

CITY of CASCADE LOCKS

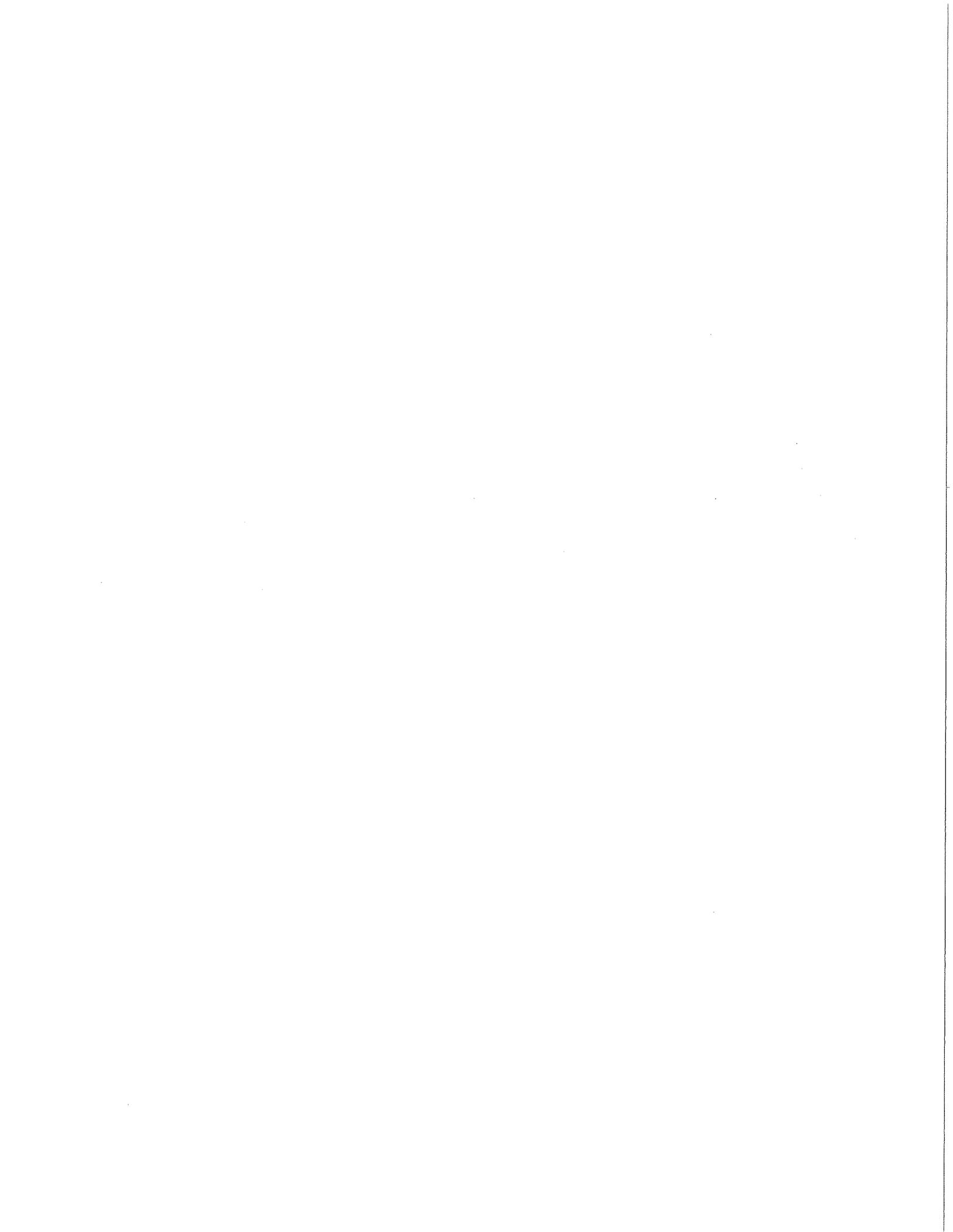
AGENDA

CITY COUNCIL MEETING, Monday, October 27, 2014, 7:00 PM, CITY HALL

Purpose: The City Council meets on the 2nd and 4th Mondays of each month to conduct city business.

1. **Call to Order/Pledge of Allegiance/Roll Call.**
2. **Additions or amendments to the Agenda.** (The Mayor may add items to the agenda after it is printed and distributed only when required by business necessity and only after an explanation has been given. The addition of agenda items after the agenda has been printed is otherwise discouraged.)
3. **Adoption of Consent Agenda.** (Consent Agenda may be approved in its entirety in a single motion. Items are considered to be routine. Any Councilor may make a motion to remove any item from the Consent Agenda for individual discussion.)
 - a. **Approval of October 13, 2014 Minutes.**
 - b. **Ratification of the Bills in the Amount of \$ 74,508.16.**
4. **Public Hearing: Adoption of Uniform Management Policy for City Right of Way**
 - a. **Staff Report**
 - b. **Statements in Favor**
 - c. **Statements in Opposition**
 - d. **Statements in General**
 - e. **Council Discussion**
5. **Action Items:**
 - a. **Appointment to Committees.**
 - b. **First Reading of Ordinance No. 435 Asserting Jurisdiction over City Right of Way and Providing for the Uniform Management of the Use of the Right of Way for Utilities.**
 - c. **Approve Second Reading and Adopt Ordinance No. 436 Amending Ordinance No. 425 Pertaining to the Regulation of Street Vendors within the City of Cascade Locks.**
 - d. **Approve Resolution No. 1315 Declaring Certain Real Property of the City is Not Needed for Public Use and Authorizing the Conveyance of Such Property.**
 - e. **Approve Resolution No. 1316 Establishing Water Rate for Large Water Users.**
 - f. **Approve Resolution No. 1317 Establishing Wastewater Rate for Large Water Users.**
6. **Appearance of Interested Citizens to Share a Variety of Perspectives on Issues Facing Our Community.** (Comments on matters not on the agenda or previously discussed.)
7. **Reports and Presentations.**
 - a. **City Committees.**
 - b. **BKI Electric Master Plan – Richard Vermeers, Buz Ketchum, and Larry Stuckman.**
 - c. **City Administrator Zimmerman Report.**
8. **Mayor and City Council Comments.**
9. **Other matters.**
10. **Executive Session per ORS 192.660 (2)(e) re: Real Property Transactions.**
11. **Adjournment.**

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for person with disabilities, should be made at least 48 hours in advance of the meeting by contacting the City of Cascade Locks office at 541-374-8484.



1. **Call to Order/Pledge of Allegiance/Roll Call.** Mayor Cramblett called the meeting to order at 7:00 PM. CM's Groves, Fitzpatrick (via phone), Randall, Walker, Helfrich, Busdieker, and Mayor Cramblett were present. Also present were City Administrator Gordon Zimmerman, City Recorder Kathy Woosley, Electric Department Working Foreman Keith Terry, Barbara Young with Century Link, Martha LaMont, Paulina Le, Solomon Greene, Brenda Greene, John Stipan, Alan Amoth, and Camera Operator Betty Rush.

2. **Additions or amendments to the Agenda.** CA Zimmerman said he would like to do a presentation. He said Paulina Le and Solomon Greene helped with the Fish Food Bank during the summer months and presented them with a certificate of appreciation. Paulina and Solomon said it was a great honor to work in the Food Bank and help the community. Paulina said she never saw it as work. Solomon said it was a privilege to volunteer and meet people in the community. Martha said they were a great help and was a benefit during the summer months. She said that volunteering can sometimes give you an edge when applying for work.

Mayor Cramblett thanked the volunteers and said he appreciated them helping out with the Food Bank.

3. **Adoption of Consent Agenda.**

a. **Approval of September 22, 2014 Minutes.**

b. **Ratification of the Bills in the Amount of \$ 185,422.17.**

Mayor Cramblett read the list of items on the Consent Agenda. **Motion:** CM Busdieker moved, seconded by CM Groves, to approve the Consent Agenda. The motion passed with CM's Groves, Fitzpatrick, Randall, Helfrich, Busdieker, and Mayor Cramblett voting in favor. CM Walker opposed.

4. **Public Hearings: 7:00 PM - Sale of Real Property at 505 WaNaPa Street (old fire hall).**

Mayor Cramblett asked for an explanation of the process. CA Zimmerman explained that the property has to be declared surplus, a public hearing to allow for any public comment, and a resolution will be brought before the Council for the sale of the property. He said it is an open process and anyone can negotiate for the property. CA Zimmerman said the Council chooses who to sell the property to and for how much.

Mayor Cramblett opened the public hearing at 7:09. Mr. Amoth asked if there was an appraisal on the property. Mayor Cramblett said there have been a couple of appraisals done and the City is doing better than the certified appraisal. Hearing no other comments, Mayor Cramblett closed the hearing at 7:11 PM.

5. **Action Items:**

a. **Appointment to Committees.** None.

b. **Approve Resolution No. 1313 Approving Relinquishment of Electrical Utility Easement for Communications Tower.** **Motion:** CM Helfrich moved, seconded by CM Randall, to approve Resolution No. 1313 approving relinquishment of electrical utility easement for the communications tower.

CM Walker asked if this would be the end of this situation. CA Zimmerman said this is one part of finalizing. He said the generator and propane tank still have to be moved. The motion passed unanimously by CM's Groves, Fitzpatrick, Randall, Walker, Helfrich, Busdieker, and Mayor Cramblett.

c. **Approve Resolution No. 1314 for Way Finding Grant Funding.** CA Zimmerman said this is an accounting adjustment to complete the grant. CM Randall moved, seconded by CM

Helfrich, to approve Resolution No. 1314 for Way Finding Grant Funding. CM Busdieker said she would recuse herself from any discussion and declared a conflict of interest. The motion passed with CM's Groves, Fitzpatrick, Randall, Walker, Helfrich, and Mayor Cramblett voting in favor. CM Busdieker abstained.

d. Introduce Ordinance No. 435 Asserting Jurisdiction over City Right of Way and Providing for the Uniform Management of the Use of the Right of Way for Utilities. CA Zimmerman said this ordinance is for the City's right to manage the right of way. He said Barbara Young of Century Link has reviewed the ordinance and made some suggested revisions of which the City's Attorney is reviewing. Mayor Cramblett said he would want to hold a public hearing so the public can be aware of this and comment. He said he would like as much input as possible. CM Randall asked what the changes were to the ordinance. CA Zimmerman said he hadn't made the changes yet but mostly related to terminology. Barbara Young stated that undergrounding was one of Century Link's concerns and another was the definition for "gross revenues". She said she appreciated the opportunity to comment. CA Zimmerman reminded Council that this ordinance is just being introduced tonight and would be followed by a public hearing and first and second readings of the ordinance.

e. Approve First Reading of Ordinance No. 436 Amending Ordinance No. 425 Pertaining to the Regulation of Street Vendors within the City of Cascade Locks. CA Zimmerman said the attorney for the Umatilla Tribe came to the Joint Work Group on Economic Development meeting and offered some clarification to the City's street vendor ordinance. He said this reflects an amendment to the street vendor ordinance. There was discussion about control and following City regulations. CA Zimmerman said that Tribal vendors selling fish or naturally harvested food are exempt. CA Zimmerman gave the first reading of Ordinance No. 436.

f. Approve Electric Department Purchase Order for Electric Meters. CA Zimmerman said the City does not have any meter inventory. Electric Department Working Foreman Keith Terry stated that old meters are supposed to be cycled out. He said the older meters will run slower. He said he needs to get meters that are compatible with the remote read. He said any meters that are hard to read will be replaced first. EDWF Terry said a meter just burned out and had to be replaced with an old meter that should have been cycled out. He said the older meter is going to be inaccurate. Mayor Cramblett said he went around town looking at meters. He said the older meters are easier to read. He said he likes the idea of the employees actually going to the houses to read the meters. He said this way the system is being looked at and any problems will be found.

EDWF Terry told Council that currently there is a citizen that is away from home during the winter months and they don't want the City to unlock their gate and go into their back yard to read the meter. He said if there was a remote read meter there the City could read from a distance and not have to enter their back yard.

