



# Molalla City Council

Meeting located at: Molalla Adult Community Center  
315 Kennel Avenue Molalla, OR 97038

## February 13, 2013

### Regular Meeting Agenda

**Work session: 6:30 p.m.** The Council will review and discuss agenda items for the business meeting.

**Business meeting:** The meeting will begin at 7 p.m. The Council has adopted Public Participation Rules. Copies of these rules and public comment cards are available at the entry desk. Public comment cards must be turned into to the City Recorder prior to the start of the Council meeting.

The City will endeavor to provide a qualified bilingual interpreter, at no cost, if requested at least 48 hours prior to the meeting. To obtain services call the City Recorder at (503) 829-6855.

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### *1,009<sup>th</sup> Regular Meeting*

#### **1. CALL TO ORDER**

- A. Flag Salute – Molalla Boy Scout Troop 160
- B. Roll Call

#### **2. COMMUNICATIONS**

- A. Minutes: December 12, 2012; January 09, 2013; January 23, 2013

#### **3. AWARDS & RECOGNITIONS**

#### **4. PUBLIC HEARINGS**

#### **5. CONTINUING BUSINESS**

- A. Leauge of Oregon Cities – Service Agreement for City Manager Recruitment

**6. NEW BUSINESS**

**7. ORDINANCES**

- A. Public Comment on proposed Ordinance 2013-02: An Ordinance Of The City Of Molalla Establishing A Privilege Tax On Electric Utilities
- B. 2013-02: An Ordinance Of The City Of Molalla Establishing A Privilege Tax On Electric Utilities

**8. RESOLUTIONS**

- A. 2013-04: PGE Franchise Agreement

**9. PROCLAMATIONS**

**10. REPORTS AND ANNOUNCEMENTS**

- A. City Manager Report - Memo Included in Packet
- B. Upcoming Council Agenda Items:
  - 1. Council Training and Workshop Urban Renewal: February 27, 2013 at 5:30pm at the Molalla Adult Center
  - 2. Economic Improvement District
  - 3. Telecommunication Franchise Ordinance
  - 4. Council Goals – Revisit (March 28, 2013)
  - 5. Urban Renewal – Minor Amendment between City of Molalla and Fire Dist. 73
  - 6. Planning Commission Meeting on 02/26/13: Review of proposed annexation ordinance and a land use appeal. Ordinance to go to Council March 13, 2013

**11. EXECUTIVE SESSION**

**12. ADJOURNMENT**

# Molalla City Council

Meeting located at: Molalla Adult Community Center  
315 Kennel Avenue Molalla, OR 97038

**December 12, 2012**

## **CALL TO ORDER**

Flag Salute & Roll Call. **ATTENDANCE 1,006<sup>th</sup> REGULAR MEETING:** Mayor Mike Clarke, Present; Councilor Stephen Clark, Present; Councilor George Pottle, Present; Councilor Jimmy Thompson, Present; Councilor Dennis Wolfe, Absent; Councilor Jim Needham, Present; Council President Debbie Rogge, Present.

**STAFF IN-ATTENDANCE:** Interim City Manager, Mark Gervasi; City Recorder, Sadie Cramer; Finance Director, Heather Penni; Community Services Director, Melissa Georgesen.

## **COMMUNICATIONS**

The Molalla Arts Commission provided minutes for council review. Item was information only.

Jenifer K. Hood of TEAM let the Council know that TEAM has been working on some great projects over the last year. Including new holiday banners, possible farmers markets, possible developer for downtown development, a local business export survey and she has received grants for a Rodeo Hall of Fame. The Council thanked her for the updates.

## **AWARDS & RECOGNITIONS**

### **OUTGOING MAYOR AND COUNCILOR RECOGNITIONS**

Gervasi presented a plaque to Mayor Clarke on behalf of the Council that recognized his elected role and dedication to the community that he has served for so many years.

Mayor Clarke present a certificate to Councilor Needham recognizing his elected position as a Councilor and thanked him for serving the community.

Mayor Clarke present an award for Fitness and Leadership to Kevin Carrier for his outstanding efforts and years of service to the Molalla Youth Sports program.

## **RESOLUTIONS**

### RESOLUTION 2012-42: A RESOLUTION REPEALING RESOLUTION 2005-1, CHAMBER FEE

Terry Shankle spoke on behalf of the Molalla Area Chamber of Commerce expressing their opposition to the Council repealing the resolution that designates a \$20.00 portion of the current \$70.00 business license to the Molalla Area Chamber of Commerce.

When Gene Green, the former City Manager was in office the purpose of the fee at the time was to help support the Chamber and the Chamber efforts.

At this time the board is hesitant to raise their membership fees that are estimated to be at a median rate; which is currently one of the Chambers main revenue sources. Shankle stated that the Chamber fields calls that City Hall may otherwise get involving inquiries about local resources, tourism, attractions, events, charities and businesses. The Chamber also helps to promote the 4<sup>th</sup> of July Parade along with the newly added fun run with assistance from the city.

Shankle stated that the Chamber needs those funds to sustain. Brief discussion between Shankle, Council and staff took place regarding the current membership rate, tax status, how the Chamber would offset the loss of revenue took place. Shankle noted the Chamber is currently looking at restructuring how it and the board functions, along with providing their board with additional training.

Needham asked if they would be faced with staff reductions. Shankle stated they wouldn't. Currently the MACC has 2 paid staff positions. One is 30hrs per week and the other is 12hr per week.

Rogge stated that the Chamber has made cost cutting efforts such as relocating and negotiated a reduction in rent in the sum of \$200 per month and she discussed with the board the possibility of renting out one of the rooms in the facility to generate additional revenue. Rogge stated that both she and Shankle don't want to see any sudden changes take place until further discussion between MACC, staff and Council could take place to see if there could be a compromise that will allow the Chamber more time to become more sustainable.

Needham asked if the business fee would be reduced or will this generate additional revenue for the city. Gervasi and Penni reaffirmed that those dollars would be used for general fund purposes.

Clark made the motion to table this item until the January 9, 2013 meeting. Rogge seconded. Motion carried 6-0.

## **REPORTS AND ANNOUNCEMENTS**

Georgesesen informed the Council of their successful swim meet and invited everyone to come to lunch at the Molalla Adult Center.

Penni stated that staff is currently working on the invoicing for this year's EID billings but the database is currently in need of being audited and the city is currently waiting on a response from the Clackamas County Tax Assessors before moving forward.

Needham thanked Kevin Carrier for his service to the community and thanked the Council for his certificate of appreciation and gratitude for serving the community in the capacity that he has over the years. He welcomed Gervasi and Council elect as he wished everyone a Merry Christmas.

Thompson made the recommendation to staff to research the Keizer Senior Center's business plan since they are run by an individual 501C3.

Pottle stated that Cindy's Café had a fire and he hopes they reopen soon. He congratulated the Molalla Fire Department for their successful canned food drive that collected enough food to fill the large tractor trailer for people in need. He gently reminded the community to be extra aware during this holiday season for those in our community who might be in need. He thanked those serving their countries for their service and sacrifice over the holiday season.

Rogge thanked Mayor Clarke as a Mayor, citizen and business man. She appreciates his continued community support, who genuinely loves the Molalla. She stated she hopes to at least half of what he has done during his role as Mayor.

Mayor Clarke thanked his wife Susan Clarke for her support in his role as Mayor over the decades. He has faced a number of ups and downs over the decades and without her support he couldn't have done it. He encouraged those who write negative things or comments in letters to the editors, blogs or other media to keep in mind that we are all still human beings and to try to remember that the next time an individual decides to print something.

In closing he thanked the Council and staff for their hard work over the years. He has seen a lot of changes over the last 20 years, mostly grand but also some things that were very distressing. Molalla got their first stop light, a McDonalds and Safeway to surviving the loss of the old High School due to the earthquake. Great projects have been completed all of which he took pleasure in participating in, but most of all thank you for all the friendships along the way.

### **CITY MANAGER REPORT - MEMO INCLUDED IN PACKET**

#### **Upcoming Council Agenda Items**

- a. PGE Franchise Agreement
- b. Stone Place Reimbursement Agreement
- c. Natural Hazard Mitigation Plan Updates
- d. Credit Card Use Policy

- e. Telecommunication Franchise Ordinance
- f. GIS Mapping Tech/Planner Position
- g. City Grants Policy
- h. Council Goals – Revisit
- i. Accessibility of Vulnerable Populations to Safeway

**ADJOURNMENT**

Rogge made the motion to adjourn at 7:51pm. Pottle seconded. Motion carried 6-0.

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Sadie Cramer, City Recorder

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Mayor Mike Clarke

# Molalla City Council

Meeting located at: Molalla Adult Community Center  
315 Kennel Avenue Molalla, OR 97038

**January 9, 2013**

## **CALL TO ORDER**

Flag Salute & Roll Call. **ATTENDANCE 1,007<sup>th</sup> REGULAR MEETING:** Mayor Mike Clarke, Present; Councilor Stephen Clark, Present; Councilor George Pottle, Present; Councilor Jimmy Thompson, Present; Councilor Dennis Wolfe, Absent; Councilor Jim Needham, Absent; Council President Debbie Rogge, Present; Councilor Elects, Dennis Wise and Jason Griswold, Present.

**STAFF IN-ATTENDANCE:** Interim City Manager, Mark Gervasi; City Recorder, Sadie Cramer; Finance Director, Heather Penni; Community Services Director, Melissa Georgesen.

## **NEW BUSINESS**

### OATHS OF OFFICE FOR NEWLY ELECTED OFFICIALS

Mayor Clarke read the oaths of office to swear in the newly elected City Councilors. Mayor Clarke swore in Jimmy Thompson, Dennis Wise and Jason Griswold. They were seated with the remaining council.

Mayor Clarke swore in and passed the gavel to Mayor elect, Debbie Rogge. Mayor Clarke congratulated her and she was seated with the Council as Mayor. She convened the meeting.

## **COMMUNICATIONS**

### WRITTEN

Library Board Minutes and Bureau of Land Management – RE: Resource Management Planning Announcement – Information Only

Thompson made the motion to approve the minutes of October 10, 2012; October 16, 2012; October 30, 2012 & November 6, 2012. Clark seconded. Motion carried 4-2. Griswold and Wise abstained since they were not present at those meetings.

## **CONTINUING BUSINESS**

DISCUSSION BETWEEN REPRESENTATIVES REGARDING RESOLUTION 2012-42  
REPEALING FEE FROM BUSINESS LICENSE COLLECTED ON BEHALF OF THE  
CHAMBER.

