6 TIVCT		\$	(3,318.00)
Transmission	44U Electronic 10 Speed Automatic			incl.
Emissions	425 50 States Emissions			incl.
	51T Driver LED Spot lamp Whelen		\$	395.00
	59E Key Code 1435X		\$	48.00
	Flex Fuel			incl.
	153 Front License Plate Bracket			incl.

Note: Option 53M SYNC - Blue tooth is now a no chage standard equip.

Note: 2020 Police Explorer is 6.49 inches longer in wheel base.

Delivered to City of KEIZER

Cost of Vehicle	\$	32,233.00
Oregon Vehicle Privilege Tax	\$	161.17
E-Plates		NA
Total Vehicle Quote	\$	32,394.17

Fleet Price Quote

Gresham Ford - 1999 East Powell Blvd. Gresham, OR 97080

Paul Blankenship

Government and Commercial Fleet Manager
 Military Deliveries
 State of Oregon Contract #5551

Cell 503-490-6510
 FAX 503-665-0497
 Paul@GreshamFord.com

Quoted to:

City of Keizer
 Lt. Trevor Wenning

Cell/Phone

Date Quoted

2/27/2019

Contract FIN

QS045

E-Mail

wenning@keizer.org

This Quote is per one vehicle

Contract Sale

QH099

Vehicle Quoted:

Model Code

P0G Fusion S FWD

Model Year

2020

Quote:

Item Code

Item Description

Price

Base

P0G Fusion S FWD

\$ 18,216.00

WB

In. Wheel Base

GVRW

Lb. GVRW

Color

YZ

Oxford White

incl.

Interior

D

Eco Cloth

incl.

Interior Color

E

Ebony Med. LT ST

incl.

Trim

100A

Equip. Group 16 in. Alloy Wheels

incl.

Engine

997

2.5L Engine I4 IVCT

incl.

Transmission

44W

6-Spd Automatic Transmission

incl.

Emissions

425

50 States Emissions

incl.

Lane Keeping System

incl.

Blind Spot Detection

incl.

62C

P0G01

incl.

153

Front License Plate Bracket

incl.

12C

Premium Floor Mats

\$ 164.00

Note: Last day to order 2019 Fusions is May 3th. Order bank opens May 14th for 2020 Fusion.

Delivered to City of Keizer

Cost of Vehicle

\$ 18,380.00

Oregon Vehicle Privilege Tax

\$ 91.90

E-Plates

NA

Total Vehicle Quote

\$ 18,471.90

CITY COUNCIL MEETING: August 19, 2019

AGENDA ITEM NUMBER: _____

TO: MAYOR CLARK AND COUNCIL MEMBERS

THROUGH: CHRISTOPHER C. EPPLEY, CITY MANAGER

FROM: E. SHANNON JOHNSON, CITY ATTORNEY

SUBJECT: COMMUNITY CENTER CARPET

It has been determined that the carpet in the Community Center requires replacement. A Request for Proposal was issued on May 16, 2019 and two proposals were received. The selection committee comprised of the City Recorder, Facilities and Maintenance Technician, and the Public Works Director ranked each proposal against the criteria and after careful consideration determined that Thomas Kay Flooring be recommended as the successful proposer.

RECOMMENDATION:

Adopt the attached Resolution authorizing the City Manager to sign the Proposal with Thomas Kay Flooring.

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

ESJ/tmh

CITY COUNCIL, CITY OF KEIZER, STATE OF OREGON

Resolution R2019-_____

AUTHORIZING THE CITY MANAGER TO SIGN PROPOSAL WITH THOMAS KAY FLOORING FOR COMMUNITY CENTER CARPET REPLACEMENT

WHEREAS, the carpets in the Community Center need to be replaced;

WHEREAS, the City issued a Request for Proposal and two proposals were received;

WHEREAS, the selection committee recommends that the proposal be issued to Thomas Kay Flooring in the amount of \$40,540.00;

NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of Keizer that the City Manager is hereby authorized to sign the attached proposal with Thomas Kay Flooring for a total cost of \$40,540.00 to replace the carpets in the Community Center. Funding for this project is from the Community Center Fund.