CM Walker said the meter has to be accessible. EDWF Terry said that is the argument. CM Walker said there is no argument and that the meter has to be accessible. EDWF Terry said if anything goes wrong the City does have the authority to go into the back yard. CA Zimmerman said the City would be liable if we unlock the gate, go into the back yard to read the meter, leave the gate unlocked, and someone enters the house. He said the City could make them move their meter to the front of the house but it is less friction to just buy a new remote read meter for \$90.00. CM Randall asked if the labor costs are lowered with remote read meters. CA Zimmerman said it still takes two to three days to read the meters. Mayor Cramblett said he wants the entire system to be reviewed every month. He said if not you are losing the opportunity to maintain the system.

CM Groves asked if new meters were going to be put on everyone's house. EDWF Terry said when a meter breaks down there will be a new one to replace it. He said right now there are key places that will be replaced. CM Randall asked about the warranty on meters. EDWF Terry said he thought the warranty was three years. CM Busdieker pointed out that the staff report shows a 10-year life for the meters.

CM Helfrich asked if the manufacturer had been contacted to see if they are going to continue making the model that is compatible with our system. EDWF Terry said the manufacturers tell you what you want to hear. He said right now the City has no remote read meters to install. He said they will be replaced as needed. He said that there is usually one to two meters a month that goes bad and needs replaced.

CM Busdieker asked if the remote read meters are tested for accuracy. EDWF Terry said they are tested before they are sent to the City. CM Busdieker asked if he knew that the reader was correct. CA Zimmerman said a report is generated that shows if anything is out of line. He said there is a multi-step process to try to figure out any inconsistencies.

Motion: CM Helfrich moved, seconded by CM Busdieker, to approve the invoice from Sensus for replacement meters for the Electric Department.

CM Groves said she didn't think there should be a five-year replacement. CA Zimmerman explained that this is a synopsis and the City needs 100 meters to start with. He said there are no meters and old meters are being used to replace old meters. CM Groves said she doesn't think meters should be replaced just so everyone can have a new meter. CA Zimmerman said the City wants to have the ability to replace meters as they fail over the next seven years. He said that the old meters are now ten years old and chances are that every one of them will fail. CM Groves asked if the meters were going to be replaced as they fail. CA Zimmerman said that was correct.

The motion passed with CM's Groves, Fitzpatrick, Randall, Helfrich, Busdieker, and Mayor Cramblett voting in favor. CM Walker opposed. CM Walker said this is an example of why the work order system is needed. CA Zimmerman said the work order system will generate a report *as* it fails but we have that data right now in the computer system.

g. Approve Transformer Purchase for Electric Department. CA Zimmerman said the transformer on Snyder's property is leaking and needs to be replaced. He said Mr. Snyder bought the property with the 2000 kVA capacity and wants to have the capacity available to him. He said he may be leasing the shop to another business. **Motion:** CM Helfrich moved, seconded by CM Walker, to approve the purchase of a 2000 kVA transformer for the replacement of the transformer at Dennis Snyder Construction for \$20,741.00.

Mayor Cramblett said that 2000 kVA transformer is at a building that doesn't use that much power. He said the highest use has been 10,000 kw. He said that transformer has been sitting there since the 1970's. Mayor Cramblett agreed to commit to the 2000 kVA but that right now a 1000 kVA transformer could be purchased and would still be more than what they need. He said when they expand and need the other 1000 kVA transformer the City could get it at that time. CM Randall asked if there was any information on the new business. CA Zimmerman said he had no information.

CM Fitzpatrick asked if the 2000 kVA transformer could be repaired. EDWF Terry said he thought it was the bushings and that it could be repaired. He said he would want to make sure it would be compatible with the rebuild of the substation. CM Fitzpatrick asked how long it would take to switch over the transformers. EDWF Terry said it would take a day to switch out transformers and probably six months to rebuild the old transformer. He said Bear Mountain uses

a 1000 kVA transformer and there is no backup if that breaks down. He said this would give a backup transformer. CM Walker asked how long it would take to get a new transformer delivered. EDWF Terry said it would take five weeks to get a transformer on a truck headed this way.

CM Walker said he understood trying to save money but if businesses are interested in Cascade Locks he didn't think now would be the right time to downsize.

CM Helfrich said Mr. Snyder relocated his business to Cascade Locks and we supply him with electrical capacity. He said it would be bad government to not uphold what we said we would do. He said the money is in capital reserve to do this. Mayor Cramblett said he wasn't saying not to supply him with the capacity but to drop down to what is being used. He said there isn't any business that is going to start up within five weeks and that is what it takes to get a transformer. He said having the 1000 kVA transformer will give the City some flexibility and allow time to rebuild the 2000 kVA transformer. He said he didn't believe in spending the money if it wasn't necessary. The motion failed with CM's Groves, Fitzpatrick, Randall, Busdieker, and Mayor Cramblett voting against the motion. CM's Walker and Helfrich voted in favor.

Motion: CM Fitzpatrick moved, seconded by CM Groves, to approve the purchase of a 1000 kVA transformer for \$12,480.00 as a replacement while the 2000 kVA transformer is being rebuilt or replaced. CM Busdieker asked if money was budgeted for this. CA Zimmerman said that is what the money in capital reserve is for. The motion passed unanimously by CM's Groves, Fitzpatrick, Randall, Walker, Helfrich, Busdieker, and Mayor Cramblett.

CA Zimmerman said the 1000 mw transformer would not be sitting long after swapping back out with the 2000 mw transformer as it will be used with the industrial park development.

h. Approve Letter to Senator Wyden Regarding Train Whistles. CA Zimmerman handed Council a letter to Senator Wyden regarding a Quiet Zone. CM Randall said he wanted the public to know that the quiet zone is kind of deceptive. He said there are three guarded crossings in Cascade Locks. CA Zimmerman said Cramblett Way and Herman Creek Lane crossings are the only two public crossings. He said the one on Gravel Pit Road is private. CM Randall said regardless of private or public if the crossings are guarded the whistle doesn't have to be blown. CA Zimmerman said if it is a private crossing the whistle can be blown whether guarded or not. He said if it is a public crossing and refurbished per requirements the City would be asking for the whistle not to be blown. He said the City has no jurisdiction over private crossings. CM Randall said even if we received a quiet zone the trains will still blow their whistle if they see anyone near the tracks. He said he wants citizens to understand that they still will hear whistles just maybe not on a regular basis. He said he thinks the letter is okay and knows that there are some citizens in town that have wanted to do this for a long time.

CA Zimmerman said he went through this process when he worked in Baker City. He said he understands the price today would be \$500,000 per crossing to upgrade. CM Randall said he thought the two crossings already met the standards. CA Zimmerman explained other upgrades that would have to be made to the crossings. CM Randall said so he is assuming that this is only going to get done with federal assistance. CA Zimmerman said that is why we are starting with the letter to Senator Wyden to clarify what has to be done and if there is any grant funding available.

Motion: CM Busdieker moved, seconded by CM Helfrich, to authorize the Mayor to sign a letter to our congressional delegation regarding a railroad quiet zone for Cascade Locks.

CM Walker said he could not support anything that would take away from safety. He said it takes about a mile for a train to be able to stop. He said there is no such thing in Cascade Locks as a

quiet zone. He said the horns are blown for a reason. CA Zimmerman said the train whistles from Washington can also be heard in Cascade Locks.

CM Groves said the area adjacent to the Marine Park is all open track and couldn't even be guarded. CA Zimmerman said there isn't any designated vehicle crossing in that area. CM Randall said he agrees with CM Walker and this would be a moot point and difficult to support. Mayor Cramblett added there is still going to be train noise even if there isn't a whistle. He said he didn't have a problem with pursuing and sending the letter but not with spending a million dollars. CM Randall said there is no point if the whistles are still going to be blown at KOA. CM Fitzpatrick said he is okay with it if someone else is going to pay for it. The motion passed with CM's Groves, Fitzpatrick, Helfrich, Busdieker, and Mayor Cramblett voting in favor. CM's Randall and Walker opposed.

6. Appearance of Interested Citizens to Share a Variety of Perspectives on Issues Facing Our Community. None.

7. Reports and Presentations.

a. City Committees. None.

b. Marijuana Tax Discussion. Mayor Cramblett said he didn't think there was any use trying to pass a tax. CA Zimmerman said the zoning in Cascade Locks controls where this type of business could be located and could not be located in the business district due to the federal regulations of distance from the school. CM Busdieker said she attended the LOC Conference where this was discussed and basically discussed Washington's experience thus far with recreational use. She said the general impression was that the tax wouldn't survive a legal challenge and that it seemed to be a wasted effort. Mayor Cramblett said he was okay with letting it go. CM Fitzpatrick agreed and suggested studying Washington for a while. There was consensus of Council.

c. City Administrator Zimmerman Report. CA Zimmerman said the Electric System Master Plan was put in Council's boxes. He said Larry Stuckman from BKI will be at the next meeting to present and answer any questions. He said that the City has received approval to proceed with the Code Assistance Grant and Council can meet with the Siegel Planning Group on Thursday, October 30th from 2:00 - 4:00 PM.

CA Zimmerman reported that the arbor vitae had been shaped and trimmed down below the windows and asked if Council liked that look or would want to take arbor vitae out and replace with rhododendrons or azaleas. He said he wanted to try to budget next year to paint the building. CA Zimmerman said Council had already given consensus to cut down the trees in front of City Hall but has received suggestions of carving the two end trees into fish or some kind of art and maybe a native totem pole out of the tree in the middle. He said money had been given to Festival of Lights by the family of Dorothy Wilson to light one of the trees in her memory and with the trees now unable to be lit due to size it has been mentioned that a tree in the gym could be lit in her memory. He asked if Council would want some replacement for the trees that will be cut down. CM Groves said she has never been an advocate of removing trees and didn't remember agreeing to that. Mayor Cramblett said the trees in front of City Hall will continue to grow and will someday become unmanageable and hard to take down. CM Walker asked why anything had to be put back in. CM Busdieker said she thought it would be cool to carve the trees. The majority of Council agreed to take out trees completely and replace with grass. CA Zimmerman said there could always be a decision later to replant something else.

CA Zimmerman reminded Council of the U of O Design Charrette on Saturday, October 18th. He said he would be attending the OMEU Conference and Board Meeting Thursday and Friday and would be on vacation next week.

8. **Mayor and City Council Comments.** CM Fitzpatrick commended the youth for helping with the Fish Food Bank. He urged Council to inform citizens about the EMS measure on the ballot. CM Helfrich thanked the young people for volunteering with the Food Bank. He said this is something that can be put on a resumé later on. He reminded all of the Magic History Tour on October 24th. He said that Dan Yates has donated a lot for this fundraiser for the museum. CM Busdieker our young people volunteering is an awesome thing to do. She said the SMART Program started this week at the school and urged others to volunteer. She said it is fun and exciting to see the kids get into books. She urged citizens to vote. CM Walker said he had missed a couple of meetings due to his work responsibilities changing. He said he noticed in minutes and looked for himself then asked if the City required a new homeowner to build sidewalks in front of her house. CA Zimmerman said yes and that discussion is currently taking place with the Planning Commission. He said the issue will also be a part of the Code Assistance. CM Walker said this seems bureaucratic and government overkill.

CM Randall thanked everyone for showing their appreciation and attending the dinner at the Fire Station for the volunteers. He said he was impressed with the community support. CM Groves thanked the Fire Department and thought there was a good turn-out. Mayor Cramblett said he thought there were approximately 60 citizens attending the Appreciation Dinner for the volunteers. He gave kudos to Station Captain Metheny for keeping things going in the EMS Department. He said he is putting in a tremendous effort. He urged citizens to vote and said it is important that citizens understand the ballot measure regarding the EMS Department. He said the budget is tight for EMS and it is not easy for them. Mayor Cramblett thanked the young people for volunteering. He said you give a lot when you volunteer without getting a lot in return.

9. **Other matters.** None.

10. **Executive Session per ORS 192.660 (2)(e) re: Real Property Transactions.** Mayor Cramblett recessed regular session and after a short break entered into executive session. CM's Groves, Fitzpatrick, Randall, Walker, Helfrich, Busdieker, and Mayor Cramblett were present. Also present were CA Zimmerman and CR Woosley.

11. **Adjournment. Motion:** CM Helfrich moved, seconded by CM Busdieker, to adjourn. The motion passed unanimously by CM's Groves, Fitzpatrick, Randall, Walker, Helfrich, Busdieker, and Mayor Cramblett. The meeting was adjourned at 9:41 PM.