Terry Shankle spoke in opposition of the repeal on behalf of the Molalla Area Chamber of Commerce and to leave it as is. If the Council is inclined to move forward the Chamber would like the opportunity to discuss this in a work session with a committee that includes Chamber representatives before a decision is made. The resolution was put into place to support the Chamber and the Chamber continues to support those efforts.

After discussion between staff and Council regarding the sources of Chamber revenues, billing cycles and if the city should be funding non-profits. It was also discussed that based on statistical research of other cities perhaps there can be a compromise on the fee amount dispersed to the Chamber.

Rogge stated that there are a number of things to look at a proposed to compromise or opt out in the next fiscal year.

Thompson made the motion to repeal the Chamber as of the new fiscal cycle that would end on June 30, 2013. Griswold seconded. Motion carried 6-0.

### **NEW BUSINESS - Continue**

#### **COUNCIL APPOINTMENT FOR COUNCIL PRESIDENT**

Thompson nominated Pottle as Council President. Clark nominated Thompson. Thompson respectfully declined, hearing no other opposition Pottle was officially appointed as the new Council President.

#### **LIBRARY BOARD GUIDELINES AND PROCEDURE AMENDMENTS**

After brief discussion between staff and Council regarding the proposed changes Clark made the motion to approve the amendments to the guidelines. Pottle seconded. Motion carried 6-0.

#### **SECRETARY OF STATE AUDIT EXTENTION FOR FY 11/12**

Through our audit firm, Oster Professional Group, the City of Molalla has applied for a 90-day extension for the filing of our 2011/2012 audit with the Secretary of State. The new due date for completed audit submission will be March 31, 2013.

The extension will allow the City of Molalla to include the Fixed Asset results in this audit and bring the City into full compliance with GASB 34. The fixed asset study is slated to begin Monday January 14, 2013 and is expected to take 60 days. Clark made the motion to approve the extension as presented. Pottle seconded. Motion passed 6-0.



## IT SERVICES RFP'S

The City has failing individual computer systems and a lack of compatibility in software with its work stations. In the late summer of 2012 the City of Molalla called for a request for proposals (RFP) for the purposes of obtaining technical support services for the City's computer system.

The City received 4 proposals from the following Network and Computer Support Service Providers:

- Molalla Communications, Molalla, Oregon
- Convergence, Milwaukie, Oregon
- Richardson Group, Portland, Oregon
- Kintechnology, Canby Oregon

After discussion between staff and council as to why they are recommending Molalla Communication, who rated the RFP's and if the Molalla Police Department can be added to the contract due to the new Clackamas County cost that is anticipated to be \$4,000 to provide cost savings since we have already paid out \$21,000 in computer services to date. Thompson made the motion to approve the recommendation to allow staff to negotiate an IT contract. Clark seconded. Motion carried 6-0.

## CITY MANAGER RECRUITMENT

Clark made the motion to have Interim City Manager Gervasi make contact with the League of Oregon Cities to begin the recruitment process. Thompson seconded. Motion carried 6-0. The criteria will be presented at the next Council meeting and a LOC representative meeting will be arranged for the first meeting in February.

## ADULT CENTER'S FUTURE

Georgenson address the Council and stated that the Adult Center is not self sustaining at this time and it is requiring a larger transfer from the general fund and the general fund can not withstand. It is her recommendation that the city contact Clackamas County Service to terminate current services effective March 31, 2013. The reason for the March 31, 2013 date is because it marks the end of the 3<sup>rd</sup> quarter and it would allow the center to receive the MCC donation to allow services to continue through that date. It is also the latest date that works for the general fund as well.

Rogge clarified that in order for another non-profit to step in to take over the current services the city needs to give them notice so the county can prepare an RFP so entities can apply and be put into place before the March 31, 2013 so services can continue past that date, if one should apply.

Thompson made the motion to terminate services with Clackamas County for the Adult Center as of March 31, 2013. Clark seconded. Motion carried 6-0.

## WARRANT REGISTER

Penni asked for direction in regards to the future warrant register reporting to the council and the amount of detail the council would like to see in the new year. The topic was discussed between staff and council. The consensus of the council was to continue current practices with the exception of it being sent directly to council and it can be removed from the agenda packets.

## ECONOMIC IMPROVEMENT DISTRICT (EID)

Jenifer Hood of TEAM reported that the board has been informed of the issues with the EID and the board approved the repeal of the current ordinance so a new one can be drafted. Hood provided a list of achievements and works in progress that TEAM has worked on. She is dedicated to help Molalla move forward. It has worked on recruitment, outreach, grants, public relations and economic development strategies. A detailed list of items was accepted as Exhibit A and can be found in the official agenda folder at City Hall..

Clark asked if TEAM and the Chamber could combine the two forces to help offset costs for each group due to the current items before the council for both groups. Hood stated that the 2 do very different things and she is concerned that if they are put in the same building her time could be dominated by Chamber activities and foot traffic. The cost savings for the space large enough to accommodate the 2 agencies would be difficult. Thompson made the motion to repeal the EID ordinance. Wise seconded. Motion carried 6-0.

Thompson questioned the liens placed during the EID renewal. Penni stated that she will need to go through and audit those liens and remove those that need to be.

Staff will need to prepare an ordinance to officially repeal EID district at the next council meeting. Pottle asked if there is a cost to the city for the liens. Penni stated yes.

Wise instructed staff to draft a new EID ordinance to be reviewed by council. Griswold seconded. Motion carried 5-0. (Thompson, Nay and Clark, Nay)

## **RESOLUTIONS**

RESOLUTION 2013-01: A RESOLUTION APPOINTING A BUDGET OFFICER FOR FY 13/14

Thompson made the motion to approve resolution 2013-01. Clark seconded. Motion carried 6-0.

RESOLUTION 2013-02: A RESOLUTION CERTIFYING THE NOVEMBER 6, 2013 ELECTION RESULTS

Thompson made the motion to approve resolution 2013-01. Griswold seconded. Motion carried 6-0.

**RESOLUTION 2012-42: A RESOLUTION REPEALING FEE FROM BUSINESS LICENSE COLLECTED ON BEHALF OF THE CHAMBER *(ITEM TABLED BY COUNCIL FOR DISCUSSION AT THE JANUARY 9, 2013 MEETING)***

Thompson made the motion to repeal the Chamber as of the new fiscal cycle that would end on June 30, 2013. Griswold seconded. Motion carried 6-0.

**REPORTS AND ANNOUNCEMENTS**

Staff informed council that Union Negotiations will be entered into and a assest management meeting will also take place. The Mayor will coordinate council attendance.

Rogge asked that Council to let her know what boards they are interested in serving on.

City Manager Report - Memo Included in Packet along with upcoming Council Agenda Items:

1. Council Training and Workshop for budgeting: January 2, 2013
2. Ecomnomic Improvement District
3. PGE Franchise Agreement - UPDATE
4. Telecommunication Franchise Ordinance
5. City Grants Policy
6. Council Goals – Revisit
7. Urban Renewal – Minor Amendment between City of Molalla and Fire Dist. 73

**ADJOURNMENT**

Thompson made the motion to adjourn at 8:22pm. Wise seconded. Motion carried 6-0.

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Sadie Cramer, City Recorder

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Mayor Debbie Rogge

# Molalla City Council

Meeting located at: Molalla Adult Community Center  
315 Kennel Avenue Molalla, OR 97038

## January 23, 2013

### **CALL TO ORDER**

Flag Salute & Roll Call. ATTENDANCE 1,008<sup>th</sup> REGULAR MEETING: Mayor Debbie Rogge Present; Council President George Pottle, Present; Councilor Stephen Clark, Present; Councilor Dennis Wise, Present; Councilor Jimmy Thompson, Present; Councilor Jason Griswold, Present, Councilor Dennis Wolfe, Present.

**STAFF IN-ATTENDANCE:** Interim City Manager, Mark Gervasi; City Recorder, Sadie Cramer

### **COMMUNICATIONS**

#### MINUTES

Thompson made the motion to approve the minutes of November 14<sup>th</sup>, 20<sup>th</sup> and 28<sup>th</sup> of 2012. Wolfe seconded. Motion carried 7-0.

### **AWARDS & RECOGNITIONS**

#### STAFF RECOGNITION FOR 5+ YEARS OF SERVICE

Gervasi and the Council thanked and acknowledge staff for their dedication to the City of Molalla. Council would like to know when staff achieve milestones such as this when possible.

### **CONTINUING BUSINESS**

#### CITY MANAGER CRITERIA FOR RECRUITMENT

Discussion between staff and council took place about changes they would like to see made to the hiring criteria including:

- Removing Negotiable Items
- Budgeting and Finance Experience a must
- Remove the Planning Department
- Revise Mayor terms and general data
- Add language of the expectation that this is a hands on position

The Council expressed that they would like to advertise the position in the Oregonian, Seattle Times and the ICMA.

Rogge called for public comment. Hearing none, Pottle made the motion to approve the hiring criteria with the recommend changes as discussed. Clark seconded. Motion carried 7-0

Griswold made the motion to instruct staff to contact the LOC to prepare a contract and provide Council the opportunity to discuss the services the LOC will provide. Wolfe seconded. Motion carried 7-0.

### **ORDINANCES**

ORDINANCE 2013-01: REPEALING ORDINANCE 2010-11: RENEWAL OF THE ECONOMIC IMPROVEMENT DISTRICT - Rogge read the ordinance by title only.

Thompson made the motion to read by title only Ordiance 2010-11. Clark seconded. Motion carried 7-0.

Thompson made the motion to have a second reading by title only Ordiance 2010-11. Griswold seconded. Motion carried 7-0.

Thompson made the motion to adopt Ordiance 2010-11. Wolfe seconded. Motion carried 7-0.

### **RESOLUTIONS**

RESOLUTION 2013-02: REPEALING ORDINANCE 2005-11 AS OF JUNE 30, 2013

The item was taken off the agenda but Council allowed public comment regarding the item. Action was taken on this item on January 9, 2013 by passing Resolution 2012-42.

Mary Lynn Jacob on behalf of the Molalla Area Chamber of Commerce expressed the Chambers opposition of repealing the resolution and is opposed to the lauangued used in the previous resolution “The city’s administrator and council at that time had the expectation that the Chamber would assist with joint community grants, marketing, and tourism promotion and facilitate assistance with economic growth”. Jacob submitted 4 items to the Council for review and consideration and entered into the official agenda record as Exhibit A. The exhibits can be reviewed at Molalla City Hall by advanced request.