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

PASSED this _____ day of _____, 2019.

SIGNED this _____ day of _____, 2019.

Mayor

City Recorder

PROPRIETARY INFORMATION NOTICE:
UNLESS PAYMENT HAS BEEN MADE TO SMITHCFI FOR PLAN DEVELOPMENT, THIS DRAWING, INCLUDING THE SPECIFICATIONS, CONCEPTS AND DESIGNS REPRESENTED HEREIN (A) IS AND SHALL REMAIN THE PROPERTY OF SMITHCFI; (B) SHALL BE USED ONLY IN RELATION TO THE SPECIFIC PROJECT FOR WHICH IT HAS BEEN PREPARED; (C) SHALL NOT BE COPIED, DISCLOSED TO THIRD PARTIES, USED TO ENABLE OTHERS TO PERFORM OR COMPLETE THIS PROJECT, OR USED IN CONNECTION WITH ANY WORK OR PROJECT OTHER THAN THE SPECIFIC PROJECT FOR WHICH IT HAS BEEN DEVELOPED.

FIELD DIMENSIONS MUST BE VERIFIED PRIOR TO INSTALLATION WHEN THIRD-PARTY INSTALLERS ARE USED.

CLIENT SIGN OFF

X _____

DATE: _____

FINISHES

WORKSURFACES: ---
PANELS: ---
UNDER WORKSURFACE STORAGE: ---
BINS/SHELVES: ---
POWER: ---

GENERAL NOTES

~

REVISIONS

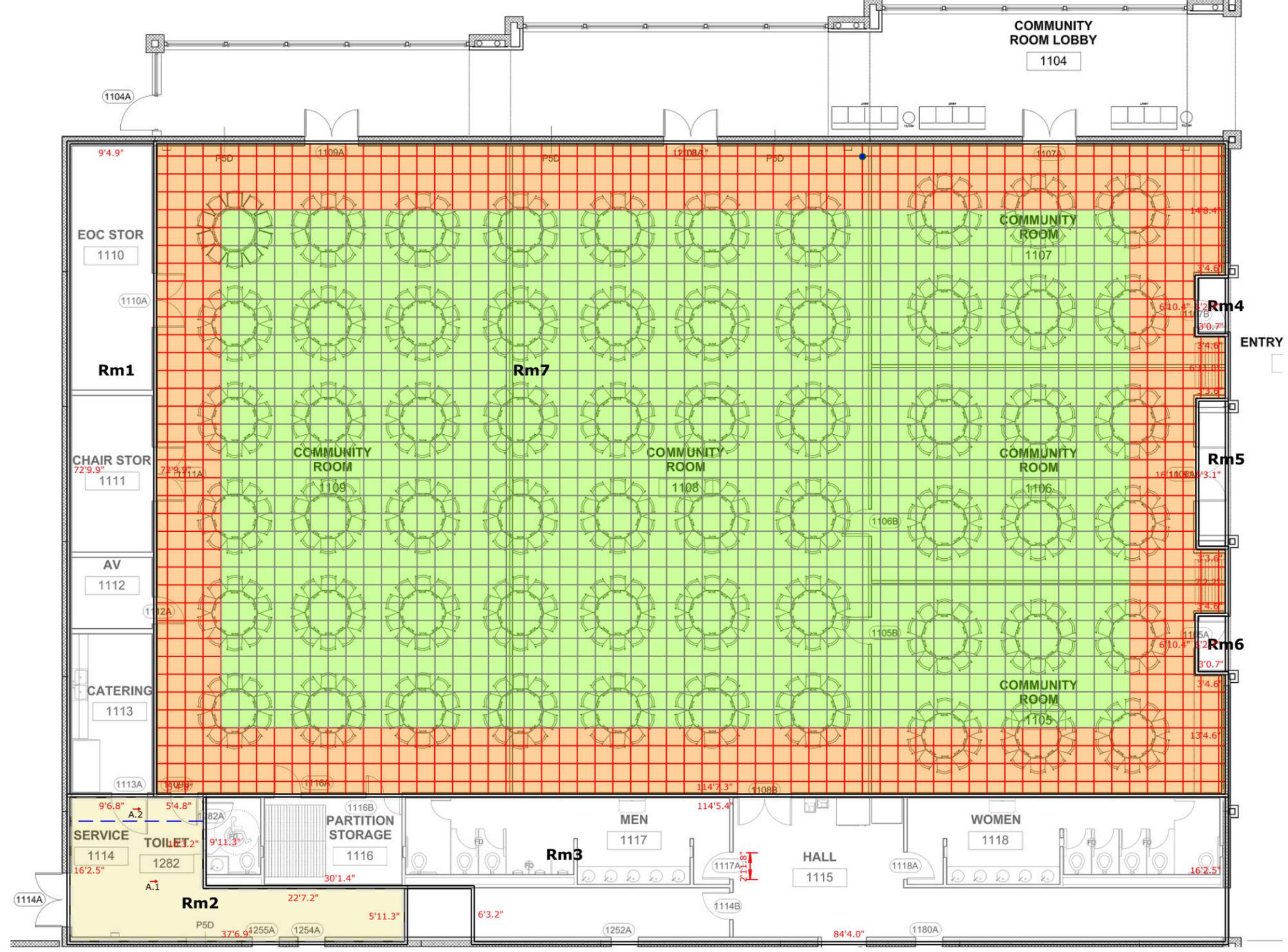
No.	REVISION/ISSUE	DATE
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SmithCFI
Making Your Workplace Work