Prepared by
Kathy Woosley

APPROVED:

Tom Cramblett, Mayor

BLANKET VOUCHER APPROVAL

PAGE NO. 1

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DEPARTMENT: CITY OF CASCADE LOCKS
COVER SHEET AND SUMMARY

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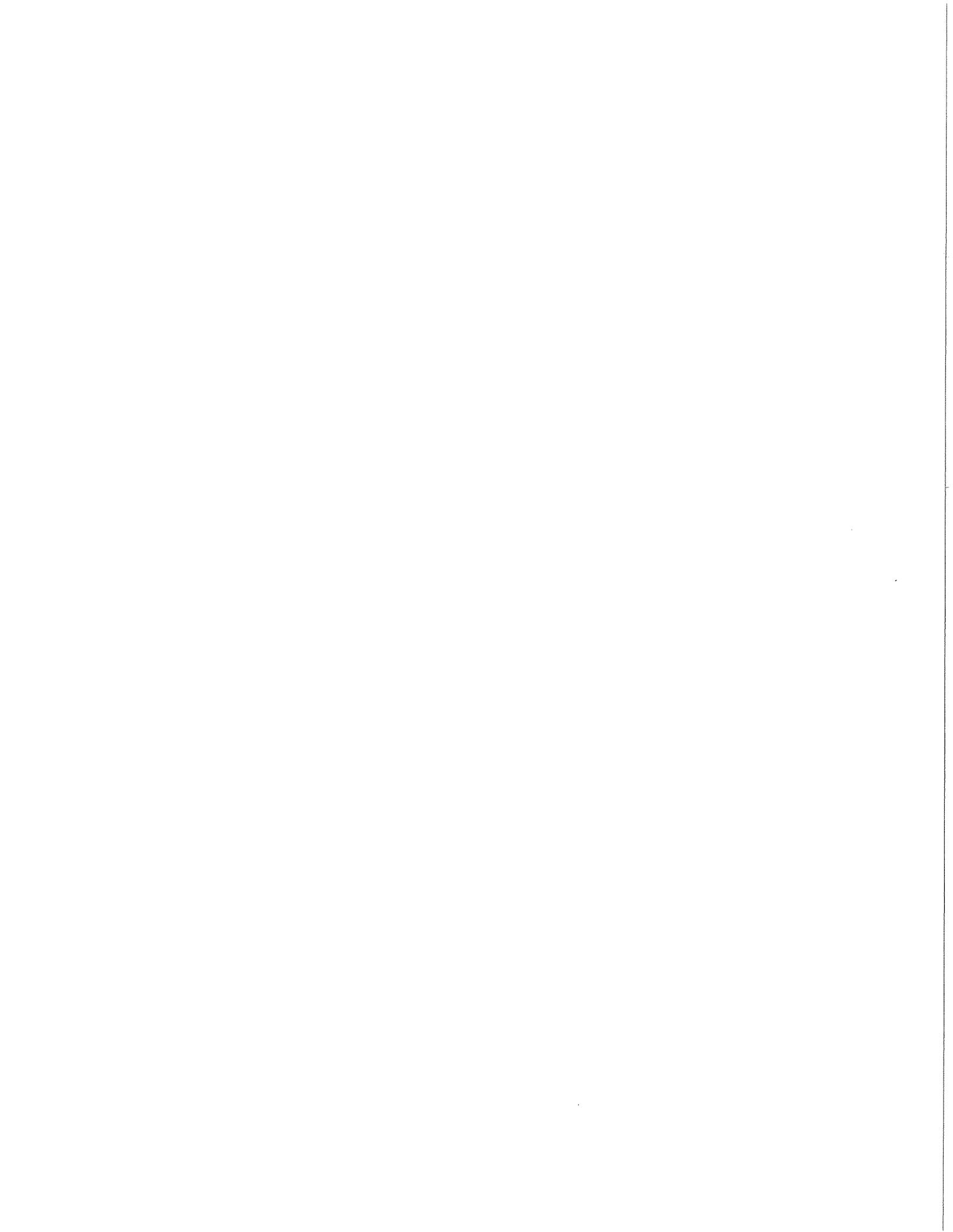
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10/15/2014	A/P	\$ 25,458.82

GRAND TOTAL	\$ 74,508.16
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APPROVAL:

Mayor



Report Criteria:
Report type: GL detail

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5193	10/14	10/15/2014	6839	81554381	Bound Tree Medical, LLC	IV Solution	0540562351	12.10
Total 5193: 12.10								
5194	10/14	10/15/2014	670	100001500 1	CASCADE LOCKS LIGHT CO.	new fire station	0540562439	488.70
5194	10/14	10/15/2014	670	100003500 1	CASCADE LOCKS LIGHT CO.	res. no 2	2140562070	21.37
5194	10/14	10/15/2014	670	100030200 1	CASCADE LOCKS LIGHT CO.	pump lift station	3140562070	21.30
5194	10/14	10/15/2014	670	100038200 1	CASCADE LOCKS LIGHT CO.	well house	2140562070	1,440.16
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5194	10/14	10/15/2014	670	103714500 1	CASCADE LOCKS LIGHT CO.	wasco creek lift station	3140562070	21.30
5194	10/14	10/15/2014	670	200120000 1	CASCADE LOCKS LIGHT CO.	cemetery water	1740562551	21.30
5194	10/14	10/15/2014	670	300155100 1	CASCADE LOCKS LIGHT CO.	main lift station	3140562070	278.70
5194	10/14	10/15/2014	670	300155900 1	CASCADE LOCKS LIGHT CO.	museum	0140762630	144.10
5194	10/14	10/15/2014	670	300156202 1	CASCADE LOCKS LIGHT CO.	fire hall	0540562439	23.37
5194	10/14	10/15/2014	670	300171800 1	CASCADE LOCKS LIGHT CO.	mail lighting	5140562800	21.30
5194	10/14	10/15/2014	670	300183900 1	CASCADE LOCKS LIGHT CO.	moody lift station	2140562070	46.44
5194	10/14	10/15/2014	670	600135000 1	CASCADE LOCKS LIGHT CO.	city hall	0140162552	710.88
5194	10/14	10/15/2014	670	600136900 1	CASCADE LOCKS LIGHT CO.	87 ruckel	3140562070	29.31
5194	10/14	10/15/2014	670	600137000 1	CASCADE LOCKS LIGHT CO.	chlorinator	2140562070	21.30
5194	10/14	10/15/2014	670	OCT 2014 S	CASCADE LOCKS LIGHT CO.	senior sewer subsidy	0140862025	249.70
Total 5194: 5,446.54								
5195	10/14	10/15/2014	740	80580	CASELLE, INC.	Contract Support	0140162082	1,185.00
Total 5195: 1,185.00								
5196	10/14	10/15/2014	4910	200103326 1	Chelsea Harbaugh	Refund Deposit	5121130	189.40
Total 5196: 189.40								
5197	10/14	10/15/2014	1120	A67985	COLUMBIA HARDWARE, LLC	key	5140562810	8.47
5197	10/14	10/15/2014	1120	A68140	COLUMBIA HARDWARE, LLC	bungee cords and zip ties	2140562560	59.91
Total 5197: 68.38								
5198	10/14	10/15/2014	6912	44	db design	contract support	0840562110	242.25

Check Number	GL Period	Check Issue Date	Vendor Number	Invoice No.	Payee	Description	GL Account	Amount
Total 5198:								242.25
5199	10/14	10/15/2014	1410	OCTOBER 2	DENNIS SNYDER CONTRACTORS	crushed concrete	5140562770	80.00
Total 5199:								80.00
5200	10/14	10/15/2014	1540	61158 10/14	DMV SERVICES STATE OF OREGON	certified court print	0540562110	6.00
Total 5200:								6.00
5201	10/14	10/15/2014	1620	529	EFFICIENCY SERVICES GROUP, LLC	BPA Program Services September 2014	5140562139	750.00
Total 5201:								750.00
5202	10/14	10/15/2014	6911	173753	Enders Electric, Inc.	wiring as per bid dated 7/29/14	5645163941	3,390.00
Total 5202:								3,390.00
5203	10/14	10/15/2014	1760	ORHHOD38	FASTENAL	misc.	2140562560	7.01
5203	10/14	10/15/2014	1760	ORHOD3851	FASTENAL	Nylock	5140562201	2.00
Total 5203:								9.01
5204	10/14	10/15/2014	6878	373-1264	Gannett Co., Inc	programming	4140562740	143.20
Total 5204:								143.20
5205	10/14	10/15/2014	2020	1228861	GENERAL PACIFIC INC.	clamp hotline	5140562770	681.25
Total 5205:								681.25
5206	10/14	10/15/2014	2080	22097 10/14	GLOBALSTAR	Sat Phone	0540562050	27.25
Total 5206:								27.25
5207	10/14	10/15/2014	4910	801304304 1	Janet Benson	Refund Deposit	5121130	262.29
Total 5207:								262.29

M = Manual Check, V = Void Check

Check Number	GL Period	Check Issue Date	Vendor Number	Invoice No.	Payee	Description	GL Account	Amount
5208	10/14	10/15/2014	2980	7092585-00	L.N. CURTIS & SONS	ambiant aircheck air analysis	0540562440	90.00
Total 5208:								90.00
5209	10/14	10/15/2014	3050	3135	LEAGUE OF OREGON CITIES	conference registration	0140862020	635.00
Total 5209:								635.00
5210	10/14	10/15/2014	6874	SEP 2014	LIN Television Corporation	programming	4140562740	241.65
Total 5210:								241.65
5211	10/14	10/15/2014	3160	100714	MARIANNE BUMP/PETTY CASH	Reimburse Petty Cash	0140162055	82.90
Total 5211:								82.90
5212	10/14	10/15/2014	3380	KPDX SEP 2	Meredith Corporation	Retransmission	4140562740	53.70
5212	10/14	10/15/2014	3380	KPTV SEP 2	Meredith Corporation	Retransmission	4140562740	152.15
Total 5212:								205.85
5213	10/14	10/15/2014	3450	100714	MID-COLUMBIA COMM. ACTION COU	FY 14/15 Admin Fees	0140862027	105.00
5213	10/14	10/15/2014	3450	100714	MID-COLUMBIA COMM. ACTION COU	FY 14/15 Admin Fees	5140562138	600.00
Total 5213:								705.00
5214	10/14	10/15/2014	3490	1757	MID-COLUMBIA ECONOMIC	582 HR EDWOG	0140162030	250.00
5214	10/14	10/15/2014	3490	96-01-01 10/	MID-COLUMBIA ECONOMIC	Loan 96-01-01	4640562711	1,285.89
5214	10/14	10/15/2014	3490	96-01-01 10/	MID-COLUMBIA ECONOMIC	Loan 96-01-01	4640562712	232.79
5214	10/14	10/15/2014	3490	96-01-02 10/	MID-COLUMBIA ECONOMIC	Loan 96-01-02	4640562711	1,039.95
5214	10/14	10/15/2014	3490	96-01-02 10/	MID-COLUMBIA ECONOMIC	Loan 96-01-02	4640562712	225.61
Total 5214:								3,034.24
5215	10/14	10/15/2014	4070	4090330	ONE CALL CONCEPTS, INC.	Regular Tickets	5140562110	3.15
5215	10/14	10/15/2014	4070	4090330	ONE CALL CONCEPTS, INC.	Regular Tickets	5140562110	2.10
Total 5215:								5.25
5216	10/14	10/15/2014	6769	10-14-097	PARC Resources, LLC	draft memo to PC, development inquiries	0140262090	297.00