RESOLUTION 2013-03: A RESOLUTION CERTIFYING THE 11/6/12 ELECTION RESULTS: ANNEXATION

Thompson made the motion to approve Resolution 2013-03 certifying the election results for the annexation. Pottle seconded. Motion carried 7-0.

### **REPORTS AND ANNOUNCEMENTS**

## CITY MANAGER REPORT

Thompson made the motion to instruct staff to negotiate the franchise fee amount from 3.5% to 5%. Clark seconded. Motion carried 6-0. (Griswold, Nay)

Gervasi stated he will follow up with PGE about the increase and how that will increase a users bill. Based on Annette Mattson's from PGE there could be an increase of \$1.34 per residence on average. The extra revenues can be earmarked to public works, streets and general fund. That would be decided during the budget committee meetings. Upcoming Council Agenda Items:

1. Council Training and Workshop Urban Renewal: February 13, 2013 in lieu of meeting ( Council to discuss and direct staff)
2. Ecomnomic Improvement District
3. PGE Franchise Agreement
4. Administrative Credit Card Policy
5. Telecommunication Franchise Ordinance
6. Council Goals – Revisit
7. Urban Renewal – Minor Amendment between City of Molalla and Fire Dist. 73
8. Planning Commission Meeting on 02/26/13: Review of proposed annexation ordinance and a land use appeal.

Clark asked about the calcaultion and collection of SDC's. SDC's are collected at a city level. Residential SDC's are pre-calculated and commercial is calcaulted by the City Manager and also collected at the city level Penni said.

Rogge reported that she will attend the Mayor's Day in Salem and will speak to Senator Girard regarding the Hwy 211 improvments. He is supportive of the effort and she hopes to make the Hwy 211 project rank among the top 100 list for those types of projects.

### **ADJOURNMENT**

Wise motioned to adjourn at 7:39. Wolfe seconded. Motion carried 7-0.

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Sadie Cramer, City Recorder

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Mayor Debbie Rogge



## **STAFF REPORT**

**TO:** Honorable Mayor and Members of the City Council  
**THROUGH:** Mark J. Gervasi, City Manager  
**FROM:** Sadie Cramer, City Recorder

**DATE:** February 13, 2013  
**SUBJECT:** City Manager Criteria for Recruitment

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### **ISSUES BEFORE THE COUNCIL:**

To authorize Interim City Manager Mark Gervasi to enter into the LOC's City Manager Recruitment Service Agreement attached.

### **RECOMMENDATION:**

- Discuss and provide direction to staff for criteria/profile & advertising base
- Mayor will ask for public comment.
- Approve the discussed criteria/profile and advertisement base by motion.

### **EXECUTIVE SUMMARY:**

On January 9, 2013 the Molalla City Council instructed staff to move forward on City Manger recruitment. In order to do so the above steps need to first be met before staff can move forward with the LOC. By approving these items in a public meeting it will allow both staff and the governing body too legally enter into special/executive sessions as necessary to execute this item.

On January 23, 2013 the council:

- Discussed and provided direction to staff for criteria/profile & advertising base
- Mayor asked for public comment.
- Approved the discussed criteria/profile and advertisement base by motion.
- Instructed staff to have a LOC rep present at the February 13, 2013 meeting to review a proposed service contract. (Attached)

**FINANCIAL IMPLICATIONS:** Amount: Approx. \$6,750

Appropriated: Yes

Fund Source(s): General Fund -Contingency

## Letter of Engagement for City Manager Recruitment Services

The League of Oregon Cities would provide the City of Molalla with City Manager recruitment services as outlined below:

1. We will meet with the City Council to develop a candidate profile for recruitment and selection. This involves a review with the City Council of the skills, training, and experiences desired in a successful candidate. That is, how do we describe what the city manager candidates should possess in order to professionally, competently, and successfully serve the City of Molalla. The development of a profile and discussion of the City's needs, issues, and approach to recruitment is the critical component of the recruitment process because all subsequent work is based on these discussions.
2. We will discuss a general timeframe for the recruitment. A thirty-day window from publication of the job announcement to the application closing date is typical. After the closing date, there is a two-week period of application review and preparation of a report for the City Council. Background checks require a three-week lead time and can be scheduled prior to interviews. The remainder of the timeframe is flexible and depends on the City Council.
2. Based on the candidate profile, LOC will prepare an advertisement and place the ad in Local Focus, the LOC website, and the Association of Washington Cities website at no additional charge. The advertisement would be placed in other venues, such as the ICMA Newsletter (highly recommended), at the City's cost.
3. LOC will screen applications and send an acknowledgement letter to all applicants.
4. LOC will respond to inquiries from applicants.
5. LOC will identify a smaller group of applicants that appear to most closely meet the candidate profile. At the City's option, we will either forward all applications with our report or only those identified as most closely meeting the candidate profile.
6. We will meet with the City Council to review our report and discuss the next steps in the recruitment process.
7. Based on the Council's direction, we will assist with any or all of the following as part of the base fee:
  - a. Design an interview process
  - b. Prepare interview questions
  - c. Assist in arrangements for technical-interview panel members
  - d. Call candidates to set up interviews
  - e. Participate in the interview
  - f. Provide examples of city manager contracts



- g. Assist in negotiating a contract with the successful candidate
- h. Additional contacts as requested to assist in the process or its conclusion

8. We will have background checks prepared on those candidates identified by the Council to have checks. The base fee includes up to four background checks at no additional charge. Background checks in excess of four are billed to the City at \$400 per additional person reviewed.

9. We will send regret letters to unsuccessful candidates at the appropriate juncture in the recruitment process.

10. City Obligations:

- a. The City is responsible for providing LOC with copies of its current personnel policies, manuals, and ordinances.
- b. The City is responsible to advise LOC of any agreements or judgments that would relate to any obligations that the City might have with respect to its personnel practices relating to hiring or promotion.
- c. The City is responsible to have its legal counsel prepare or review any proposed employment contract with the successful candidate.
- d. The City is responsible to have its legal counsel review and advise them regarding the ability to meet in executive session at the appropriate times during the recruitment process.

11. LOC Limitations:

- a. LOC is not in a position to provide recruitment services in the event a current member of the City Council (including the Mayor) applies for the position. In that event, LOC will withdraw from the engagement to provide services and the City will pay LOC a fee of \$1,000 for its work prior to withdrawal.
- b. LOC does not administer, evaluate, or discuss the results of psychological employment profile tests. LOC does not recommend that the city include psychological testing as part of the process.

12. Items not included in the base fee include travel and related expenses for candidates participating in interviews or the costs of the interview process, such as meals and facilities. LOC does not charge the City for LOC staff travel costs.

13. LOC's base fee will be \$6,750, exclusive of actual costs of ads which will be billed to the City by LOC.

League of Oregon Cities

By:

\_\_\_\_\_  
Michael J. McCauley  
Executive Director

The above proposal is hereby accepted by the City of Molalla.

By: \_\_\_\_\_

Title: \_\_\_\_\_

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



## STAFF REPORT

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** \_\_\_\_\_

**FROM:** Mark Gervasi, Interim City Manager

**DATE:** February 13, 2013

**SUBJECT:** ORDINANCE ESTABLISHING A PRIVILEGE TAX OF 1.5% ON ELECTRIC UTILITIES (PORTLAND GENERAL ELECTRIC – PGE)

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### ISSUES BEFORE THE COUNCIL:

The City Council finds it is in the best interest of the City and its citizens to increase the compensation due for operating within the City of Molalla from three and one half percent (3.5%) to five percent (5%) to provide fair and reasonable compensation for the management and use of the public right of way.

### RECOMMENDATION:

- Approve Ordinance # 2013-02 establishing a privilege tax on electric utilities.

### EXECUTIVE SUMMARY:

- Legal Review:
  - Reviewed by Chad Jacobs and Nancy Werner - City Attorneys
- Opportunity for public comment at the February 13, 2013 City Council meeting is required before adopting the Privilege Tax Ordinance
- Facts – if the privilege tax ordinance is approved by Council, there will be a new line item on the bill of every customer in the City that says: “City of Molalla Tax”.
- Oregon Revised Statutes (ORS) 294.160 provides an opportunity for public comment on new fee or fee increase

### OUTCOMES OF DECISION:

If the City Council moves forward with the Privilege Tax Ordinance then the City will receive additional compensation for the management and use of the public right of way. If the Council does not approve the Privilege Tax Ordinance then the City will have to

STAFF REPORT: ORDINANCE ESTABLISHING A PRIVILEGE TAX OF 1.5% ON  
ELECTRIC UTILITIES (PORTLAND GENERAL ELECTRIC – PGE)

February 13, 2013

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**OUTCOMES OF DECISION – continued**

live with the current three and one half percent (3.5%) franchise fee for the management and use of the public right of way.

**FINANCIAL IMPLICATIONS:**

Amount estimated that the City may realize with the new 1.5% privilege tax - \$46,666 for the last seven months of 2013. PGE estimates the average bill with the 1.5% privilege tax could run per customer per month - \$1.43 extra.

**PUBLIC INVOLVEMENT:** Oregon Revised Statutes 294.160 requires opportunity for public comment on new fee or fee increase.

Attachments:

- A. Proposed Privilege Tax Ordinance# 2013-02
- B. Copy of ORS 294.160
- C. PGE worksheet explaining average increase per month per household adding 1.5% Privilege Tax

**ORDINANCE 2013 -02**

**AN ORDINANCE OF THE CITY OF MOLALLA ESTABLISHING A PRIVILEGE TAX ON ELECTRIC UTILITIES**

- WHEREAS:** the Molalla City Council approved Resolution No 2013-04 on February 13, 2013, granting a non-exclusive electric franchise to Portland General Electric Company (“PGE”), effective February 13, 2013 (the “Franchise”); and
- WHEREAS:** the Section 12(A) of the Franchise provides for compensation to be paid to the City for use of the Public ROW in an amount of three and one half percent (3.5%) of the Grantee’s gross revenues earned within the City; and
- WHEREAS:** Section 12(C) of the Franchise acknowledges the City’s authority to enact a privilege tax in addition to the compensation set forth in Section 12(A) and requires ninety days notice to PGE prior to the effective date of the privilege tax; and
- WHEREAS:** the City Council finds it is in the best interest of the City and its citizens to increase the compensation due for operating within the City of Molalla from three and one half percent (3.5%) to five percent (5%) to provide fair and reasonable compensation for the management and use of the public right of way.