620 NE 19TH AVENUE
PORTLAND, OR 97232-2832
P=(503) 226-4151
F=(503) 226-9233
WWW.SMITHCFI.COM

PROJECT NAME AND ADDRESS
City of Keizer
Community Rooms
~
~

DRAWING SCALE 1/4" = 1"	SALES CC	SHEET # 1 7
START DATE ~	DESIGNER MP	
ORDER NUMBER 73276	DRAWING FILE # 08cok-cityhallinstalplns.dwg	



- WOM - Color TBD 13'6" SY
- Shaw Contract Think Tile color Achieve 86760 24" x 24" SY
- Shaw Contract Think Tile color Escape 86505 24" x 24" SY

KEIZER COMMUNITY CENTER RFP
THOMAS KAY FLOORING PROPOSAL RESPONSE

1. Background

- a. Thomas Kay Textiles, Inc (dba Thomas Kay Flooring and Interiors) has been a part of the Salem-Keizer community since 1896 when it was originally founded as the Thomas Kay Woolen Mill. In the early 1960's Thomas B Kay converted the business from a woolen mill and started selling carpets direct to customers. Since that time Thomas Kay has become a staple flooring contractor in the commercial industry. Our business is focused on commercial applications including government, schools, large multi-family, and office space.

2. Workload Capacity

- a. Thomas Kay Flooring has the capacity to perform many large-scale commercial projects simultaneously. We are one of the few flooring contractors in the state to employ our own installation crew with which we perform approximately 30% - 40% of our overall installation projects. The balance of our installs are performed by vetted subcontractors with whom we have long established relationships.
- b. We typically install many of our own soft flooring projects including carpet, LVT, sheet vinyl, and rubber floors. Generally, we subcontract our ceramic tile projects.
- c. Limitations specific to this project might revolve around general timing of the installation. Late summer is typically a difficult time to install flooring as summer school projects are wrapping up. This year there are a lot of school projects going on and we anticipate that installation resources will be slim between the middle of July and the middle of September.

3. Subcontractors

- a. For this project we anticipate using our in-house installation crew and not employing any subcontractors.

4. References

- a. Ref 1 – Dalke Construction – Rich Arendt 503-585-7403
- b. Ref 2 – Pacific Mat and Commercial Flooring – Jim Nida 503-750-7801
- c. Ref 3 – Pioneer Trust Bank – John Willburn 503-363-3136

5. Floor Covering Proposal

- a. We would recommend using a Shaw Contract product called [Mindful Play](#) in any style (Engage, Impact, or Think).

6. Floor Covering – Why

- a. This flooring is a high quality, tightly pulled down yarn. They use the [Solution Q Extreme](#) yarn system which is a step up from a typical commercial grade nylon yarn. This upgraded yarn has the ability to repel food stains and retain appearance better than typical yarn.
- b. This style is also part of Shaw's No Rules collection which means that dye lots can be mixed. This is important in case future repairs are needed and are ordered from another dye lot. No Rules means that these dye lots will tend to match better than typical carpets.