Check Number	GL Period	Check Issue Date	Vendor Number	Invoice No.	Payee	Description	GL Account	Amount
Total 5216:								297.00
5217	10/14	10/15/2014	6780	5032681017	Ricoh Americas Corporation	Copies	0140162110	108.42
Total 5217:								108.42
5218	10/14	10/15/2014	4910	211913314 1	Shawna McCormick	Refund Deposit	5121130	221.06
Total 5218:								221.06
5219	10/14	10/15/2014	6886	SEPTEMBE	Sinclair Television Group, Inc.	retransmission	4140562740	134.25
Total 5219:								134.25
5220	10/14	10/15/2014	5460	SEPTEMBE	Sosnkowski & Cleaveland P.C.	Attorney Fees	0140162100	1,420.50
Total 5220:								1,420.50
5221	10/14	10/15/2014	5510	8031519024	STAPLES CONTRACT & COMMERCIA	Office Supplies	0140162010	83.38
Total 5221:								83.38
5222	10/14	10/15/2014	6070	898343	TWGW, INC NAPA AUTO PARTS	alumaseal stop leak	5140562201	2.42
5222	10/14	10/15/2014	6070	898913	TWGW, INC NAPA AUTO PARTS	socket	5140562201	51.67
Total 5222:								54.09
5223	10/14	10/15/2014	6480	A144693	WESTERN ELECTRICITY	2014 Assessment	5140562030	52.00
5223	10/14	10/15/2014	6480	A144693	WESTERN ELECTRICITY	2014 Assessment	5140562030	52.00
Total 5223:								104.00
5224	10/14	10/15/2014	6660	SEP/OCT 20	WINNETT, LAWRENCE EDWARD	CATV Work	4140562570	1,000.00
Total 5224:								1,000.00
10151401	10/14	10/15/2014	3650	14091001	NATIONAL CABLE TELEVISION COOP.	Programming	4140562740	4,575.90

City of Cascade Locks

Check Register - By Check No.
Check Issue Dates: 10/15/2014 - 10/15/2014

Page: 5
Oct 13, 2014 10:54AM

Check Number	GL Period	Check Issue Date	Vendor Number	Invoice No.	Payee	Description	GL Account	Amount
Total 10151401:								
								4,575.90
10151402	10/14	10/15/2014	3650	CM-9549	NATIONAL CABLE TELEVISION COOP.	credit memo for parts	4140662560	32.34- M
Total 10151402:								
								32.34-
Grand Totals:								
								25,458.82

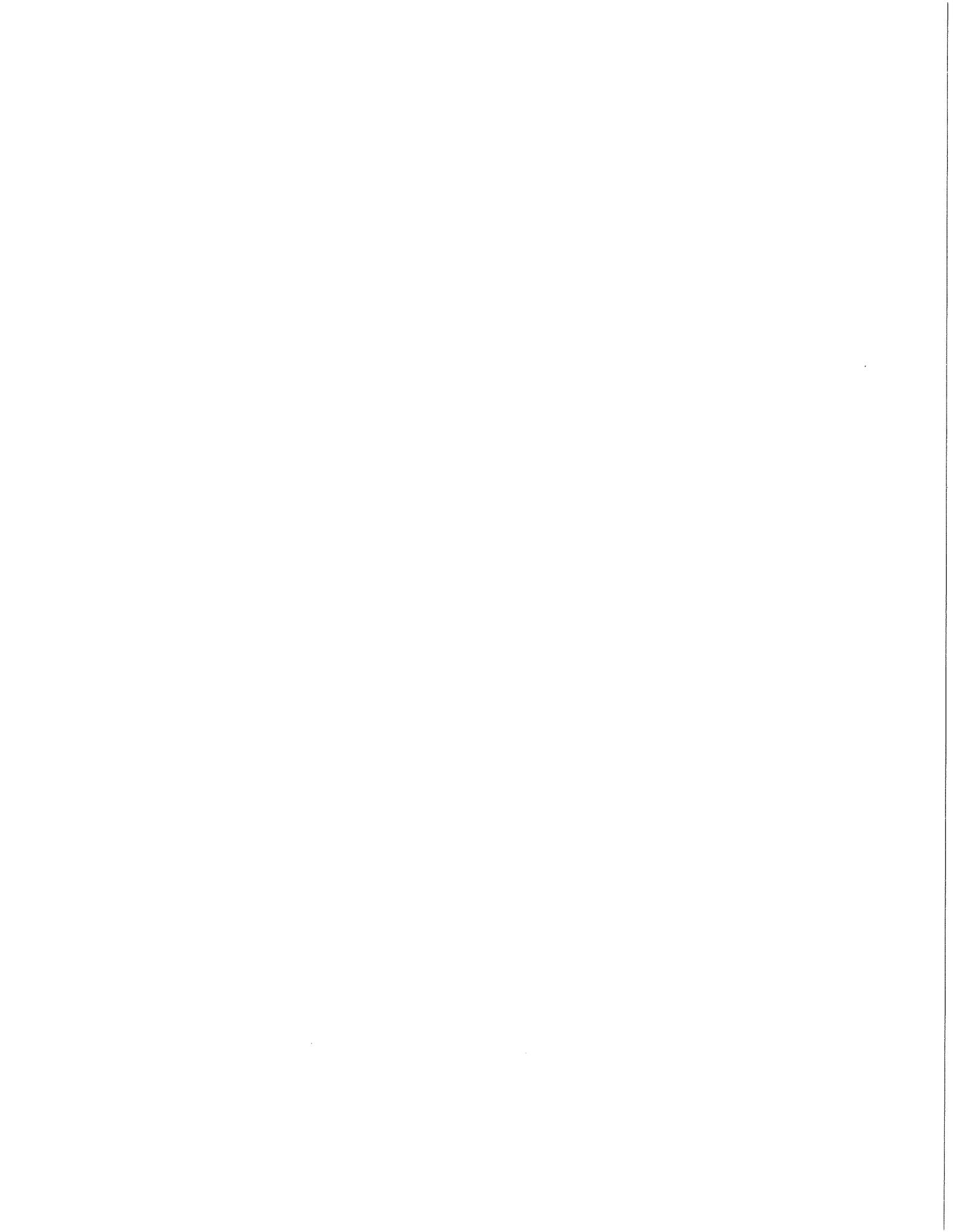
Summary by General Ledger Account Number

GL Account	Debit	Credit	Proof
01-21010	.00	5,271.88-	5,271.88-
01-401-62010	83.38	.00	83.38
01-401-62030	250.00	.00	250.00
01-401-62055	82.90	.00	82.90
01-401-62082	1,185.00	.00	1,185.00
01-401-62100	1,420.50	.00	1,420.50
01-401-62110	108.42	.00	108.42
01-401-62552	710.88	.00	710.88
01-402-62090	297.00	.00	297.00
01-407-62630	144.10	.00	144.10
01-408-62020	635.00	.00	635.00
01-408-62025	249.70	.00	249.70
01-408-62027	105.00	.00	105.00
05-21010	.00	647.42-	647.42-
05-405-62050	27.25	.00	27.25
05-405-62110	6.00	.00	6.00
05-405-62351	12.10	.00	12.10
05-405-62439	512.07	.00	512.07
05-405-62440	90.00	.00	90.00
08-21010	.00	242.25-	242.25-
08-405-62110	242.25	.00	242.25
17-21010	.00	21.30-	21.30-
17-405-62551	21.30	.00	21.30
21-21010	.00	1,596.19-	1,596.19-
21-405-62070	1,529.27	.00	1,529.27
21-405-62560	66.92	.00	66.92
31-21010	.00	2,257.92-	2,257.92-
31-405-62070	2,257.92	.00	2,257.92
41-21010	32.34	6,300.85-	6,268.51-
41-405-62560	.00	32.34-	32.34-
41-405-62570	1,000.00	.00	1,000.00
41-405-62740	5,300.85	.00	5,300.85
46-21010	.00	2,784.24-	2,784.24-
46-405-62711	2,325.84	.00	2,325.84
46-405-62712	458.40	.00	458.40
51-21010	.00	2,979.11-	2,979.11-
51-21130	672.75	.00	672.75
51-405-62030	52.00	.00	52.00

M = Manual Check, V = Void Check

GL Account	Debit	Credit	Proof
51-405-62110	5.25	.00	5.25
51-405-62138	600.00	.00	600.00
51-405-62139	750.00	.00	750.00
51-405-62201	56.09	.00	56.09
51-405-62770	761.25	.00	761.25
51-405-62800	21.30	.00	21.30
51-405-62810	8.47	.00	8.47
51-406-62030	52.00	.00	52.00
56-21010	.00	3,390.00-	3,390.00-
56-451-63941	3,390.00	.00	3,390.00
Grand Totals:	25,523.50	25,523.50-	.00

Report Criteria:
 Report type: GL detail



CASCADE LOCKS STAFF REPORT

Date Prepared: October 15, 2014

For City Council Meeting on: October 27, 2014

TO: Honorable Mayor and City Council

PREPARED BY: Gordon Zimmerman, City Administrator

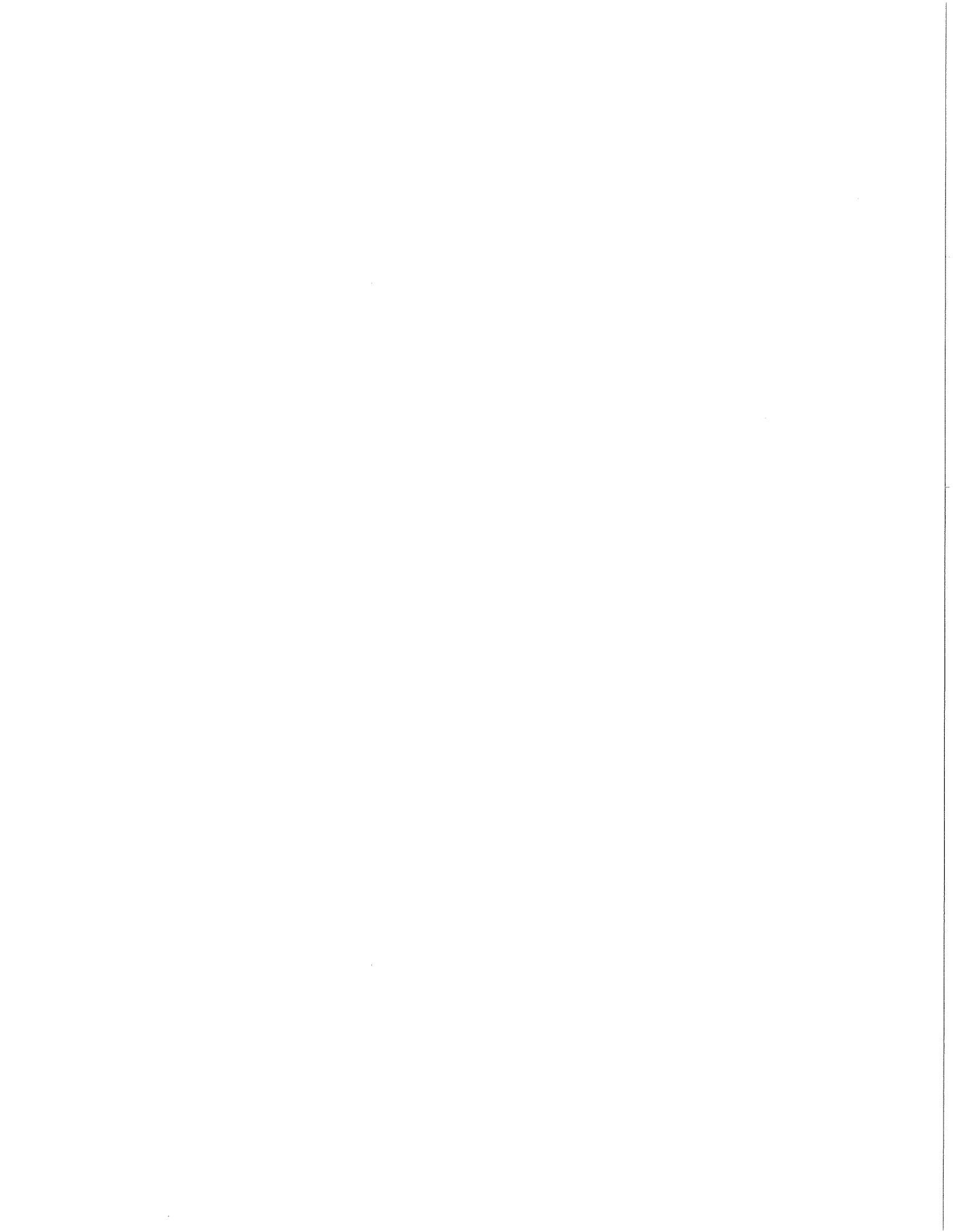
SUBJECT: First Reading of Ordinance No. 435 For City Right of Way Policy

SYNOPSIS: Please find attached:

1. The memo from City Attorney Ruben Cleaveland concerning the use and management of City right-of-way.
2. The marked up copy with the comments of CenturyLink and the response from the City Attorney.
3. The current iteration of the ordinance.

A public hearing is scheduled to be heard on October 27 to receive comments from the public and interested parties.