**NOW, THEREFORE,** the City of Molalla ordains as follows:

- Section 1. There is hereby imposed on Portland General Electric Company a privilege tax of 1.5% per annum on the gross revenues derived by it from its electric light and power system in the City of Molalla, to be paid by Portland General Electric Company in addition to the existing 3.5% franchise fee, in order to reach a combined annual fee total of 5% per annum.
- SECTION 2: The privilege tax shall be due and payable on or before the first day of April of each year.
- SECTION 3: This ordinance is effective ninety days after its passage.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2013.

Approved:

\_\_\_\_\_  
Debbie Rogge, Mayor

ATTEST this \_\_\_\_ day of \_\_\_\_\_ 2013.

\_\_\_\_\_  
Sadie Cramer, City Recorder

## **2011 ORS § 294.160<sup>1</sup>**

### **Opportunity for public comment on new fee or fee increase**

- (1) The governing body of a city, county or other unit of local government shall provide an opportunity for interested persons to comment on the enactment of any ordinance or resolution prescribing a new fee or a fee increase or an increase in the rate or other manner in which the amount of a fee is determined or calculated.
- (2) Where a local government exercises authority to assume the responsibility for a program delivered by the state, the local government shall provide an opportunity to comment on the difference between the fee amount charged by the state for such service and the proposed local fee for the service. [1995 c.576 §5; 2007 c.71 §90]

...

(No annotations for this section.)

### **Related Statutes<sup>3</sup>**

- 223.309  
Preparation of plan for capital improvements financed by system development charges
- 291.055  
Agency fee approval required
- 455.210  
Fees

<sup>1</sup> Legislative Counsel Committee, *CHAPTER 294—County and Municipal Financial Administration*, <http://www.leg.state.or.us/ors/294.html> (2011) (last accessed Mar. 25, 2012).

**City of Molalla-Residential Annual kWh and Amt**

Privilege Tax Rate:

Avg per

**RATE=07**  
 Label                      Sum                      N                      Mean                      Median                      Minimum                      Maximum                      Annual Per Customer                      Avg per customer per month

ANNL_KWH	30,780,550	2,915	10,559	9,625	-	44,640	17.19	1.43
ANNL_AMT	3,339,943	2,915	1,146	1,031	-	4,909	17.19	1.43

**RATE=12**

Label	Sum	N	Mean	Median	Minimum	Maximum	Annual Per Customer	Avg per customer per month
ANNL_KWH	20,040	2	10,020	10,020	8,013	12,027	16.30	1.36
ANNL_AMT	2,174	2	1,087	1,087	896	1,278	16.30	1.36

**Res 7 & 12**

Label	Sum	N	Mean	Median	Minimum	Maximum	Annual Per Customer	Avg per customer per month
ANNL_KWH	30,800,590	2,917	10,559	9,625	-	44,640	17.19	1.43
ANNL_AMT	3,342,117	2,917	1,146	1,031	-	4,909	17.19	1.43

Actual data through November 2012 billing cycle, ANNL amounts are preceeding 12 months.



## STAFF REPORT

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Mark J. Gervasi, Interim City Manager

**DATE:** February 13, 2013

**SUBJECT:** FRANCHISE AGREEMENT BETWEEN PORTLAND GENERAL ELECTRIC (PGE) AND THE CITY OF MOLALLA

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**ISSUE BEFORE THE COUNCIL:** This Franchise Agreement – Resolution No. 2013 - 04 grants Portland General Electric Company a non-exclusive franchise for ten (10) years to erect, construct, maintain, repair, update and operate an electric light and power system within the City of Molalla, sets the terms and conditions of the franchise and provides an effective date.

**RECOMMENDATION:** Approve Resolution No. 2013-04 Franchise Agreement between the City of Molalla and Portland General Electric

### **EXECUTIVE SUMMARY:**

- Legal Review - Reviewed by Nancy Werner Attorney with Beery, Elsner & Hammond
- Facts – discussions regarding this Agreement date back to June 17<sup>th</sup>, 2012 when the current 20 year agreement was set to expire. There have been two (2) six month extensions to the current agreement that the City Council approved. One in June of 2012 and the second extension in November of 2012.
- New Agreement calls for the Grantee (PGE) to pay the City an amount equal to 3 ½ percent of the gross revenue. The 3 ½ percent is the same percent in the current agreement.
- Past direction of Council – staff to negotiate a new Franchise Agreement with PGE.

### **FINANCIAL IMPLICATIONS:**

- Amount – New Franchise Agreement is estimated to be \$187,600 in revenue in 2013 for 2012.
- Attachments: A. Resolution 2013 - 04



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This Franchise Agreement grants Portland General Electric Company (“Grantee”) a non-exclusive franchise for ten years to erect, construct, maintain, repair, update and operate an electric light and power system within the City of Molalla (“City”), sets the terms and conditions of the franchise and provides an effective date.

**WHEREAS**, Grantee has been providing electric light and power service within the City; and  
**WHEREAS**, Grantee is duly authorized by the Oregon Public Utility Commission (“OPUC”) to supply electric light and power within the City; and

**WHEREAS**, the City has the authority to regulate the use of the Public ROW (as defined below) within the City and to receive compensation for the use of the Public ROW; and

**WHEREAS**, the City and Grantee both desire Grantee to continue to be able to provide electrical service within the City and to establish the terms by which Grantee shall use and occupy the Public ROW;

**NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

**SECTION 1. NATURE AND TERM OF FRANCHISE.**

(A) The City hereby grants to Grantee and its successors and assigns, subject to the terms and conditions in this Franchise, a nonexclusive franchise to erect, construct, repair, maintain, upgrade and operate an electric light and power system within the City as it now exists or may be extended in the future, including related communication equipment and Grantee Facilities (as defined below). This Franchise includes the privilege to install, repair, maintain, upgrade and operate Facilities necessary for the operation of Grantee’s Electric Light and Power System (as defined below) upon, over, along, and across the surface of and the space above and below the streets, alleys, roads, highways, sidewalks, bridges and other public ways over which the City has jurisdiction (collectively, “Public ROW”), as well as Public Utility Easements (“PUEs”) on third party property on which a preliminary subdivision plat has been approved by the City, and which will be managed by the City thereafter, for the provision of public utility services within the City as Grantee’s Electric Light and Power System now exists or is extended or upgraded in the future. Nothing in this Franchise limits the City from granting

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others the right to carry on activities similar to, or different from the ones described in this Franchise. The rights granted herein do not include the right to build or site electric generating facilities in the Public ROW.

(B) All Grantee Facilities in possession of Grantee currently or during the Term (as defined in Section 2(A) that are located within the Public ROW are covered by this Franchise. The City may require relocation of Grantee Facilities as further specified in Section 8.

(C) This Franchise also includes the privilege to repair, maintain, upgrade and operate Grantee Facilities located in City park property that are existing as of the effective date of this Franchise. This Franchise does not grant Grantee any right to install Grantee Facilities in City park property on or after the effective date of this Franchise, which shall be subject to separate permit from the City. With respect to Grantee Facilities located in City park property existing as of the effective date of this Franchise, City park property shall be treated the same as the Public ROW for purposes of Sections 4, 6, 7, 10, 12, 14, 16, 18, 19 and 21.

(D) This Franchise does not authorize Grantee to provide telecommunications services via Grantee's Electric Light and Power System. Grantee agrees that prior to providing telecommunications services in the City, it must obtain all necessary and applicable authorizations from the OPUC regarding the provision of telecommunications service to the public and obtain any necessary, lawful and applicable authorization from the City for use of the Public ROW for such provision, including entering into a separate franchise with the City and paying a separate franchise fee to the City.

**SECTION 2. TERM AND EFFECTIVE DATE.**

**(A) Effective Date.** The effective date of this Franchise shall be February 13, 2013("Effective Date").

**(B) Duration of Franchise.** The term of this Franchise ("Term") shall commence on the Effective Date and all rights and obligations pertaining thereto shall expire 10 years after the Effective Date, unless renegotiated or terminated as provided herein. The term may be extended for two consecutive 5 year terms upon mutual consent of the City and Grantee. Either party may provide the other party written notice of its desire to extend the Term at least 180 days prior to the expiration of the Term and the other party shall respond to the notice within thirty (30) days after receiving the notice.

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**(C) Charter and General Ordinances to Apply.** To the extent authorized by law, this Franchise is subject to the Charter of the City of Molalla and general ordinance provisions, and state statutes and regulations existing during the Term. Nothing in this Franchise shall be deemed to waive the requirements of the various codes and ordinances of the City regarding permits, fees to be paid that are generally applicable to other similar businesses operating within the City, or the manner of construction.

**SECTION 3. DEFINITIONS.**

**(A) Captions.** Throughout this Franchise, captions to sections are intended solely to facilitate reading and to reference the provisions of this Franchise. The captions shall not affect the meaning and interpretation of this Franchise.

**(B) Definitions.** For purposes of this Franchise, the following terms, phrases, and their derivations shall have the meanings given below unless the context indicates otherwise. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

**(1)** "City" means the City of Molalla, Oregon, a municipal corporation, and all of the territory within its corporate boundaries, as such may change from time to time.

**(2)** "City Council" means the Council of the City.

**(3)** "Public Works Director" means the Public Works Director of the City.

**(4)** "City Manager" means the City Manager of the City.

**(5)** "City Recorder" means the Recorder of the City.

**(6)** "Director of Finance" means the Director of Finance of the City.

**(7)** "Emergency" means a situation involving (a) an unscheduled outage affecting one or more customers, or (b) danger to public safety. Emergency also includes situations where the failure of Grantee to act would result in (a) or (b).

**(8)** "Franchise" means this Franchise Agreement as fully executed by the City and Grantee and adopted by the City Council pursuant to Resolution number 2013-04.

**(9)** "Grantee" means Portland General Electric Company, an Oregon corporation.

**(10)** "Grantee Facility" means any tangible component of Grantee's Electric Light and Power System, including but not limited to any poles, guy wires, anchors, wire, fixtures, equipment,

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conduit, circuits, vaults, switch cabinets, transformers, secondary junction cabinets, antennas, communication equipment and other property necessary or convenient to supply electric light and power by Grantee within the City.

(11) "Grantee's Electric Light and Power System" means all real property and Grantee Facilities used by Grantee in the transmission and distribution of its services that are located inside the boundaries of the City.