- c. This product's 100% solution dyed yarn will have a better UV stability and tends to keep more vibrant colors over the life of the carpet than piece dyed products.
7. Pricing
 - a. Pricing to demo and dispose of (preferably recycle through the manufacturer) the old carpet tile, prep the slab, install new carpet tile, and install new 4.5" rubber base (to hide the old base line) is as follows:
 - b. \$40,540.00
8. Warranty
 - a. Labor: 1 year workmanship warranty
 - b. Product: Lifetime Commercial Limited Warranty by Shaw Contract
9. Options
 - a. Carpet is a style dependent product. As options, below is a lower cost option and a higher cost option:
 - i. Low Cost: Shaw Contract [Diffuse/Disperse](#) Carpet Tile
 - ii. High Cost: Shaw Contract [Chroma](#) Carpet Tile
10. Options – Why
 - a. Low Cost: Diffuse disperse has a slightly lower quality yarn. While still being of great commercial quality, this product isn't quite as great as the Solution Q Extreme found in the Mindful Play or the Chroma options. Note that Diffuse/Disperse is a popular schools option.
 - b. High Cost: Chroma has the same general specs as the Mindful Play base option in this proposal. The benefit of Chroma is a more luxurious, high end feel. Also, it's patterns and colors tend to be a little more crisp and rich.
11. Options – Pricing
 - a. Low Cost: Diffuse/Disperse \$39,250.00
 - b. High Cost: Chroma \$47,850.00
12. Options – Warranty
 - a. Same as base proposal
13. Time Line
 - a. We anticipate that this product could be made available within 6 weeks of ordering.
 - b. Installation would take 8 working days, potentially faster.
14. Contract
 - a. Our standard proposal notes are attached.
15. Other Information
 - a. Any other information requested may be addressed to Rich Clausen at:
 - b. rich@tkflooring.com

Thank you for your consideration

Rich Clausen

VP / Secretary

**CITY OF KEIZER REQUEST FOR PROPOSAL (RFP)
COMMUNITY CENTER FLOOR COVERINGS**

I. PURPOSE OF REQUEST.

The City of Keizer ("Keizer") is requesting proposals from a company for services described in the Scope of Services attached hereto as Exhibit "A".

II. TIME SCHEDULE.

Keizer will follow the following timetable:

Issue Request for Proposal	May 16, 2019
Submittal of Proposals by 3:00 p.m	May 30, 2019

III. INSTRUCTIONS TO PROPOSERS.

A. All proposals will be sent to:

City of Keizer
c/o Tracy Davis
930 Chemawa Road NE
PO Box 21000
Keizer, OR 97307

B. All mailed proposals must be in a sealed envelope and clearly marked in the lower left-hand corner: "RFP – Community Center Floor Coverings."

C. All proposals must be received by 3:00 p.m. on May 30, 2019. Proposals must be signed, sealed and delivered to City Hall by the above date. Faxed or electronic proposals will **NOT** be accepted. Proposers are cautioned that failure to comply may result in non-acceptance of the offer.

D. Proposals should be prepared simply and economically, providing a straight forward, concise description of provider capabilities to satisfy the requirements of the request. Special bindings are not desired. Emphasis should be on completeness and clarity of content. It is recommended that you contact Dan Collingham at 503-856-3562 to review and measure the areas desired to be carpeted.

E. All proposals must include the following information:

1. Describe your company's **background and history**, including the number of years in business.
2. Describe the **workload capacity** of your company and the types of work the company would be able to handle. Include any limitations you would foresee in your company's ability to handle certain types of work, or work capacity limitations.