This is the first reading of this ordinance.



Memorandum

To: City Council

From: Ruben Cleaveland, Assistant City Attorney

Re: Management of Right of Way and Privilege Tax Ordinance

Date: October 6, 2014

I. Introduction

Staff is proposing a right of way management and privilege tax ordinance to address use of rights of way and compensation for use of City rights of way by utilities. Specifically, these ordinances would operate to ensure that telecommunications service providers, gas, electric, cable companies and other utilities placing equipment in city rights of way would all comply with the same basic requirements regarding construction of those facilities and compensate the city for the utility's use of the right of way. The ordinance still would require utilities to obtain a franchise as permission for use of the right of way.

While franchises have been the traditional method by which the City grants permission to occupy or encroach on the public right of way, the regulatory trend has been for local governments to adopt ordinances that provide a common set of requirements concerning, among other things, the permitting, construction and relocation of utility facilities in the public streets and easements. The primary reasons for this regulatory trend for local governments are (1) the telecommunications industry's attempts to erode cities' authority to manage rights of way and receive compensation for private use of a public asset; (2) telecommunications carriers' refusal to enter into new franchise agreements pending litigation over the Telecommunications Act; and (3) recurring legislative proposals at both the federal and state levels threatening city authority over rights of way.

The proposed ordinance would adopt a hybrid system. It creates a regulatory system for management of the rights of way that complies with state and federal law, protects public rights of way, ensures compensation for use of the rights of way, but also retains the franchise concept by requiring an individual franchise for each utility. The regulatory aspect of the ordinance enables the City to more easily adapt to changes in law and technology. The franchise aspect retains the City's ability to require a utility to obtain permission to operate within the right of way and address any issues specific to that utility.

II. Right of Way Management

A. Introduction.

Through statute, charter and common law authority, cities have the authority to regulate and manage the public right of way to ensure that transportation interests of the general public are not compromised by the extraordinary, non-transportation related use of public streets and easements by utilities. This regulatory authority also includes the right and obligation to obtain compensation for private use of a public asset (the streets and easements) by utilities. This authority to regulate right of way use and obtain compensation for that use has historically been exercised via franchise agreements and general ordinances.

B. Franchise Basics

There is a 100 year franchising history in Oregon. A franchise is a government-granted special privilege that generally does not belong to citizens as a common right. In the context of the use of rights of way, franchises became the model for conditionally permitting the use of the public rights of way by utilities as a way for cities to exercise their responsibility for right of way management. This meant that utilities had to obtain a franchise agreement from each city (and in some cases counties) prior to placing facilities in the right of way.

A franchise is a contract adopted by ordinance and is as binding as the terms of any other contract. Depending on the provisions of the franchise, the law of contracts, and the terms of legislation, franchise provisions can operate independently of changes to local, state and federal law.

Franchises conditionally permitted use of the right of way with the goal of ensuring that transportation facilities are not disrupted. Franchises therefore commonly provide for the manner in which utilities place, maintain and remove facilities in public streets so as to reduce this disruption.

Franchise terms cannot be perpetual, and statute limits terms to 20 years. The term of the franchise usually reflects a balance of concerns that changing law or technology should be accommodated over time and the desire of the franchisee to amortize the expenditures of facility construction.

Franchises are usually nonexclusive, unless an exclusive franchise is authorized by law. Telecommunications and cable franchises may not be exclusive.

Franchises also seek, on the public's behalf, franchise fees as rental payments for the special use of the public right of way and compensation for the inconvenience and expense caused by utility equipment on public streets and disruption of traffic, and to prevent the general taxpayers from subsidizing such extraordinary use. Franchise fees are effectively then, a form of rental payment for use of the right of way. They are regarded both as a cost of doing business on rights of way (utilities would otherwise have to acquire easements over myriad private properties) and as a reimbursement for the costs of right of way and franchise management.

Separate franchise agreements are negotiated with each utility. Not only must franchises be separately negotiated and agreed upon, franchises are a product of a "slice in time" regulatory *milieu*. As a consequence, franchise agreements reflect varying provisions, even between comparable utilities.

Finally, as we have seen in the recent decade, utilities, most notably telecommunications utilities, have challenged city franchising authority, resulting in extensive litigation and legislative action that has eroded local authority and stalled the franchising process, resulting in utilities operating without franchises and loss of revenue to cities.

C. Regulation of Rights of Way by General Ordinance

The proposed ordinance operates as both a general right of way ordinance (regulatory approach) and franchise ordinance (franchise approach). By incorporating many provisions of a franchise agreement into the right of way ordinance, the same provisions will apply to all similarly situated providers. The intent of the regulatory aspect of the ordinance is non-discrimination and an effort to provide, to the extent practicable, a level playing field for the class of utilities utilizing the right of way for the bulk of their facilities. The general ordinance approach also enables the City to unilaterally enact desired regulations and retain the regulatory flexibility to meet changing conditions. It would also position the City appropriately in preparation of anticipated changes in federal and state laws.

At the same time, the franchise approach aspect of the ordinance retains the City's ability to tailor a franchise agreement to a specific grantee for specific purposes. The franchise agreement would not conflict with the ordinance, but instead would supplement it as needed.

Major features of the right of way ordinance are as follows:

- 1) A right of way permit is required for any installation of facilities in the right-of-way. "Right of way" includes the traditional concept of dedicated street area, but also public easements and public utility easements.
- 2) Application for the permit is to the City. Construction plan documents and the provision of other information are required for application completeness and approval.
- 3) Aerial facilities are prohibited (under-grounding of all new equipment is required) except where there are no current underground facilities and the City has no planned and funded project to bring aerial facilities underground.
- 4) Relocation is at the utilities' expense to the extent a project is publicly funded. Relocation necessitated by a private developer is at the developer's expense. Relocation that is necessitated by a joint public/private project requires that the utility pay for a portion of the relocation costs equal to the percentage of City funding.

5) Public liability insurance, financial assurances, and indemnification are required as a condition of the permit. Insurance levels are set by resolution of the Council.

D. Privilege Tax Ordinance

"Privilege tax" is a term from state statute and refers to a fee that a municipality may charge to utilities for use of the municipality's right of way. The tax for the privilege of using public property is in-lieu of a franchise fee and would be set by resolution of the Council.

The amount of the privilege tax may provide for a tax in excess of franchisee fee amounts, but depending on applicable state or federal law limitations, must still reflect compensation for use of the right-of-way.

The "cost of doing business" aspect to franchise fees and privilege taxes has implications for rate making and the appearance of customer bills. The Oregon Public Utility Commission has adopted rules that define what percentage of City-imposed fees or taxes are allowed as operating expenses and reflected in the rates, and what percentage may be itemized on billing statements. The amounts beyond which the utility may pass on charges to users of the utility are 3.5 % for electric and water utilities, 3 % for gas utilities, and 4% for telecommunications utilities.

Federal and state law provides certain limitations on the amount that a local government may collect for use of the right-of-way. ORS 221.515 provides for a privilege tax of up to 7% of local exchange revenues earned by telecommunications carriers operating in the city. ORS 221.450 provides for imposition of a privilege tax of 5% of gross revenues for specified utilities operating without a franchise. The federal Cable Act limits cable franchise fees to 5% of gross revenues per year. There are no legal limits on the franchise fees competitive local exchange carriers, and pass-through providers may pay (using right of way but not serving customers in the City). Federal law does require that these competitors be treated in a reasonably comparable (non-discriminatory) fashion, though specifics of what this actually entails are being litigated in many forums all over the country, and legislation at the federal and state levels is likely.

As to privilege tax amounts, the following amounts represent current maximums either permitted or below which the utility cannot pass the cost through to customer bills:

- 1) Telecommunications carriers – 7% gross revenues
- 2) All other providers/users – 5%
- 4) "Pass through" users (those not serving City residents) \$.075 per calendar quarter per foot of facility in the right of way.

Conclusion and Recommendation. Staff recommends that Council direct staff to notify the affected utilities and schedule a public hearing at which the utilities may present comments on the proposed ordinances.

ORDINANCE NO. _____

AN ORDINANCE ASSERTING JURISDICTION OVER CITY RIGHT OF WAY AND PROVIDING FOR THE UNIFORM MANAGEMENT OF THE USE OF THE RIGHT OF WAY FOR UTILITIES

WHEREAS, the City of Cascade Locks desires, through its regulatory authority, to assert its authority over public rights of way and provide for a system of managing the use of the public rights of way through for users (as defined below) of the right of way;

WHEREAS, as a result of litigation challenging cities' authority over its public rights of way, courts have consistently upheld a city's regulatory authority to manage public rights of way when the laws are of general applicability;

WHEREAS, there are users of the right of way over whom the City currently does not have regulatory control due to the lack of appropriate ordinances;

WHEREAS, this Ordinance does not negate the City's authority to require any user of the right of way to enter into a franchise agreement with the City; and

WHEREAS, the purposes of this ordinance are to:

- A. Comply with the provisions of the 1996 Telecommunications Act as they apply to local governments, telecommunications carriers and the services those carriers offer;
- B. Permit and manage reasonable access to the public rights of way of the City for users of the right of way on a competitively neutral basis and conserve the limited physical capacity of those public rights of way held in trust by the City;
- C. Assure that the City has the ongoing ability to regulate private access to and the use of the public rights of way;
- D. Assure that all users of the right of way providing facilities and/or services within the City, or passing through the City, comply with the ordinances, rules and regulations of the City;
- E. Assure that the City can continue to fairly and responsibly protect the public health, safety and welfare of its citizens;
- F. Enable the City to discharge its public trust consistent with the rapidly evolving federal and state regulatory policies, industry competition, and technological development.

THE CITY OF CASCADE LOCKS, HOOD RIVER COUNTY, OREGON, ORDAINS AS FOLLOWS:

A Short Title. This Ordinance may be referred to as the "Public Right of Way Management Ordinance."

B. Definitions. For the purpose of this Ordinance the following terms, phrases, words and their derivations shall have the meaning given below. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined in this Ordinance shall be given the meaning set forth in the Communications Policy Act of 1934, the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996, all as they have been amended from time to time. References to statutory or regulatory provisions include any amendments thereto, unless otherwise indicated. If not defined there, the words shall be given their common and ordinary meaning

"Aboveground Facilities" - see "Overhead Facilities."

"Affiliated Interest" has the same meaning as ORS 759.010.

"Cable Facilities or System" means the plant and equipment, other than customer premises equipment, used by a cable service provider.

"Cable Service" is to be defined consistent with federal laws and means the one-way transmission to subscribers of video programming, or other (such as music) programming service, and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

"City" means the City of Cascade Locks, an Oregon municipal corporation, and individuals authorized to act on the City's behalf.

"City Council" means the elected governing body of the City of Cascade Locks, Oregon.

"City Property" means and includes all real property owned by the City, other than public rights of way and utility easements as those are defined in this Ordinance, and all property held in a proprietary capacity by the City, which are not subject to right of way franchising as provided in this Ordinance.

"Communications Facilities or System" means the plant and equipment, other than customer premises equipment, used by a communications service provider.

"Communications Provider" means any provider of communications services, whether the providers directly or indirectly owns, controls, operates or manages communications facilities

within the City.

"Communications Service" means any service provided for the purpose of transmission of information including, but not limited to, voice, video, or data, without regard to transmission protocol employed, whether or not the transmission medium is owned by the provider itself or whether or not the transmission medium is wireline. Communications service includes all forms of telephone services and voice, video, data or information transport, but does not include: (1) cable service; (2) open video system service, as defined in 47 CFR 76; (3) private communications system services provided without using public rights of way; (4) over the air radio or television broadcasting to the public at large from facilities licenses by the Federal Communications Commission; and (5) any direct to home satellite services within the meaning of Section 602 of the Telecommunications Act.

"Conduit" means any structure, or portion thereof, containing one or more ducts, conduits, manholes, handholes, vaults, bolts, or other facilities used for any telegraph telephone, cable television, electrical, or communications conductors, or cable right of way, owned or controlled, in whole or in part, by one or more public utilities.

"Days" means calendar days unless otherwise specified.

"Duct" means a single enclosed raceway for conductors or cable.