(12) "Gross Revenues" shall be deemed to include any and all revenues derived by Grantee within the City from Grantee's Electric Light and Power System, and includes, but is not limited to, the sale of and use of electricity and electric service, and the use, rental, or lease of Grantee Facilities, after adjustment for the net write-off of uncollectible accounts. Gross Revenues do not include proceeds from the sale of bonds, mortgages or other evidence of indebtedness, securities or stocks, or sales at wholesale by one public utility to another of electrical energy when the utility purchasing such electrical energy is not the ultimate consumer. Gross Revenues also do not include revenue from joint pole use. For purposes of this Franchise, revenue from joint pole use includes any revenue collected by Grantee from other franchisees, permittees, or licensees of the City for the right to attach wires, cable or other facilities or equipment to Grantee's poles or place them in Grantee's conduits.

(12) "NESC" means the National Electrical Safety Code.

(13) "OPUC" means the Oregon Public Utility Commission.

(14) "Published" shall mean written and readily accessible.

(15) "Term" shall have the meaning described in Section 2(B).

(16) "Person" means any individual, sole proprietorship, partnership, association, corporation, cooperative, People's Utility District, or other form of organization authorized to do business in the State of Oregon, and includes any natural person.

(17) "Public ROW" shall have the meaning described in Section 1(A).

(18) "PUE" shall have the meaning described in Section 1(A).

(19) "Year," "annual," or "annually" means the period consisting of a full calendar year, beginning January 1 and ending December 31, unless otherwise provided in this Franchise.

**SECTION 4. CONSTRUCTION.**

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**(A) Construction.** Grantee's Electric Light and Power System shall be constructed and maintained in accordance with the NESC and in such manner as not to interfere with sewers, water pipes, or any other property of the City, or with any other pipes, wires, conduits or other facilities that may have been laid in the Public ROW by or under the City's authority. Grantee shall comply with all applicable published City requirements prior to commencing any construction in the Public ROW. Assuming there is sufficient space in the Public ROW that meets the Grantee's construction standards as provided to the OPUC, NESC requirements, and generally applicable published City requirements, all poles shall be placed between the sidewalk and the edge of the Public ROW unless another location is approved by the Public Works Director. The City shall impose a condition in its development process that the developer either (i) provide a sufficient location in the Public ROW located in the land use development for Grantee Facilities that meet the Grantee's construction standards as provided in the OPUC and NESC requirements, or (ii) provide or obtain an easement for Grantee Facilities that meets the construction standards as provided to the OPUC and NESC requirements.

**(B) Acquisition.** Subsequent to the Effective Date, upon Grantee's acquisition of additional Grantee Facilities in the Public ROW, or upon any addition or annexation to the City of any area in which Grantee retains Grantee Facilities in the Public ROW of such addition or annexation, Grantee shall submit to the City a statement describing all Grantee Facilities involved, whether authorized by a franchise agreement or upon any other form of prior right, together with a map, as described in Section 5, specifying the location of all such Grantee Facilities. Such Grantee Facilities shall immediately be subject to the terms of this Franchise.

**(C) Emergency Repairs.** In the event Emergency repairs to Grantee Facilities are necessary, Grantee shall as soon as reasonably possible notify the City of the need for such repairs. Grantee may immediately initiate such emergency repairs and, if permits are required by City, apply for appropriate permits the next business day or as soon as reasonably possible following discovery of the emergency. In the event excavation is necessary in conjunction with the repairs, Section 6 shall also apply.

**(D) Reasonable Care.** All work completed by Grantee within the Public ROW shall be conducted with reasonable care and with the goal of minimizing the risk to those using the Public ROW and to minimize the risk of damage to public and third party property. All work

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shall be performed in accordance with all applicable laws and regulations, including but not limited to the NESC, Grantee's construction standards as provided to the OPUC, the conditions contained in the City work permit, and generally applicable published City standards. Any work completed by Grantee within the Public ROW may be inspected by the City to determine whether it has complied with the permit issued by the City. If work has been completed by Grantee in the Public ROW and the City determines such work was not completed in accordance with the permit issued by the City, the City shall notify Grantee and provide Grantee with sixty (60) days to re-perform the work in accordance with the permit.

**(E) Cooperation between Grantee and City.** In accordance with ORS 758.025, Grantee and City shall work together during any design process affecting the Public ROW to establish suitable locations for Grantee's Facilities and cooperate to minimize the economic impact associated with any relocation of Grantee Facilities.

**SECTION 5. SUPPLYING MAPS.** Grantee shall maintain maps and data pertaining to the location of Grantee Facilities on file at its corporate offices or at an office in Oregon. After providing Grantee with twenty-four (24) hours prior notice, the City may inspect the maps and data (excluding Grantee proprietary information) at any time during Grantee's business hours. Upon request of the City and without charge, Grantee shall furnish current maps and data to the City by electronic data in read-only format showing the general location of Grantee Facilities, excluding Grantee's confidential or proprietary information. Unless required by law, the City will not sell or provide Grantee prepared maps or data to third parties without written permission from Grantee. Upon request of Grantee, the City will make available to Grantee any relevant and current City prepared maps or data at no charge to Grantee. City may furnish current maps and data to the Grantee by electronic data in read-only format showing the general location of City facilities, excluding City confidential or proprietary information. Unless required by law, the Grantee will not sell or provide City prepared maps or data to third parties without written permission from the City.

**SECTION 6. EXCAVATION.** Subject to Sections 4 and 7, and after obtaining any permits required by the City, as well as complying with ORS 757.542 et seq. (Oregon Utility Notification Center) as they may be amended from time to time, Grantee may make all necessary excavations within the Public ROW for the purpose of installing, repairing,

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upgrading or maintaining Grantee Facilities, except that in the case of an emergency, no permit shall be required prior to excavation. Should there be a direct conflict between any terms or conditions stated in a permit granted by the City and the terms of this Franchise, the terms of this Franchise shall control. All excavations made by Grantee in the Public ROW shall be properly safeguarded for the prevention of accidents. All of Grantee's work under this Section shall be completed in strict compliance with all applicable rules, regulations and ordinances of the City. Should a customer of Grantee be required, pursuant to Grantee's tariff on file with the OPUC, to make excavations that are located in the Public ROW, the City agrees that Grantee shall not be responsible or liable for any failure by such customer to comply with any applicable rules, regulations, ordinances of the City or with City standards.

**SECTION 7. RESTORATION AFTER EXCAVATION.** Except as otherwise provided for in this Section, Grantee shall restore the surface of the Public ROW in the area disturbed by any excavation by Grantee to at least the same condition that it was in prior to excavation, in accordance with generally applicable published City standards and the permit issued by the City; provided, however, Grantee shall not be required, at Grantee's expense, to pave a gravel street that was gravel prior to the excavation, install sidewalk panels or curbs that did not exist prior to the excavation, or construct additional improvements in the Public ROW that did not exist prior to the excavation. If Grantee fails to restore the Public ROW to at least the same condition that it was in prior to the excavation, in accordance with generally applicable published City standards and the permit issued by the City, the City shall give Grantee written notice and provide Grantee a reasonable period of time, not to exceed thirty (30) days, to restore the Public ROW. If the work of Grantee creates a public safety hazard as determined by the Public Works Director, Grantee may be required to repair or restore the Public ROW within twenty-four (24) hours notice from the City, or such time as agreed between the Public Works Director and Grantee, taking into consideration weather and other relevant factors. Should Grantee fail to make such repairs or restorations within the aforementioned time frames, the City may, after providing notice to Grantee and a reasonable opportunity to cure, refill or repave (as applicable) any opening made by Grantee in the Public ROW and the expense thereof shall be paid by Grantee. The City reserves the right, after providing notice to Grantee, to remove or repair any work completed by Grantee, which, in the determination of

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the Public Works Director is inadequate, using a qualified contractor in accordance with applicable state and federal safety laws and regulations, and Grantee's construction standards as provided to the OPUC. The cost thereof, including the cost of inspection and supervision, shall be paid by Grantee. In the event that Grantee's work is coordinated with other construction work in the Public ROW, the Public Works Director may excuse Grantee from restoring the surface of the Public ROW, providing that as part of the coordinated work, the Public ROW is restored to good order and condition.

**SECTION 8. RELOCATION.**

**(A) Permanent Relocation Required by City** – This subsection (A) covers permanent relocation of overhead Grantee Facilities that will remain overhead, and underground Grantee Facilities that will remain underground. The City shall have the right to require Grantee to change the location of Grantee's Electric Light and Power System located in the Public ROW when it is necessary for any public project or public improvement and, unless otherwise agreed, the expenses thereof shall be paid by Grantee. The foregoing sentence shall not apply if any of the following is true: a) the project or improvement necessitating the change in location will not be owned by the City; or b) the majority of the funding for the project or improvement does not come from City, county state or federal government sources; or c) the public project or public improvement is not located in the Public ROW. The City agrees to provide a suitable location in the Public ROW, as mutually agreed, or, failing that, to provide either the necessary easements or PUEs for Grantee facilities that meet the Grantee's construction standards as provided to the OPUC, NESC requirements, and generally applicable published City standards in order to maintain sufficient service. Should Grantee fail to remove or relocate any such Grantee Facilities within sixty (60) days after the date established by the City, which, except in the event of a public emergency, shall not occur sooner than sixty (60) days after the City provides written notice to remove/relocate to Grantee, the City may cause or effect such removal or relocation, performed by a qualified contractor in accordance with applicable state and federal safety laws and regulations, and the Grantee's construction standards as provided to the OPUC, and the expense thereof shall be paid by Grantee. However, when the City requests a subsequent relocation of all or part of the same Grantee facilities less than two years after the initial relocation that is necessary or convenient for a public project, and not at the request to



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accommodate a third party, the subsequent relocation shall be at the expense of the City, unless the relocation is necessitated by an event or circumstance beyond the reasonable control of the City, including, but not limited to Acts of God, earthquake, severe storm, flood or other natural disaster.

**(B) Notice.** The City will endeavor to provide as much notice prior to requiring Grantee to relocate Grantee Facilities as possible. The notice shall specify the date by which the existing Grantee Facilities must be removed or relocated. Nothing in this Section 8 shall prevent the City and Grantee from agreeing, either before or after notice is provided, to a mutually acceptable schedule for relocation. The City and Grantee agree to cooperate in the design phase to minimize the economic impact of such relocation on Grantee and the City.