3. Provide the information requested in numbers 1 and 2 above, for any **subcontractors** your company plans to use to complete any portion of the contracted work.
4. Provide a minimum of three (3) client **references**, at least one (1) of which must be a peer reference on behalf of your company of a positive professional reputation.
5. The City is seeking recommendations for carpet tile **floor covering**. Provide a recommendation and sample of the floor covering your company would recommend for a commercial use that is rented for events of all types and samples of the floor covering(s) recommended for the walk off area directly outside the warming kitchen.
6. Describe **why** you would recommend the floor covering in number 5 above, i.e., stain resistance, life of floor covering, color, etc.
7. Provide total **pricing** for the floor coverings you recommended in number 5 above. See Exhibit A.
8. Describe any **warranty** that is provided with the floor coverings you recommended in number 5 above.
9. Provide information about and samples of other **options** of floor covering that you would like the City to consider if the recommended floor coverings in number 5 above are not chosen.
10. Describe **why** the floor covering in number 9 above would be a suitable option for the City.
11. Provide **total pricing** for the floor covering suggested in number 9 above. See Exhibit A.
12. Describe any **warranty** that is provided with the floor covering suggested in number 9 above.
13. Provide an estimated **time line** for completion of the Scope of Services.
14. Provide your standard **Contract** form.
15. Provide any **other information** that you believe is important or relevant to this RFP.

IV. SELECTION CRITERIA.

A selection committee comprised of the City Recorder, Facilities and Maintenance Technician, and Public Works Director will be used for the purposes of evaluating all proposals received by the time and date set for receipt of proposals. The City reserves the right to change the make-up of the committee depending on the availability of the

proposed members. The proposals will be independently evaluated on the following criteria (not in ranked order):

1. Responsiveness of the written proposal to the purpose and scope of service, completeness and clarity of all required information and any supplemental information provided by Proposer that will demonstrate the quality of services.
2. Pricing.
3. Ability, experience, resources and history, the character integrity, reputation, judgment and efficiency of the Proposer.
4. Time Line.
5. Samples Provided.

Some of the criteria may be weighted more than others.

IV. TERMS AND CONDITIONS.

- A. The successful proposer may be required to negotiate language in the standard Contract form.
- B. The Contract shall begin upon full execution by all parties.
- C. Keizer reserves the right to reject any and all proposals, and to waive minor irregularities in any proposal.
- D. Keizer reserves the right to request clarification of information submitted, and to request additional information from any proposer.
- E. Keizer reserves the right to award the contract to the next most qualified proposer, if the successful proposer does not execute a contract within ten (10) days after City requests proposer to sign the Contract.
- F. Any proposal may be withdrawn up until the date and time set above for opening of the proposals. Any proposal not so timely withdrawn shall constitute an irrevocable offer, for a period of ninety (90) days following the date and time set above for opening of the proposals.
- G. Successful proposer must be able to provide Insurance documents upon execution of the contract. The insurance amounts are set forth herein. The amounts are \$1,000,000 for property damage and \$1,000,000 per person for bodily injury and no less than \$2,000,000 for any number of claims arising out of a single accident or occurrence. Successful proposer must also carry automobile liability insurance with a limit of liability of not less than \$1,000,000. Successful proposer must make arrangements with the insurance carrier to provide a certificate and endorsement insuring the City of Keizer, it's officers, agents, contractors, and employees as an Additional Insured. Successful proposer must keep the insurance policies effective throughout the entire term of the

contract. Successful proposer must provide a copy of your workers compensation insurance coverage in an amount required by state law.

H. The project shall be performed in a manner to comply with all state and federal requirements, including ADA, Civil Rights Act, and EEO requirements. Successful proposer and all personnel must comply with all OSHA regulations at all times.

I. Keizer shall not be responsible for any costs incurred by proposer in preparing, submitting or presenting its response to the RFP.

Questions regarding this Request for Proposals may be directed to Tracy Davis at 503-856-3412. Any communications will be considered unofficial and non-binding on the City. Only formal amendments to this RFP or the contract signed by both parties shall be binding.