"Facilit(y)ies" means any tangible component installed, maintained, or operated by user within the right of way. By way of example, the term means any pole, wire, sensor, loop, light, stabilization or "guy" wire, anchor, pipe, conduit, line, main, duct, cable, wire, switch, transformer, valve, antennae or other equipment, including any equipment box or vault, located wholly or in part under, on, or above the surface of the ground within any right of way or easement. "Facilit(y)ies" also includes any time placed in the right of way for the purpose of providing electric power, natural gas, telephone communications, radio, cable television, internet access, sewer, water, storm sewer or other utility or similar service.

"Franchise" means the privilege granted by this Ordinance or another ordinance to use public rights of way and city-owned utility easements within the City for a dedicated purpose and for specific compensation.

"Gross Revenues", for telecommunications carriers, is defined at ORS 221.515(2); to the extent the remainder of this paragraph is inconsistent with ORS 221.515(2), such language shall not apply to telecommunications carriers. For entities other than telecommunications carriers,
"Gross Revenues" means all monthly service and franchise fees actually collected from Grantee's customers within the quarter for Basic Cable Service and Communications Service. Gross Revenues also includes revenue from the sale or lease of excess capacity on Grantee's cable or communications systems. Gross Revenues does not include revenues derived from installation, construction or connection work provided to Grantee's customers; any taxes on services furnished by Grantee that are imposed directly on any customer by state or federal law and collected by Grantee on behalf of the state or federal jurisdiction imposing the tax; bad debts written off by Grantee in the normal course of it business; and any refunds rebates, or discounts

made to Grantee's customers or other third parties.

"Overhead Facilities" or "Aboveground Facilities" means utility poles, utility facilities and cable and communications facilities above the surface of the ground, including the underground supports and foundations for such facilities.

"Public Right(s) of Way" includes, but is not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements and all other public ways or areas, including subsurface and air space over these areas. For purposes of this Ordinance, this definition applies only to the extent of the City's right, title, interest or authority to grant permission to occupy and ~~use~~ use these areas for utility facilities. "Public rights of way" also includes Utility Easements as defined below.

"Underground Facilities" means cable and communications facilities located under the surface of the ground, excluding the underground foundations or supports for "overhead facilities."

"User" means a person that performs work and/or has facilities within the City's right of way, whether or not the user has a permit and whether or not the facilities are authorized to be located in the right of way.

"Utility Easement" means any easement ~~granted to or owned by the City and~~ acquired, established, dedicated or devoted exclusively to the City for public utility purposes. A utility easements not exclusively owned and controlled by the City is not a "Utility Easement" under this Ordinance.

"Utility facilities" means those overhead or underground facilities of a user.

C. Jurisdiction and Management of Public Rights of way.

(1) The City has jurisdiction and exercises regulatory management over all Public Rights of Way within the city and authority of the city charter, ordinances, and state law.

(2) The City has jurisdiction and exercises regulatory management over Public Rights of Way whether the City has a fee, easement, or other legal interest in the right of way. The City has jurisdiction and regulatory management of each Public Right of Way whether the legal interest in the Public Right of Way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means in accordance with applicable law.

(3) No person shall occupy or encroach on a Public Right of Way without the permission of the City. The City grants permission to use Public Rights of Way by franchises, licenses and permits.

(4) The exercise of jurisdiction and regulatory management of a public-right of way by the City is not official acceptance of the right of way, and does not obligate the City to maintain or repair any part of the right of way, ~~and accordingly means that all rights of way are not necessarily Public Rights of Way under this Ordinance.~~

Comment [A1]: Added language not acceptable as it just confuses things. I believe it's clear as written originally.

(5) The City retains the right and privilege to immediately require the person responsible to move or otherwise adjust its facilities located within the public rights of way, or, upon consultation with the utility, with its own forces the city may move or otherwise adjust such facilities, as the City may determine to be necessary, appropriate or useful in response to a public health or safety emergency.

Comment [A2]: Change rejected. It altered the meaning sufficiently, reducing the City's flexibility.

D. Construction Standards and Permits

(1) General Construction Standards. No person shall commence or continue with the construction, installation, or operation of any facilities within a Public Right of Way except as provided in this Ordinance, and consistent with all applicable codes, rules, and regulations.

(2) Construction Codes. Facilities shall be constructed, installed, operated and maintained in accordance with all applicable federal, state and local codes, rules and regulations including the National Electrical Code and the National Electrical Safety Code.

(3) Construction Permits. No person shall construct or install any facilities within a Public Right of Way without first obtaining a construction permit, and paying any applicable construction permit fee, the amount of which is set by Resolution of the Council. No permit shall be issued for the construction or installation of facilities within a Public Right of Way without having ~~has~~ first applied for and received a franchise, except in extenuating circumstances and with the City's written permission.

(4) Permit Applications. Applications for permits to construct, install or modify facilities within a Public Right of Way shall be submitted to the City upon forms to be provided by the City and shall be accompanied by documentation, drawings, plans and specifications in sufficient detail to demonstrate:

a. That the facilities will be constructed or installed in accordance with all applicable codes, rules and regulations.

b. That the facilities will be constructed or installed in accordance with the franchise agreement.

c. The location and route of the facilities, if any, to be installed aboveground or on existing utility poles.

d. The location and route of all facilities on or in the public rights of way to be located under the surface of the ground, including the line and grade proposed for the burial at all points along the route which are within the public rights of way. Existing facilities shall be differentiated on the plans from new construction.

e. The location of all of user's existing underground utilities, conduits, ducts, pipes, mains and installations which are within the Public Rights of Way along the underground route proposed by the applicant. A cross section shall be provided showing new or existing facilities in relation to the street, curb, sidewalk or right of way.

f. The methods to be employed for protection of existing structures, fixtures, and facilities within or adjacent to the Public Rights of Way, and description of any improvements that the applicant proposes to temporarily or permanently remove or relocate.

g. The estimated cost of the work proposed.

(5) Construction Schedule. All permit applications shall be accompanied by a written schedule, which shall include a deadline for completion of the work. The schedule shall be subject to approval by the City.

(6) Issuance of Permit. If the application is approved, it may be approved subject to any further conditions, restrictions or regulations affecting the time, place and manner of performing the work as the City may deem necessary or appropriate.

(7) Notice of Construction. Except in the case of an emergency, the permittee shall notify the City not less than two (2) business days in advance of any excavation or construction in the Public Rights of Way.

(8) Compliance with Permit. All construction practices and activities shall be in accordance with the permit and approved final plans and specifications for the facilities. The City's representatives shall be provided access to the work site and any further information as they may require to ensure compliance with the permit and plans or protection of the City's Public Right of Way.

(9) Noncomplying Work. Subject to the notice requirements in Section 12(c) below, all work which does not comply with the permit, the approved or corrected plans and specifications for the work, or the requirements of this Ordinance, shall be removed at the sole expense of the permittee unless other arrangement is agreed to by the City in writing. The City Administrator is authorized to stop work in order to assure compliance with the provisions of this Ordinance.

(10) Completion of Construction. The permittee shall promptly complete all construction activities so as to minimize disruption of the City-Public Rights of Way and other public and private property. All construction work within City-Public Rights of Way, including restoration, must be completed within 120 days of the date of issuance of the construction permit unless an alternate schedule is approved by the City.

(11) As-Built Drawings. The permittee shall furnish the City with two (2) complete sets of plans drawn to scale and certified to the City as accurately depicting the location of all permittee's facilities constructed pursuant to the permit, one set on paper and the other set in electronic format acceptable to the City, such as Autocad. If requested, these plans shall be submitted to the City Engineer within sixty (60) days of the request, in a format mutually acceptable to the permittee and City Engineer.

(12) Restoration of Public Rights of Way and City Property.

a. When a permittee, or any person acting on their behalf, does any work in or affecting any Public Rights of Way or City property, they shall, at their own expense, promptly remove any obstructions therefrom and restore the ways or property to good order and condition unless otherwise directed by the City Engineer, or unless otherwise specified by the permit.

b. If weather or other conditions do not permit the complete restoration required by this Section, the permittee shall temporarily restore and maintain the affected Public Rights of Way or property. Temporary restoration is at the permittee's sole expense and the permittee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent permanent restoration. Any corresponding modification to the construction schedule will be subject to approval by the City.

c. If the permittee fails to restore rights of way or property to good order and condition, the City shall give the permittee written notice and provide the permittee a reasonable period of time, generally not exceeding thirty (30) days, to restore the Public Rights of Way or other City-owned property. If the permittee fails thereafter to restore the Public Rights of Way or other City-owned property to good order and condition, the City may cause the restoration to be made at the expense of the permittee, and the permittee shall reimburse the City for such costs, including all labor and material costs and an reasonable administrative overhead fee of 20%.

d. A permittee or other person acting in its behalf shall use suitable barricades, flags, flagging attendants, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of the work in or affecting the Public Rights of Way or other City-owned property.

(13) Performance and Completion Bond. Unless waived by the City in writing, bBefore construction is commenced within the Public Rights of Way the permittee shall provide a performance bond or other form of surety acceptable to the City in an amount equal to at least 100% of the estimated cost of the work approved in the permit.

a. The surety shall remain in force until sixty (60) days after substantial completion of the work, as determined in writing by the City, including restoration of Public Rights of Way and other property affected by the construction.

b. The surety shall guarantee, to the satisfaction of the City:

- i. Timely completion of construction;
- ii. Construction in compliance with applicable plans, permits, technical codes and standards;
- iii. Proper location of the facilities as specified by the City;
- iv. Restoration of the public rights of way and other property affected by the

construction; and

v. Timely payment and satisfaction of all claims, demands and liens for labor, material and services provided in connection with the work.

(1) Location of Facilities. All facilities located within the Public Right of Way shall be constructed, installed and located in accordance with the following terms and conditions:

a. All new facilities must be ~~located~~placed underground within the Public Right of Way whenever any existing facilities are located underground within the same Public Right of Way, unless otherwise provided in a separate agreement with the City.

~~b. Whenever any new or existing facilities are located or relocated underground within a public right of way of the City, a user that currently occupies the same public right of way shall relocate its facilities underground concurrently with the other affected utilities to minimize disruption of the public right of way, absent extraordinary circumstances or undue hardship as determined by the City and consistent with applicable state and federal law, or unless otherwise provided in separate agreement with the City.~~

Comment [A3]: Reject deletion of this section. If the City wants to be able to get utilities underground, then it has to have the ability to require them to underground.

(2) Interference with the Public Rights of Way. No user may locate or maintain its facilities so as to unreasonably interfere with the use of the Public Rights of Way by the City, by the general public or by other persons authorized to use or be present in or upon the Public Rights of Way. All use of Public Rights of Way shall be consistent with City codes, ordinances and regulations and applicable state and federal law.

(3) Relocation or Removal of Facilities. Except in the case of an emergency, within ~~ninety-one hundred twenty (12090)~~ days following written notice from the City a user shall, at its own expense, temporarily or permanently (as specified by the City), remove, relocate, change or alter the position of any of its facilities within the Public Rights of Way whenever the City shall have determined that the removal, relocation, change or alteration is reasonably necessary for:

a. The construction, repair, maintenance or installation of any City or other public improvement in or upon the Public Rights of Way, except where such construction, maintenance or installation is necessitated by a third party project, in which case such third party shall bear the removal, relocation, change and alteration costs,

b. The operations of the City pursuant to its police power or other governmental entity in or upon the public rights of way, or

c. The public interest safety, welfare and health, but in no event to accommodate a third party project unless expressly agreed to by the user being asked to remove, relocate, change or alter.

(4) Removal of Unauthorized Facilities. Within ~~thirty-sixty (360)~~ days following written notice from the City, any user that owns, controls or maintains any unauthorized facility or

related appurtenances within the Public Rights of Way of the City shall, at its own expense, remove the facilities or appurtenances from the Public Rights of Way of the City. A system or facility is unauthorized and subject to removal in the following circumstances:

a. One (1) year after the expiration or termination of the user's franchise.

b. Upon abandonment of a facility within the Public Rights of Way. A facility will be considered abandoned when it is deactivated, out of service, or not used for its intended and authorized purpose for a period of ~~ninety (90) days~~ one (1) year or longer. A facility will not be considered abandoned if it is temporarily out of service during performance of repairs or if the facility is being replaced. If the City suspects a facility is abandoned, it shall contact the facility owner before taking any action to remove the facility.

c. If the system or facility was constructed or installed without the appropriate prior authority at the time of installation.

d. If the system or facility was constructed or installed at a location not permitted by the grantee's permit.