**(C) Permanent Relocation - Undergrounding.** This subsection (C) applies to conversions of Grantee Facilities from overhead to underground regardless of whether or not such conversion is made in conjunction with a public project. In accordance with any applicable law or administrative rule, the City may require Grantee to convert any overhead Grantee Facilities to underground Grantee Facilities at the same or different locations, subject to the NESC and Grantee's engineering and safety standards. This subsection shall not apply to Grantee Facilities used for or in connection with the transmission of electric energy at nominal voltages in excess of 35,000 volts or to pedestals, cabinets or other above-ground equipment. Any such underground relocation shall be consistent with applicable development plans or projects of the City, or as approved by the City. The expense of such a conversion shall be paid by Grantee, and Grantee may recover its costs from its customers in accordance with state law, administrative rule, or regulation. Prior to such relocation, the City shall provide a suitable location in the Public ROW, as mutually agreed, that meets the Grantee's construction standards as provided to the OPUC, NESC requirements and generally applicable published City standards. Nothing in this subsection prevents the City and Grantee from agreeing to a different form of cost recovery on a case-by-case basis consistent with applicable statutes, administrative rules, or regulations.

**(D) Temporary Relocation at Request of City.** This subsection (D) covers temporary relocation of overhead Grantee Facilities that will remain overhead, as well as underground Grantee Facilities that will remain underground. The City may require Grantee to temporarily remove and relocate Grantee Facilities by giving sixty (60) days notice to Grantee. Prior to

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such relocation, the City agrees to provide a suitable location in the Public ROW, as mutually agreed, or a temporary construction easement that meets the Grantee's construction standards as provided to the OPUC, NESC requirements, and generally applicable published City standards that allows the Grantee to place its Facilities on the easement in order to maintain sufficient service until such time as the Grantee moves its Facilities to their permanent location. The cost of temporary removal or relocation of Grantee Facilities that is necessary or convenient for public projects and public improvements, as well as cost of replacing Grantee Facilities in their permanent location, shall be paid by Grantee. However, when the City requests a subsequent relocation of all or part of the same Grantee Facilities less than two years after the initial relocation, that is necessary or convenient for a public project and not at the request of or to accommodate a third party, the subsequent relocation shall be at the expense of the City.

**(E) Relocation at Request of or to Accommodate Third Party.** In the event that any relocation of Grantee Facilities is requested by or is to accommodate a third party, Grantee may seek reimbursement from the third party consistent with the Grantee's tariff on file with the OPUC and shall not seek reimbursement from the City. Such relocation shall be consistent with any applicable development plan or projection of the City or approved by the City. If the relocation of Grantee Facilities is caused or required by the conditions placed by the City on approval for projects of third parties, such relocation shall in no event fall under the provisions of subsections (A), (C) or (D) of this Section 8.

**(F) Temporary Relocation at Request of Third Parties.** Whenever it is necessary to temporarily relocate or rearrange any Grantee Facility in order to permit the passage of any building, machinery or other object, Grantee shall perform the work after receiving sixty (60) business days written notice from the persons desiring to move the building, machinery or other object. The notice shall: (1) demonstrate that the third party has acquired at its expense all necessary approvals and permits from the City; (2) detail the route of movement of the building, machinery, or other object; (3) provide that the person requesting the temporary relocation shall be responsible for Grantee's costs; (4) provide that the requestor shall indemnify and hold harmless the City and Grantee from any and all damages or claims resulting either from the moving of the building, machinery or other object or from the temporary relocation of Grantee Facilities; and (5) be accompanied by a cash deposit or other

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security acceptable to Grantee for the costs of relocation. Grantee in its sole discretion may waive the security obligation. The cash deposit or other security shall be in an amount reasonably calculated by Grantee to cover Grantee's costs of temporary relocation and restoration. All temporary relocations under this subsection shall comply with ORS 757.805.

**SECTION 9. PUBLIC ROW VACATION.** If all or a portion of the Public ROW used by Grantee is vacated by the City during the Term, and if reasonably possible, the City shall either condition the approval of the vacation on the reservation of an easement for Grantee Facilities in their then-current location that prohibits any use of the vacated property that interferes with Grantee's full enjoyment and use of its easement, or permit Grantee Facilities to remain in a PUE. If neither of these options is reasonably possible, Grantee shall, after notice from the City and without expense to the City, remove Grantee Facilities from such vacated Public ROW, restore, repair or reconstruct the Public ROW where such removal has occurred in accordance with Section 7. In the event of failure, neglect or refusal of Grantee, after providing Grantee with sixty (60) days prior written notice, to repair, restore, or reconstruct such Public ROW, the City may complete such work or cause it to be completed by a qualified contractor in accordance with applicable state and federal safety laws and regulations, and the cost thereof shall be borne by the Grantee. Upon request, the City will cooperate with Grantee to identify alternative locations within the Public ROW for Grantee Facilities if they are not permitted to remain in the vacated area.

**SECTION 10. CITY PUBLIC WORKS AND IMPROVEMENTS.** Nothing in this Franchise shall be construed in any way to prevent the City from excavating, grading, paving, planking, repairing, widening, altering, constructing, maintaining or completing any work that may be needed or convenient in the Public ROW. The City shall coordinate any such work with Grantee to avoid, to the extent reasonably foreseeable, any obstruction, injury or restrictions on the use by Grantee of any Grantee Facilities arising out of such work. Nothing in this Section relieves either party from its obligations set forth in Sections 4(E) and 8.

**SECTION 11. USE OF GRANTEE FACILITIES.** If the city utilizes Grantee's poles, the City shall maintain attachment agreements and permits to string wires on Grantee's poles or

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run wires in Grantee's trenches and/or available conduit for municipal purposes and to attach fire and police alarm and communication equipment to Grantee's poles, provided that such wires and equipment: a) do not unreasonably interfere with Grantee operations; b) conform to the NESC; and c) the City's excess capacity on such wires and equipment is not leased to, sold to or otherwise used by non-governmental third parties. Grantee shall not charge the City for such attachments to its poles or in its conduits; however, the City shall be responsible to pay for any make-ready and inspections Grantee must perform in order to provide access to Grantee Facilities for City wires and equipment in accordance with the NESC. Should any of the City's attachments to Grantee Facilities violate the NESC, the City shall work with Grantee to address and correct such violations in an agreed-upon period of time. The City shall indemnify and hold Grantee harmless from loss or damage resulting from the presence of City's wires and equipment on or in Grantee Facilities, except to the extent such loss or damage is caused by the negligence or willful misconduct of Grantee, its agents or contractors. For purposes of this Franchise, "make-ready" shall mean engineering or construction activities necessary to make a pole, conduit, or other support equipment available for a new attachment, attachment modifications, or additional facilities.

**SECTION 12. PAYMENT FOR USE OF PUBLIC ROW.**

**(A) Use of Public ROW.** In consideration for its use of the Public ROW in accordance with the terms of this Franchise, Grantee agrees to pay the City an amount equal to 3 1/2 percent of the Gross Revenue. The amount of the current year's franchise fee shall be based on Gross Revenue collected by Grantee during the previous calendar year and shall be paid on an annual basis for Grantee's rights under this Agreement for the full calendar year in which the payment is made. To the extent permissible under state law and regulation, the payment imposed by this subsection shall be considered an operating expense of Grantee and shall not be itemized or billed separately to consumers within the City.

**(B) Property Tax Limitations Do Not Apply.** The payment described in this Section 12 is not subject to the property tax limitations of Article XI, Sections 11(b) and 11(19) of the Oregon Constitution and is not a fee imposed on property or property owners by fact of ownership.

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**(C) Privilege Tax.** The City shall retain the right, as permitted by Oregon law, to charge a privilege tax based on a percentage of the Gross Revenue in addition to the payment amounts set forth in subsection (A). The City shall provide Grantee at least ninety (90) days notice prior to any privilege tax or increase in privilege tax becoming effective. Grantee shall follow state regulations regarding the inclusion of such privilege tax as an itemized charge on the electricity bills of its customers within the City.

**(D) Remittance of Payment.** Grantee shall remit to the Director of Finance on or before the first (1<sup>st</sup>) day of April of each year, the annual 3 1/2 % franchise fee payment to be made in such year that covers Grantee's rights under this Agreement for the full calendar year in which the payment is made. Payment must be made in immediately available federal funds. No later than the date of the payment, Grantee shall provide the City a statement, under oath, showing the Gross Revenue for the preceding year.

**(E) Acceptance of Payment.** Acceptance by the City of any payment due under this Section shall not be a waiver by the City of any breach of this Franchise occurring prior to the acceptance, nor shall the acceptance by the City preclude the City from later establishing that a larger amount was actually due, or from collecting the balance due to the City.

**(F) Late Payments.** Interest on late payments shall accrue from the due date based on the statutory rate designated in ORS 82.010 as of the due date and shall be computed based on the actual number of days elapsed from the due date until payment. Interest shall accrue without regard to whether the City has provided notice of delinquency.

**(G) No Exemption from Other Fees or Taxes.** Payment of the amounts described in this Section 12 shall not exempt Grantee from the payment of any other license fee, tax or charge on the business, occupation, property or income of Grantee that may be lawfully imposed by the City or any other taxing authority, except as may otherwise be provided in the ordinance or laws imposing such other license fee, tax or charge.

**(H) Direct Access and Volumetric Methodologies.** The City may, consistent with state law, direct that the payments made under this Section 12 be based on volume-based methodologies as specifically described in ORS 221.655 instead of the formula set out in subsections 12 (A) and (C). Notice must be given to Grantee in writing for the subsequent payments to be made using volume-based methodology. The volumetric calculation shall apply to payments made in one calendar year (based on January 1 to December 31 billings from the previous calendar

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year). The choice to use volumetric methodology must be renewed annually by the City. No notice is necessary if the City chooses to remain on the revenue-based calculation.

**(I) Payment Obligation Survives Franchise.** If prior to the expiration of this Franchise the parties do not finish negotiation of a new franchise agreement, the obligation to make the payments imposed by this Section 12 shall survive expiration of this Franchise until a new franchise agreement becomes effective and supersedes this Franchise. In the event this Franchise is terminated before expiration, Grantee shall make the remaining payments owed, if any, within ninety (90) days of the termination date.

**SECTION 13. AUDIT.**

**(A) Audit Notice and Record Access.** The City may audit Grantee's calculation of Gross Revenues. Within ten (10) business days after receiving a written request from the City, or such other time frame as agreed by both parties, Grantee shall furnish the City and any auditor retained by the City: (1) information sufficient to demonstrate that Grantee is in compliance with this Franchise; and (2) access to all books, records, maps and other documents maintained by Grantee with respect to Grantee Facilities that are necessary for the City to perform such audit. Grantee shall provide access to such information to City within the City, or the Portland, Oregon metropolitan area, during regular Grantee business hours.