Exhibit "A"

Community Center Floor Coverings
Scope of Services

1. City to remove all furniture/equipment without involvement of contractor.
2. Remove and dispose of existing carpet tile. It is recommended that Contractor recycle the existing carpet tile utilizing a program/company designed to recycle carpet tiles.
3. Remove and dispose of rubber base.
4. Repair wall damage as a result of base and carpet removal.
5. Prepare floor for new tile carpet.
6. Provide adhesive.
7. Provide carpet tiles.
8. Provide new rubber base to match current rubber base.
9. Install carpet tiles in the entire Community Center rooms including storage and wall room areas, as well as the area immediately outside the warming kitchen to the beginning of the hallway.
10. Install new rubber base.
11. Provide and install any transition strip(s) necessary between carpet tile and other surfaces.
12. The project shall be installed and finished pursuant to any and all standards and requirements of the manufacturer as of the date of the contract to ensure warranty. The City is dependent on Contractor's expertise and experience in this regard.
13. Properly dispose of all waste material from project.
14. Comply with appropriate safety measures.
15. Obtain satisfactory final inspection from the City of Keizer.
16. Provide at least fifty (50) square feet of extra tiles.



MINUTES
KEIZER CITY COUNCIL
Monday, August 5, 2019
Keizer Civic Center, Council Chambers
Keizer, Oregon

CALL TO ORDER

Mayor Clark called the meeting to order at 7:00 pm. Roll call was taken as follows:

Present:

Cathy Clark, Mayor
Kim Freeman, Councilor
Marlene Parsons, Councilor
Roland Herrera, Councilor
Daniel Kohler, Councilor
Elizabeth Smith, Councilor
Laura Reid, Councilor

Staff:

Chris Eppley, City Manager
Shannon Johnson, City Attorney
Nate Brown, Community Development
Bill Lawyer, Public Works Director
Trevor Wehning, Police
Tim Wood, Finance Director
Tracy Davis, City Recorder

FLAG SALUTE

Mayor Clark led the pledge of allegiance.

**SPECIAL ORDERS
OF BUSINESS**

Mayor Clark showed a token of appreciation given to the City by the mother of PFC Ryan J. Hill in gratitude for keeping his memory alive and honoring his sacrifice. One was also given to Representative Post who was involved in getting the highway sign placed.

**COMMITTEE
REPORTS**

**a. Volunteer
Coordinating
Committee
Recommendations for
Appointment to
Planning
Commission
and Keizer
Public Arts
Commission
Youth Liaison**

City Manager Chris Eppley reported that following publication of notice of vacancies and acceptance of testimony from the applicants, the Volunteer Coordinating Committee unanimously recommended *Matt Lawyer, Jeremy Grenz* and *Frank Hostler* to the Planning Commission, terms beginning October 1, 2019 and ending September 30, 2022, and *Anne Farris* as Youth Committee Liaison on the Public Arts Commission term beginning September 1, 2019 and ending June 30, 2020.

Councilor Freeman moved that the Keizer City Council accept the Volunteer Coordinating Committee recommended appointments of Matt Lawyer, Jeremy Grenz and Frank Hostler to the Planning Commission and Anne Farris as Youth Committee Liaison on the Public Arts Commission. Councilor Herrera seconded. Motion passed unanimously as follows:

AYES: Clark, Reid, Freeman, Parsons, Herrera, Smith and Kohler (7)
NAYS: None (0)
ABSTENTIONS: None (0)
ABSENT: None (0)

**PUBLIC
TESTIMONY**

Darrell Richardson, Keizer, invited everyone to the National Night Out event on his street, thanked Council for their volunteer work, and praised city staff and the Keizer Police Department.

Colleen Busch, Salem Keizer Transit District, invited everyone to a party on September 3 to celebrate the commencement of Saturday bus service. She shared details of the event and noted that free bus rides will be available every Saturday through September.

PUBLIC HEARING

a. Proposed Text Amendment to Keizer Development Code Section 2.125 to Allow Auto and Home Supply Stores and Automotive Services, Except Repair in Area D of the Keizer Station Plan boundary as “Flexible Space Uses”

Mayor Clark opened the Public Hearing.

Community Development Director Nate Brown summarized his staff report and fielded questions.

Stacie Hernandez, Chief of Staff of the Confederated Tribes of Grand Ronde and *Alan Roodhouse*, President of RPS Development acting on behalf of Chemawa LLC provided additional information regarding possible tenants and site development plans.

With no further testimony, Mayor Clark closed the Public Hearing.