(5) Coordination of Construction Activities. All users with facilities in the City's Public Rights of Way should make a good faith effort to cooperate with other users and the City to coordinate construction activities that disturb the Public Right of Way so as to minimize public inconvenience, disruption or damages.

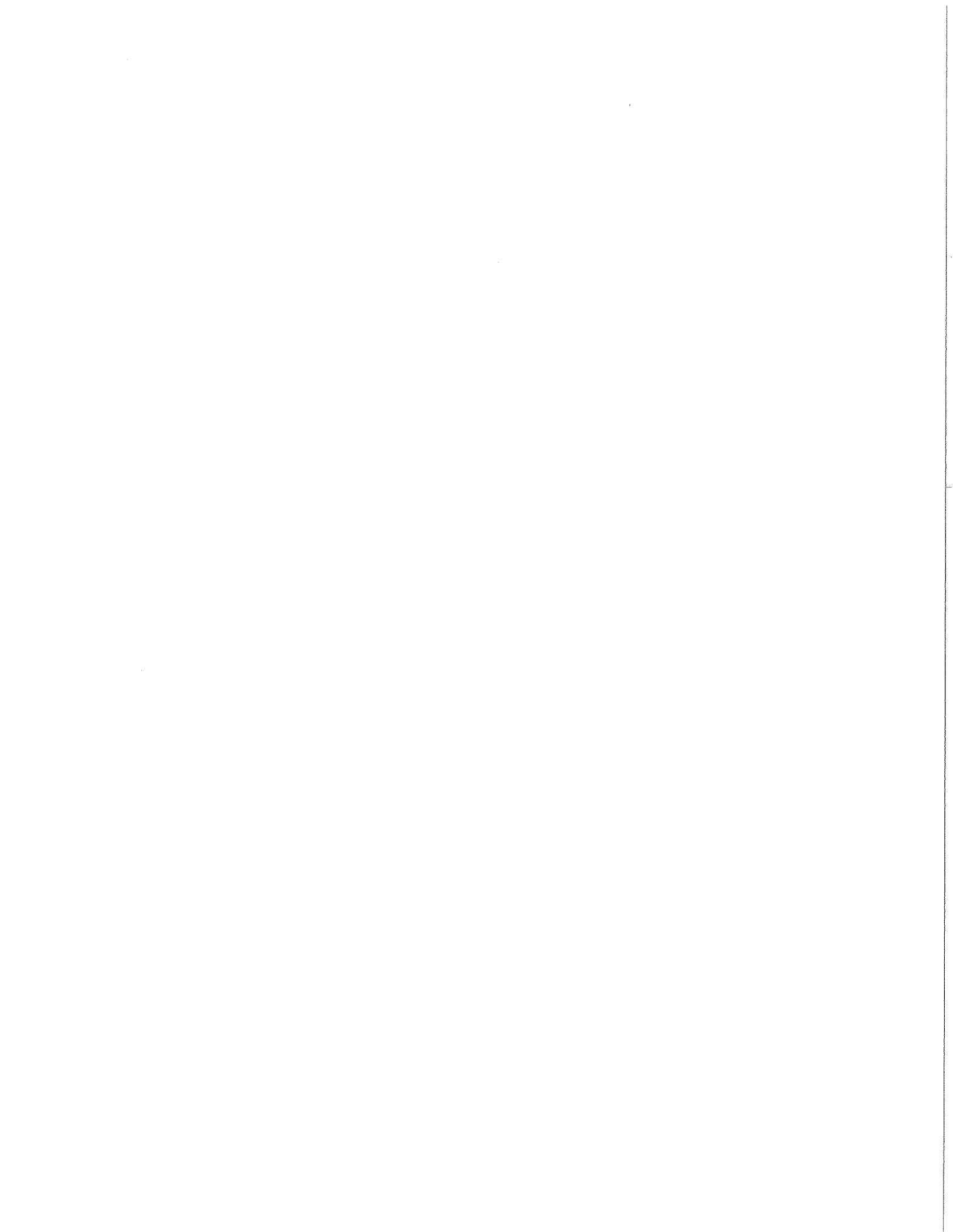
ADOPTED by the City Council this ___ day of _____, 2014.

APPROVED by the Mayor this ___ day of _____, 2014.

Tom Cramblett, Mayor

ATTEST:

City Recorder



ORDINANCE NO. 435

AN ORDINANCE ASSERTING JURISDICTION OVER CITY RIGHT OF WAY AND PROVIDING FOR THE UNIFORM MANAGEMENT OF THE USE OF THE RIGHT OF WAY FOR UTILITIES

WHEREAS, the City of Cascade Locks desires, through its regulatory authority, to assert its authority over public rights of way and provide for a system of managing the use of the public rights of way through for users (as defined below) of the right of way;

WHEREAS, as a result of litigation challenging cities' authority over its public rights of way, courts have consistently upheld a city's regulatory authority to manage public rights of way when the laws are of general applicability;

WHEREAS, there are users of the right of way over whom the City currently does not have regulatory control due to the lack of appropriate ordinances;

WHEREAS, this Ordinance does not negate the City's authority to require any user of the right of way to enter into a franchise agreement with the City; and

WHEREAS, the purposes of this ordinance are to:

- A. Comply with the provisions of the 1996 Telecommunications Act as they apply to local governments, telecommunications carriers and the services those carriers offer;
- B. Permit and manage reasonable access to the public rights of way of the City for users of the right of way on a competitively neutral basis and conserve the limited physical capacity of those public rights of way held in trust by the City;
- C. Assure that the City has the ongoing ability to regulate private access to and the use of the public rights of way;
- D. Assure that all users of the right of way providing facilities and/or services within the City, or passing through the City, comply with the ordinances, rules and regulations of the City;
- E. Assure that the City can continue to fairly and responsibly protect the public health, safety and welfare of its citizens;
- F. Enable the City to discharge its public trust consistent with the rapidly evolving federal and state regulatory policies, industry competition, and technological development.

THE CITY OF CASCADE LOCKS, HOOD RIVER COUNTY, OREGON, ORDAINS AS FOLLOWS:

A Short Title. This Ordinance may be referred to as the "Public Right of Way Management Ordinance."

B. Definitions. For the purpose of this Ordinance the following terms, phrases, words and their derivations shall have the meaning given below. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined in this Ordinance shall be given the meaning set forth in the Communications Policy Act of 1934, the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996, all as they have been amended from time to time. References to statutory or regulatory provisions include any amendments thereto, unless otherwise indicated. If not defined there, the words shall be given their common and ordinary meaning

"Aboveground Facilities" - see "Overhead Facilities."

"Affiliated Interest" has the same meaning as ORS 759.010.

"Cable Facilities or System" means the plant and equipment, other than customer premises equipment, used by a cable service provider.

"Cable Service" is to be defined consistent with federal laws and means the one-way transmission to subscribers of video programming, or other (such as music) programming service, and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

"City" means the City of Cascade Locks, an Oregon municipal corporation, and individuals authorized to act on the City's behalf.

"City Council" means the elected governing body of the City of Cascade Locks, Oregon.

"City Property" means and includes all real property owned by the City, other than public rights of way and utility easements as those are defined in this Ordinance, and all property held in a proprietary capacity by the City, which are not subject to right of way franchising as provided in this Ordinance.

"Communications Facilities or System" means the plant and equipment, other than customer premises equipment, used by a communications service provider.

"Communications Provider" means any provider of communications services, whether the

providers directly or indirectly owns, controls, operates or manages communications facilities within the City.

“Communications Service” means any service provided for the purpose of transmission of information including, but not limited to, voice, video, or data, without regard to transmission protocol employed, whether or not the transmission medium is owned by the provider itself or whether or not the transmission medium is wireline. Communications service includes all forms of telephone services and voice, video, data or information transport, but does not include: (1) cable service; (2) open video system service, as defined in 47 CFR 76; (3) private communications system services provided without using public rights of way; (4) over the air radio or television broadcasting to the public at large from facilities licenses by the Federal Communications Commission; and (5) any direct to home satellite services within the meaning of Section 602 of the Telecommunications Act.

“Conduit” means any structure, or portion thereof, containing one or more ducts, conduits, manholes, handholes, vaults, bolts, or other facilities used for any telegraph telephone, cable television, electrical, or communications conductors, or cable right of way, owned or controlled, in whole or in part, by one or more public utilities.

“Days” means calendar days unless otherwise specified.

“Duct” means a single enclosed raceway for conductors or cable.

“Facilit(y)ies” means any tangible component installed, maintained, or operated by user within the right of way. By way of example, the term means any pole, wire, sensor, loop, light, stabilization or "guy" wire, anchor, pipe, conduit, line, main, duct, cable, wire, switch, transformer, value, antennae or other equipment, including any equipment box or vault, located wholly or in part under, on, or above the surface of the ground within any right of way or easement. "Facilit(y)ies" also includes any time placed in the right of way for the purpose of providing electric power, natural gas, telephone communications, radio, cable television, internet access, sewer, water, storm sewer or other utility or similar service.

“Franchise” means the privilege granted by this Ordinance or another ordinance to use public rights of way and city-owned utility easements within the City for a dedicated purpose and for specific compensation.

“Gross Revenues”, for telecommunications carriers, is defined at ORS 221.515(2); to the extent the remainder of this paragraph is inconsistent with ORS 221.515(2), such language shall not apply to telecommunications carriers. For entities other than telecommunications carriers, “Gross Revenues” means all monthly service and franchise fees actually collected from Grantee’s customers within the quarter for Basic Cable Service and Communications Service. Gross Revenues also includes revenue from the sale or lease of excess capacity on Grantee’s cable or communications systems. Gross Revenues does not include revenues derived from installation, construction or connection work provided to Grantee’s customers; any taxes on

services furnished by Grantee that are imposed directly on any customer by state or federal law and collected by Grantee on behalf of the state or federal jurisdiction imposing the tax; bad debts written off by Grantee in the normal course of its business; and any refunds, rebates, or discounts made to Grantee's customers or other third parties.

"Overhead Facilities" or "Aboveground Facilities" means utility poles, utility facilities and cable and communications facilities above the surface of the ground, including the underground supports and foundations for such facilities.

"Public Right(s) of Way" includes, but is not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements and all other public ways or areas, including subsurface and air space over these areas. For purposes of this Ordinance, this definition applies only to the extent of the City's right, title, interest or authority to grant permission to occupy and use these areas for utility facilities. "Public rights of way" also includes Utility Easements as defined below.

"Underground Facilities" means cable and communications facilities located under the surface of the ground, excluding the underground foundations or supports for "overhead facilities."

"User" means a person that performs work and/or has facilities within the City's right of way, whether or not the user has a permit and whether or not the facilities are authorized to be located in the right of way.

"Utility Easement" means any easement acquired, established, dedicated or devoted exclusively to the City for public utility purposes. A utility easement not exclusively owned and controlled by the City is not a "Utility Easement" under this Ordinance.

"Utility facilities" means those overhead or underground facilities of a user.

C. Jurisdiction and Management of Public Rights of way.

(1) The City has jurisdiction and exercises regulatory management over all Public Rights of Way within the city and authority of the city charter, ordinances, and state law.

(2) The City has jurisdiction and exercises regulatory management over Public Rights of Way whether the City has a fee, easement, or other legal interest in the right of way. The City has jurisdiction and regulatory management of each Public Right of Way whether the legal interest in the Public Right of Way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means in accordance with applicable law.

(3) No person shall occupy or encroach on a Public Right of Way without the permission of the City. The City grants permission to use Public Rights of Way by franchises, licenses and permits.

(4) The exercise of jurisdiction and regulatory management of a right of way by the City is not

official acceptance of the right of way, and does not obligate the City to maintain or repair any part of the right of way.

(5) The City retains the right and privilege to immediately require the person responsible to move or otherwise adjust its facilities located within the public rights of way, or, upon consultation with the utility, with its own forces the city may move or otherwise adjust such facilities, as the City may determine to be necessary, appropriate or useful in response to a public health or safety emergency.

D. Construction Standards and Permits

(1) General Construction Standards. No person shall commence or continue with the construction, installation, or operation of any facilities within a Public Right of Way except as provided in this Ordinance, and consistent with all applicable codes, rules, and regulations.

(2) Construction Codes. Facilities shall be constructed, installed, operated and maintained in accordance with all applicable federal, state and local codes, rules and regulations including the National Electrical Code and the National Electrical Safety Code.