**(B) Audit Payment.** If the City's audit shows that the amounts due to the City are higher than those based on the Grantee's calculation of Gross Revenue, then Grantee shall make a payment for the difference within sixty (60) days after the delivery to Grantee of the audit results. In addition to paying any underpayment, Grantee shall pay interest based on Grantee's cost of debt as approved by the OPUC plus 100 basis points (1.0%) , but not penalties, as specified in this Franchise, from the original due date. In the event the City's audit shows that Grantee's calculation of Gross Revenue resulted in an overpayment to the City by five percent (5%) or more in any one year, the Grantee may deduct such overpayment from the next annual franchise fee payment. If the City's audit shows that the amounts due to the City based on the Grantee's calculation of Gross Revenue deviated by five percent (5%) or more in any one year from the City's calculation during the audit, Grantee shall reimburse the City for the incremental cost associated with the audit, not to exceed one percent (1%) of the total annual franchise fee payment for the applicable audit period.

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**SECTION 14. TERMINATION AND REMEDIES.**

**(A) By City for Cause.** If Grantee ceases to maintain Grantee Facilities in accordance with the maintenance commitments outlined in the Service Quality Measures Review filed with the OPUC, and this causes an increase in the risk to the public of personal injury or property damage, the City shall notify Grantee and Grantee shall have thirty (30) days after the date of the notice to eliminate such risk or, if such risk cannot be eliminated within thirty (30) days, such reasonable time period as is required to eliminate such risk and Grantee shall bear all costs related to remedying the risk. If Grantee does not eliminate the risk in accordance with the preceding sentence, the City may then terminate this Franchise by providing Grantee written notice of termination.

**(B) By City if City Will Provide Service.** The City may terminate this Franchise upon one year's written notice to Grantee in the event that the City decides to engage in public ownership of the electric facilities located in the Public ROW and the public distribution of electric energy to customers throughout the City in accordance with ORS 758.470.

**(C) City Reserves Right to Terminate.** In addition to any other rights provided for in this Franchise, the City reserves the right, subject to subsections 14 (E) and (F), to terminate this Franchise in the event that:

- (1) The Grantee materially violates any material provision of this Franchise;
- (2) The Grantee is found by a court of competent jurisdiction to have practiced any material fraud or deceit upon the City;
- (3) There is a final determination that Grantee has failed, refused, neglected or is otherwise unable to obtain or maintain Grantee's service territory designation required by any federal or state regulatory body regarding Grantee's operation of Grantee's Electric Light and Power System; or
- (4) Grantee becomes unable or unwilling to pay its debts, or is adjudged bankrupt.

**(D) Material Provisions.** For purposes of this Section 14, the following are material provisions of this Franchise, allowing the City to exercise its rights under this Section 14 or as set forth elsewhere in this Franchise:

- (1) The invalidation, failure to pay or any suspension of Grantee's payments of franchise fees or privilege taxes to the City for use of the Public ROW under this Franchise;

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(2) Any failure by Grantee to submit timely reports as may be requested by the City, regarding the calculation of its franchise fees or privilege taxes paid or to be paid to the City;

(3) Any failure by Grantee to maintain the liability insurance or self-insurance required under this Franchise;

(4) Any failure by Grantee to provide copies of requested information as provided under Sections 4, 5, and 13 above; and

(5) Any failure by Grantee to otherwise substantially comply with the requirements of Section 4 through Section 20 of this Franchise, unless otherwise agreed.

**(E) Notice and Opportunity to Cure.** The City shall provide Grantee thirty (30) days prior written notice of its intent to exercise its rights under this Section 14, stating the reasons for such action. If Grantee cures the basis for termination or if Grantee initiates efforts satisfactory to the City to remedy the basis for termination and the efforts continue in good faith within the thirty (30) day notice period, the City shall not exercise its remedy rights. If Grantee fails to cure the basis for termination or if Grantee does not undertake and/or maintain efforts satisfactory to the City to remedy the basis for termination within the thirty (30) day notice period, then the City Council may impose any or all of the remedies available under this Section 14.

**(F) Remedies.** In determining which remedy or remedies are appropriate, the City shall consider the nature of the violation, the person or persons burdened by the violation, the nature of the remedy required in order to prevent further such violations, and any other matters the City deems appropriate.

**(G) Financial Penalty.** In addition to any rights set out elsewhere in this Franchise, as well as its rights under the City Code or other law, the City reserves the right at its sole option to impose a financial penalty of up to \$500.00 per day per material violation of a material provision of this Franchise when the opportunity to cure has passed.

**SECTION 15. ASSIGNMENT OF FRANCHISE.** Grantee may not sell, assign, transfer, or convey this Franchise to a third party without the City Council giving its consent by resolution. Upon obtaining such consent, this Franchise shall inure to and bind such third party. Grantee shall not sell or assign this Franchise to an entity that is not authorized by the OPUC to provide electric service to retail consumers in the City or is not otherwise authorized



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to provide electric service to retail consumers under Oregon law. Prior to any proposed transfer, Grantee shall be in full compliance with this Franchise and the proposed transferee shall agree in writing to be bound by this Franchise. In the event Grantee is purchased by or merged into another entity and Grantee survives such purchase or merger as a public utility, Grantee shall provide notice to the City of such purchase or merger, but shall have no obligation under this Franchise to obtain the consent of the City Council for such purchase or merger.

**SECTION 16. REMOVAL OF FACILITIES.** If this Franchise is terminated or expires on its own terms and is not replaced by a new franchise agreement or similar authorization, the City may determine whether Grantee Facilities are to be removed from the Public ROW or remain in place. The City shall provide written notice of any requirement to remove Grantee Facilities and shall provide Grantee sixty (60) days to comment on such requirement to move Grantee Facilities. Following consideration of any such comments, the City Manager may issue an order requiring removal of Grantee Facilities within nine (9) months after such order is declared.

**SECTION 17. NONDISCRIMINATION.** Grantee shall provide service to electric light and power consumers in the City without undue discrimination or undue preference or disadvantage, in accordance with Oregon law.

**SECTION 18. INDEMNIFICATION.** To the fullest extent permitted by law, Grantee shall indemnify and hold harmless the City, its elected and appointed officials, officers, agents and employees against any and all claims, damages, costs and expenses, including attorney's fees and costs, to which the City may be subjected (i) as a result of any negligent or willful misconduct of Grantee, or its affiliates, officers, employees, agents, contractors or subcontractors, or (ii) arising out of the rights and privileges granted by this Franchise. The obligations imposed by this Section shall survive termination of this Franchise.

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**SECTION 19. INSURANCE.** Grantee shall obtain and maintain in full force and effect, for the entire Term, the following insurance covering risks associated with Grantee's ownership and use of Grantee Facilities and the Public ROW:

(A) Commercial General Liability insurance covering all operations by or on behalf of Grantee for Bodily Injury and Property Damage, including Completed Operations and Contractors Liability coverage, in the amount of Two Million Dollars (\$2,000,000.00) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate.

(B) Business Automobile Liability insurance to cover any vehicles used in connection with its activities under this Franchise, with a combined single limit of One Million Dollars (\$1,000,000.00) per accident.

(C) Workers' Compensation coverage as required by law and Employer's Liability Insurance with limits of \$1,000,000.

(D) With the exception of Workers' Compensation and Employer's Liability coverage, Grantee shall include the City as an additional insured on all applicable policies; provided, however, that such additional insured requirements shall only apply to Grantee's contractually assumed indemnity obligation under this Agreement. Grantee shall provide that they shall not cancel or modify thirty (30) days prior written notice is provided to the City. Grantee shall provide the City with a certificate of insurance evidencing such coverage as a condition of this Franchise and shall provide updated certificates upon request.

(E) **In Lieu of Insurance.** In lieu of the insurance policies required by this Section 19, Grantee shall have the right to self-insure any and all of the coverage outlined hereunder. If Grantee elects to self-insure, it shall do so in an amount at least equal to the coverage requirements of this Section 19 in a form reasonably acceptable to the City. Grantee shall provide proof of self-insurance to the City before this Franchise takes effect and thereafter upon request by the City.

**SECTION 20. DAMAGE TO FACILITIES.** In no event shall the City be liable for any consequential damages or losses resulting from any damage to or loss of any facility as a result of or in connection with any work by or for the City unless the damage or loss is the direct and proximate result of willful, intentionally tortious, negligent or malicious acts or omissions by the City, its employees or agents. In such

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case, the City shall indemnify and hold harmless Grantee against any and all claims, damages, costs and expenses, including attorney's fees and costs, arising from, subject to any applicable limitations imposed in the Oregon Constitution and the Oregon Tort Claims Act. The obligations imposed by this Section are intended to survive termination of this Franchise.

**SECTION 21. LIMITATION ON PRIVILEGES.** All rights and authority granted to Grantee by the City under this Franchise are conditioned on the understanding and agreement that the privileges in the Public ROW shall not be an enhancement of Grantee's properties or an asset or item of ownership of Grantee.

**SECTION 22. FRANCHISE NOT EXCLUSIVE.** This Franchise is not exclusive and shall not be construed to limit the City from granting rights, privileges and authority to other persons similar to or different from those set forth in this Franchise.

**SECTION 23. REMEDIES AND PENALTIES NOT EXCLUSIVE.** All remedies and penalties under this Franchise, including termination, are cumulative and not exclusive, and the recovery or enforcement by one available remedy or imposition of a penalty is not a bar to recovery or enforcement by any other remedy or imposition of any other penalty. The City reserves the right to enforce the penal provisions of any City ordinance or resolution and to avail itself to any and all remedies available at law or in equity. Failure to enforce any term, condition or obligation of this Franchise shall not be construed as a waiver of a breach of any term, condition or obligation of this Franchise. A specific waiver of a particular breach of any term, condition or obligation of this Franchise shall not be a waiver of any other, subsequent or future breach of the same or any other term, condition or obligation of this Franchise.

**SECTION 24. SEVERABILITY CLAUSE.** If any section, subsection, sentence, clause, phrase, or other portion of this Franchise is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, all portions of this Franchise that are not held to be invalid or unconstitutional shall remain in effect until this Franchise

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is terminated or expired. After any declaration of invalidity or unconstitutionality of a portion of this Franchise, either party may demand that the other party meet to discuss amending the terms of this Franchise to conform to the original intent of the parties. If the parties are unable to agree on a revised franchise agreement within ninety (90) days after a portion of this Franchise is found to be invalid or unconstitutional, either party may terminate this Franchise by delivering one hundred and eighty (180) days notice to the other party.