Councilor Freeman moved that the Keizer City Council direct staff to prepare an ordinance with findings to adopt the proposed revisions. Councilor Herrera seconded. Motion passed as follows:

AYES: Clark, Reid, Freeman, Parsons, Herrera and Smith (6)

NAYS: Kohler (1)

ABSTENTIONS: None (0)

ABSENT: None (0)

b. RESOLUTION – Authorization for Supplement Budget – General Administration Contingency

Mayor Clark opened the Public Hearing.

Finance Director Tim Wood summarized his staff reports and handed out a replacement Resolution with the correct title.

With no testimony, Mayor Clark closed the Public Hearing.

Councilor Freeman moved that the Keizer City Council adopt a Resolution Authorization for Supplement Budget – General Administration Contingency. Councilor Herrera seconded. Motion passed unanimously as follows:

AYES: Clark, Reid, Freeman, Parsons, Herrera, Smith and Kohler (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

RESOLUTION – Authorization for Supplemental Budget – PEG Fund

Councilor Freeman moved that the Keizer City Council adopt a Resolution Authorization for Supplemental Budget – PEG Fund. Councilor Herrera seconded. Motion passed unanimously as follows:

AYES: Clark, Reid, Freeman, Parsons, Herrera, Smith and Kohler (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

RESOLUTION – Authorization for Supplemental Budget – Community Center Fund – Councilor Freeman moved that the Keizer City Council adopt a Resolution Authorization for Supplemental Budget – Community Center Fund. Councilor Herrera seconded. Motion passed unanimously as follows:
 AYES: Clark, Reid, Freeman, Parsons, Herrera, Smith and Kohler (7)
 NAYS: None (0)
 ABSTENTIONS: None (0)
 ABSENT: None (0)

RESOLUTION – Authorization for Supplemental Budget - Administrative Services Fund – Public Work Civic Center Facilities – Councilor Freeman moved that the Keizer City Council adopt a Resolution Authorization for Supplemental Budget - Administrative Services Fund – Public Work Civic Center Facilities. Councilor Herrera seconded. Motion passed unanimously as follows:
 AYES: Clark, Reid, Freeman, Parsons, Herrera, Smith and Kohler (7)
 NAYS: None (0)
 ABSTENTIONS: None (0)
 ABSENT: None (0)

RESOLUTION – Authorization for Supplemental Budget – Interfund Loan From Park Improvement Fund to Park Services Fund – Councilor Freeman moved that the Keizer City Council adopt a Resolution Authorization for Supplemental Budget – Interfund Loan From Park Improvement Fund to Park Services Fund. Councilor Herrera seconded. Motion passed unanimously as follows:
 AYES: Clark, Reid, Freeman, Parsons, Herrera, Smith and Kohler (7)
 NAYS: None (0)
 ABSTENTIONS: None (0)
 ABSENT: None (0)

ADMINISTRATIVE ACTION

None

CONSENT CALENDAR

- a. RESOLUTION – Authorizing The City Manager to Award And Enter Into An Agreement With Salem Concrete Paving For Willamette Manor Sport Court Project
 - b. RESOLUTION – Authorizing The City Manager to Award And Enter Into An Agreement With Wyckam LLC For Shade Sails For The Big Toy At Keizer Rapids Park
 - c. RESOLUTION – Authorizing The City Manager To Purchase 2019 Ford F-250 Vehicle For The Parks Division Of The Public Works Department And Authorizing Disposition Of Surplus Property
 - d. Approval of July 8, 2019 City Council Work Session Minutes
 - e. Approval of July 15, 2019 City Council Regular Session Minutes
- Councilor Parsons pulled Item b.

Councilor Freeman moved for approval of items a, c, d and e of the Consent Calendar. Councilor Herrera seconded. Motion passed unanimously as follows:

AYES: Clark, Reid, Freeman, Parsons, Herrera, Smith and Kohler (7)

NAYS: None (0)

ABSTENTIONS: None(0)

ABSENT: None (0)

Discussion followed regarding the shade sails with Public Works Director Bill Lawyer provided details regarding installation, funding, and maintenance.