**SECTION 25. NOTICE.** Any notice provided for under this Franchise shall be sufficient if in writing and (1) delivered personally to the following addressee, (2) deposited in the United States mail, postage prepaid, certified mail, return receipt requested, (3) sent by overnight or commercial air courier (such as Federal Express or UPS), or (4) sent by facsimile transmission with verification of receipt, addressed as follows, or to such other address as the receiving party hereafter shall specify in writing:

**If to the City:**

**City Manager City of Molalla, Oregon  
117 N. Molalla Avenue  
Molalla, Oregon 97038  
FAX # (503) 829-3676**

**With a copy to: Attorney for the City of Molalla  
Beery Elsner & Hammond, LLP 1750 SW Harbor Way, Suite 380  
Portland, OR 97201  
FAX # (503) 226-2348**

**The Grantee: Regional Manager  
Portland General Electric Company  
Att: Government Affairs  
121 SW Salmon St 1WTC0301  
Portland, Oregon 97204  
FAX: (503) 464-2354**

**With a copy to: Portland General Electric Company  
Attn: General Counsel**

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**One World Trade Center, 17<sup>th</sup> Floor**  
**121 SW Salmon Street**  
**Portland, Oregon 97204**  
**FAX: (503) 464-2200**

Any such notice, communication or delivery shall be deemed effective and delivered upon the earliest to occur of actual delivery, three (3) business days after depositing in the United States mail, one (1) business day after shipment by commercial air courier or the same day as confirmed facsimile transmission (or the first business day thereafter if faxed on a Saturday, Sunday or legal holiday).

IN WITNESS WHEREOF, the parties, through their duly authorized representatives, have executed this Franchise as of the dates indicated below.

PORTLAND GENERAL ELECTRIC COMPANY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

CITY OF MOLALLA

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

# Memorandum



**To:** Mayor and City Council  
**From:** Mark Gervasi, Interim CM  
**Date:** 2/8/2013  
**Re:** Interim CM Report projects in progress

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Current items I am working on:

1. The PGE franchise agreement ready for council approval at the February 13<sup>th</sup> City Council meeting.
2. Ongoing - Annexation Ordinance to be presented to the Planning Commission at their meeting on February 26 and then for Council approval at one of the City Council meetings in March. (either March 13 or 27).
3. Ongoing - Working with staff and the City Attorney, Chad Jacobs, in reviewing the proposed contract between City and MCC for IT services. I want to have this contract to Council for their approval hopefully by the February 27<sup>th</sup> City Council meeting.
4. Ongoing - Adult Center - Staff is working with the County on a transition plan regarding the provision of services for the Center. More later on this.
5. Staff is working with the Clackamas County Building Codes Division to have perform building plans review and inspection services for the City. PW Director Howatt and I met with Scott Caulfield, Building Codes Division Administrator, concerning the particular services they can provide to the City. We had a good meeting with Mr. Caulfield. More on this later.

I would like to ask the Council to have a workshop on Wednesday, February 27<sup>th</sup> @ 5:30 to discuss the City's Urban Renewal Plan. Greg Ellis, CM with the City of Canby, will make a presentation regarding Urban Renewal and how effective it has been for Canby. This should take about an hour.

*City of Molalla*  
NOTICE OF PUBLIC HEARING  
MOLALLA PLANNING COMMISSION

DATE & TIME: February 26, 2013. This item will not begin earlier than 6:30 p.m. However, it may begin later depending on the length of preceding items.

PLACE: City Hall, 117 N. Molalla Avenue, Molalla OR 97038

FILE NO: LUR 2012-1

PURPOSE/PROPOSAL: APPEAL of staff approval for LUR 2012-1, Land Use Review for JC Auto. The approval would allow use of the subject property for sale and storage of automobiles. Site location is 31667 S. Hezzie Lane, on the south side of Highway 211 at Hezzie Lane.

SUBJECT PROPERTY: 31667 S. Hezzie Lane, Molalla, AKA 52E08C TL 800

CURRENT ZONING: C-2, General Commercial

APPLICANT: Jeff Spitzer, JC Auto

APPELLANT: Patricia Torsen

REVIEW STANDARDS: 17.12, 19.04, 19.08 et al. of the Molalla Development Code

You may attend, offer testimony or seek information at the hearing. Any correspondence received in advance of the meeting will be forwarded to the Planning Commission.

The staff report relating to this application will be available for inspection seven (7) days prior to the hearing at the Clackamas County Planning Division, 150 Beavercreek Road, Oregon City, OR 97045. Copies will be available for a reasonable cost. For further information, contact Clay Glasgow at 503-742-4520.

Those eligible to appeal this matter to the City Council are the owner, applicant, a representative of petitioners and persons who submitted oral or written testimony. Appeals must be filed within 15 days of the decision filing date on forms available from the Clackamas County Planning Division. Failure to raise an issue in person or by letter at the hearing with sufficient specificity to afford the decision-maker an opportunity to respond will preclude the ability to appeal. Furthermore, failure at the time of the hearing to specify, in person or by letter, to what land use standard(s) your comments or objections are directed, will preclude the ability to raise those issues on appeal.

*Mark Ger vase*

NOTICE OF PUBLIC HEARING  
MOLALLA PLANNING COMMISSION/MOLALLA CITY COUNCIL  
117 N. Molalla Avenue, Molalla, OR 97038

DATE & TIME: **February 26, 6:30 p.m.** Planning Commission;  
**March 27, 2013, 7:00 p.m.** City Council.

PLACE: Planning Commission - Molalla City Hall, 117 N.  
Molalla Avenue; City Council - 315 Kennel  
Avenue

FILE NO: CP 2012-2, Z 2012-2, Comprehensive Plan  
Change, Zone Change; M001-13-SDR, Site  
Design Review for new phase of Stone Place  
apartments

PURPOSE/PROPOSAL: These applications are in conjunction with a  
proposed annexation, allowed through a ballot  
measure approved in November 2012. The  
property is currently under County jurisdiction,  
planned and zoned for rural residential use.  
Applicant proposes to have the property annexed  
into the city, and to change the Plan designation to  
Multi-family Residential, MFR; and the Zone  
designation to R-3, Medium Density Residential.  
The site is located at 13322 S. Highway 211 (W.  
Main St.), at Hezzie Lane. The applications are in  
preparation for expansion of the Stone Place  
Apartments. A separate application for Site  
Design Review of the proposed apartments will  
also be considered. A public hearing will be held  
before the Planning Commission, from which a  
recommendation will be forwarded to the City  
Council. The Council will then make final  
decision.

SUBJECT PROPERTY: T. 5S, R. 2E, Section 08C, TLs 1100 and 1200

CURRENT/PROPOSED ZONING: RRFF-5, Rural Residential, to R-3, Medium  
Density Residential

CURRENT/PROPOSED PLAN: Rural, to MFR, Multi-family



APPLICANT: Ivanov Investment Group, LLC

PROPERTY OWNER: Collins; Aho

REVIEW STANDARDS: 19.08, 19.28, 17.08, and the Community Design Standards generally of Title 18 of the Molalla Development Code

You may attend, offer testimony or seek information at the hearing. Any correspondence received in advance of the meeting will be forwarded to the Planning Commission.

The staff report relating to this application will be available for inspection seven (7) days prior to the first hearing, at the Clackamas County Planning Division, 150 Beaver Creek Road, Oregon City, OR 97045. Copies will be available for a reasonable cost. For further information, contact Clay Glasgow at 503-742-4520.

Failure to raise an issue in person or by letter at the hearing with sufficient specificity to afford the decision-maker an opportunity to respond will preclude the ability to appeal. Furthermore, failure at the time of the hearing to specify, in person or by letter, to what land use standard(s) your comments or objections are directed, will preclude the ability to raise those issues on appeal.

# Memorandum



**To:** Mayor and City Council

**From:** Mark Gervasi, Interim CM

A handwritten signature in black ink, appearing to be 'M Gervasi'.

**Date:** 2/4/2013

**Re:** City/Molalla Chamber of Commerce partnership

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As all of you know City partnerships with outside groups, especially the Molalla Chamber of Commerce, are critical if we are going to continue to build community here in Molalla.

To that end, I would like to ask that the City Council consider a joint meeting with the Molalla Chamber of Commerce Board of Directors to discuss history and services the Chamber provides, and how we can strengthen our partnership with that organization moving forward.

I ask that we have a joint meeting with the Molalla Chamber Board on Tuesday, February 19<sup>th</sup>, at 6:30 pm at the Molalla Fire Department conference room. The meeting should last about an hour and a half.

I await your direction.

**Planning activities week of January 28, 2013:**

6 telephone calls, various questions

1 counter contact

meeting with Bill Avison, regarding potential future development

worked on staff report for the annexation/plan and zone change/design review for the next phase of Stone Place Apts.



**College of Urban and Public Affairs**  
Population Research Center

Post Office Box 751  
Portland, Oregon 97207-0751  
780 Urban Center  
506 SW Mill Street

503-725-3922 tel  
503-725-5199 fax  
askprc@pdx.edu  
www.pdx.edu/prc/

— IMPORTANT NOTICE —

## **Certified 2012 Population Estimate**

December 15, 2012

**To: Molalla city**

Listed below is the population estimate for July 1, 2012. Also included are the certified 2011 estimate and 2010 Census figure. The July 1, 2012 estimate is certified on December 15, 2012.

**CERTIFIED POPULATION ESTIMATE:**

**JULY 1, 2012: 8,110**

**CERTIFIED POPULATION ESTIMATE:**

**JULY 1, 2011: 8,110**

**CERTIFIED CENSUS FIGURE:**

**APRIL 1, 2010: 8,108**

If you have any questions, please contact:

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# CTV5 Open House

Feb 21 ~ 3-6pm

351 NW 2<sup>nd</sup> Avenue in Canby

The OCTS Board of Directors is pleased to invite you to our recently updated, state-of-the-art recording and editing broadcast studio. Over the last several months, this amazing transformation has made it possible for CTV5 to deliver high-quality local public access programming to our community. Station Manager Tony Gonzalez brings his expertise, creativity and energy to ensure community access to important meetings, sporting events, and a wide range of one-of-a-kind local programs. Please join us!

*Check out what's new at the OCTS/CTV5 studio...you'll be amazed!*