Councilor Freeman moved for approval of item b of the Consent Calendar. Councilor Herrera seconded. Motion passed unanimously as follows:

AYES: Clark, Reid, Freeman, Parsons, Herrera, Smith and Kohler (7)

NAYS: None (0)

ABSTENTIONS: None(0)

ABSENT: None (0)

COUNCIL LIAISON REPORTS

Councilor Kohler reported that 9300 people have been served to date at the Keizer Community Dinners. He also reviewed upcoming meetings and events.

Councilor Reid reported that she had volunteered at the Police 5k Foot Pursuit event and commended planners of the event and reported on the Strong Families, Resilient Communities and World Class Education Call to Action conference.

Councilor Freeman urged everyone to share the volunteer opportunity cards and the information sheet from Mr. Eppley when visiting neighborhoods during National Night Out. She invited everyone to attend the Community Conversation and Planning Commission Revitalization Plan meeting, and reported that the invoice for repair of damage from installation of Christmas lights was paid by two chamber members.

Councilor Smith reported on the cultural history pole in front of City Hall noting that there was an opportunity to donate towards carving of the second one.

Councilor Parsons reported on the Keizer Community Call to Action, announced the upcoming Community Conversation and reviewed volunteer opportunities on City committees.

Councilor Herrera provided additional information regarding the Strong Families, Resilient Communities and World Class Education Call to Action conference and welcomed Lt. Trevor Wenning who serves as liaison and role model to school children. He also reported on efforts of the Cabasas Leadership Institute, urged everyone to participate in

National Night Out, and praised the summer concerts being held at the Keizer Rotary Amphitheater.

Mayor Clark reported on the Oregon Mayors' Association Conference and a reception for the new president of Chemeketa College, congratulated Dorothy Diehl and the Police Department for their successful 5k event, encouraged people to attend the upcoming Community Conversation and announced other upcoming events and meetings.

OTHER BUSINESS Officer Trevor Wenning provided information about the recent BLAST Camp, National Night Out registered neighborhoods, police staffing and the upcoming 'Coffee with a Cop' on October 2.

Public Works Director Bill Lawyer reminded everyone of River Road paving.

Community Development Director Nate Brown urged everyone to attend the upcoming Planning Commission meeting on the Revitalization Plan.

City Attorney Shannon Johnson noted that he had an item for Council action regarding the quarry litigation and settlement that was not on the agenda and asked that the rules be suspended so that it could be addressed.

Councilor Freeman moved that the Keizer City Council suspend the rules in order to take up the issue regarding the quarry litigation settlement. Councilor Herrera seconded. Motion passed unanimously as follows:

AYES: Clark, Reid, Freeman, Parsons, Herrera, Smith and Kohler (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

Mr. Johnson reviewed the background on this issue and thanked Council, the Bauers, the mediator, the attorneys and Lance Davis and his wife.

Councilor Freeman moved that the Keizer City Council adopt a Resolution Authorizing the City Manager and the City Attorney to Sign Settlement Agreement and Stipulated Judgment in the Bauer/City of Keizer vs. Davis/Northwest Rock Litigation. Councilor Herrera seconded. Motion passed unanimously as follows:

AYES: Clark, Reid, Freeman, Parsons, Herrera, Smith and Kohler (7)

NAYS: None (0)

ABSTENTIONS: None (0)

ABSENT: None (0)

**WRITTEN
COMMUNICATIONS**

Mayor Clark read a letter received from Sonny Chickering, Region 2 Manager of ODOT regarding the status of the Salem River Crossing.

AGENDA INPUT

August 12, 2019 - 6:00 p.m. ~ City Council Work Session - cancelled
August 19, 2019 - 7:00 p.m. ~ City Council Regular Session
September 3, 2019 (Tuesday) ~ 7:00 p.m. ~ City Council Regular Session

ADJOURNMENT

Mayor Clark adjourned the meeting at 8:20 p.m.

MAYOR:

APPROVED:

Cathy Clark

Debbie Lockhart, Deputy City Recorder

COUNCIL MEMBERS

Councilor #1 – Laura Reid

Councilor #4 – Roland Herrera

Councilor #2 – Kim Freeman

Councilor #5 – Elizabeth Smith

Councilor #3 – Marlene Parsons

Councilor #6 – Daniel R. Kohler

Minutes approved: _____