(3) Construction Permits. No person shall construct or install any facilities within a Public Right of Way without first obtaining a construction permit, and paying any applicable construction permit fee, the amount of which is set by Resolution of the Council. No permit shall be issued for the construction or installation of facilities within a Public Right of Way without having first applied for and received a franchise, except in extenuating circumstances and with the City's written permission.

(4) Permit Applications. Applications for permits to construct, install or modify facilities within a Public Right of Way shall be submitted to the City upon forms to be provided by the City and shall be accompanied by documentation, drawings, plans and specifications in sufficient detail to demonstrate:

a. That the facilities will be constructed or installed in accordance with all applicable codes, rules and regulations.

b. That the facilities will be constructed or installed in accordance with the franchise agreement.

c. The location and route of the facilities, if any, to be installed aboveground or on existing utility poles.

d. The location and route of all facilities on or in the public rights of way to be located under the surface of the ground, including the line and grade proposed for the burial at all points along the route which are within the public rights of way. Existing facilities shall be differentiated on the plans from new construction.

e. The location of all of user's existing underground utilities, conduits, ducts, pipes, mains and installations which are within the Public Rights of Way along the underground route proposed by the applicant. A cross section shall be provided showing new or existing facilities in relation to the street, curb, sidewalk or right of way.

f. The methods to be employed for protection of existing structures, fixtures, and facilities within or adjacent to the Public Rights of Way, and description of any improvements that the applicant proposes to temporarily or permanently remove or relocate.

g. The estimated cost of the work proposed.

(5) Construction Schedule. All permit applications shall be accompanied by a written schedule, which shall include a deadline for completion of the work. The schedule shall be subject to approval by the City.

(6) Issuance of Permit. If the application is approved, it may be approved subject to any further conditions, restrictions or regulations affecting the time, place and manner of performing the work as the City may deem necessary or appropriate.

(7) Notice of Construction. Except in the case of an emergency, the permittee shall notify the City not less than two (2) business days in advance of any excavation or construction in the Public Rights of Way.

(8) Compliance with Permit. All construction practices and activities shall be in accordance with the permit and approved final plans and specifications for the facilities. The City's representatives shall be provided access to the work site and any further information as they may require to ensure compliance with the permit and plans or protection of the Public Right of Way.

(9) Noncomplying Work. Subject to the notice requirements in Section 12(c) below, all work which does not comply with the permit, the approved or corrected plans and specifications for the work, or the requirements of this Ordinance, shall be removed at the sole expense of the permittee unless other arrangement is agreed to by the City in writing. The City Administrator is authorized to stop work in order to assure compliance with the provisions of this Ordinance.

(10) Completion of Construction. The permittee shall promptly complete all construction activities so as to minimize disruption of the Public Rights of Way and other public and private property. All construction work within Public Rights of Way, including restoration, must be completed within 120 days of the date of issuance of the construction permit unless an alternate schedule is approved by the City.

(11) As-Built Drawings. The permittee shall furnish the City with two (2) complete sets

of plans drawn to scale and certified to the City as accurately depicting the location of all permittee's facilities constructed pursuant to the permit, one set on paper and the other set in electronic format acceptable to the City, such as Autocad. If requested, these plans shall be submitted to the City Engineer within sixty (60) days of the request, in a format mutually acceptable to the permittee and City Engineer.

(12) Restoration of Public Rights of Way and City Property.

a. When a permittee, or any person acting on their behalf, does any work in or affecting any Public Rights of Way or City property, they shall, at their own expense, promptly remove any obstructions therefrom and restore the ways or property to good order and condition unless otherwise directed by the City Engineer, or unless otherwise specified by the permit.

b. If weather or other conditions do not permit the complete restoration required by this Section, the permittee shall temporarily restore and maintain the affected Public Rights of Way or property. Temporary restoration is at the permittee's sole expense and the permittee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent permanent restoration. Any corresponding modification to the construction schedule will be subject to approval by the City.

c. If the permittee fails to restore rights of way or property to good order and condition, the City shall give the permittee written notice and provide the permittee a reasonable period of time, generally not exceeding thirty (30) days, to restore the Public Rights of Way or other City-owned property. If the permittee fails thereafter to restore the Public Rights of Way or other City-owned property to good order and condition, the City may cause the restoration to be made at the expense of the permittee, and the permittee shall reimburse the City for such costs, including all labor and material costs and a reasonable administrative overhead fee.

d. A permittee or other person acting in its behalf shall use suitable barricades, flags, flagging attendants, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of the work in or affecting the Public Rights of Way or other City-owned property.

(13) Performance and Completion Bond. Unless waived by the City in writing, before construction is commenced within the Public Rights of Way, the permittee shall provide a performance bond or other form of surety acceptable to the City in an amount equal to at least 100% of the estimated cost of the work approved in the permit.

a. The surety shall remain in force until sixty (60) days after substantial completion of the work, as determined in writing by the City, including restoration of Public Rights of Way and other property affected by the construction.

- b. The surety shall guarantee, to the satisfaction of the City:
 - i. Timely completion of construction;
 - ii. Construction in compliance with applicable plans, permits, technical codes and standards;
 - iii. Proper location of the facilities as specified by the City;
 - iv. Restoration of the public rights of way and other property affected by the construction; and
 - v. Timely payment and satisfaction of all claims, demands and liens for labor, material and services provided in connection with the work.

(14) Location of Facilities. All facilities located within the Public Right of Way shall be constructed, installed and located in accordance with the following terms and conditions:

a. All new facilities must be placed underground within the Public Right of Way whenever any existing facilities are located underground within the same Public Right of Way, unless otherwise provided in a separate agreement with the City.

b. Whenever any new or existing facilities are located or relocated underground within a Public Right of Way of the City, a user that currently occupies the same Public Right of Way shall relocate its facilities underground concurrently with the other affect utilities to minimize disruption of the Public Right of Way, absent any extraordinary circumstances or undue hardship as determined by the City and consistent with applicable state and federal law, or unless otherwise provided in a separate agreement with the City.

(15) Interference with the Public Rights of Way. No user may locate or maintain its facilities so as to unreasonably interfere with the use of the Public Rights of Way by the City, by the general public or by other persons authorized to use or be present in or upon the Public Rights of Way. All use of Public Rights of Way shall be consistent with City codes, ordinances and regulations and applicable state and federal law.

(16) Relocation or Removal of Facilities. Except in the case of an emergency, within one hundred twenty (120) days following written notice from the City a user shall, at its own expense, temporarily or permanently (as specified by the City), remove, relocate, change or alter the position of any of its facilities within the Public Rights of Way whenever the City shall have determined that the removal, relocation, change or alteration is reasonably necessary for:

a. The construction, repair, maintenance or installation of any City or other public improvement in or upon the Public Rights of Way, except where such construction, maintenance or installation is necessitated by a third party project, in which case such third party shall bear the removal, relocation, change and alteration costs.

b. The operations of the City pursuant to its police power or other governmental

entity in or upon the public rights of way, or

c. The public safety, welfare and health, but in no event to accommodate a third party project unless expressly agreed to by the user being asked to remove, relocate, change or alter.

(16) Removal of Unauthorized Facilities. Within sixty (60) days following written notice from the City, any user that owns, controls or maintains any unauthorized facility or related appurtenances within the Public Rights of Way of the City shall, at its own expense, remove the facilities or appurtenances from the Public Rights of Way of the City. A system or facility is unauthorized and subject to removal in the following circumstances:

a. One (1) year after the expiration or termination of the user's franchise.

b. Upon abandonment of a facility within the Public Rights of Way. A facility will be considered abandoned when it is deactivated, out of service, or not used for its intended and authorized purpose for a period of one (1) year or longer. A facility will not be considered abandoned if it is temporarily out of service during performance of repairs or if the facility is being replaced. If the City suspects a facility is abandoned, it shall contact the facility owner before taking any action to remove the facility.

c. If the system or facility was constructed or installed without the appropriate prior authority at the time of installation.

d. If the system or facility was constructed or installed at a location not permitted by the grantee's permit.

(5) Coordination of Construction Activities. All users with facilities in the Public Rights of Way should make a good faith effort to cooperate with other users and the City to coordinate construction activities that disturb the Public Right of Way so as to minimize public inconvenience, disruption or damages.

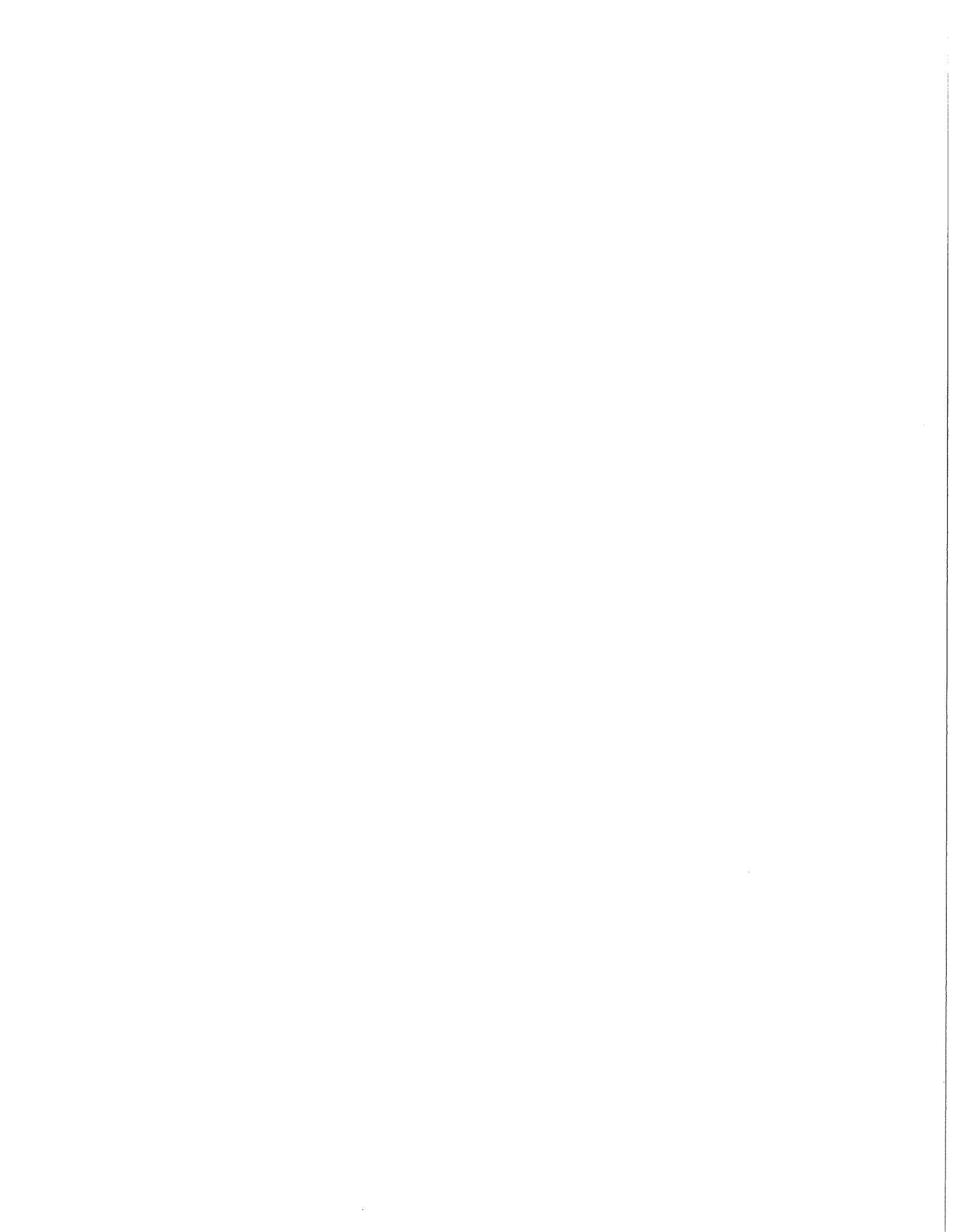
ADOPTED by the City Council this 10th day of November, 2014.

APPROVED by the Mayor this 10th day of November, 2014.

Tom Cramblett, Mayor

ATTEST:

Kathy Woosley, City Recorder



AGENDA ITEM NO: 5c

CASCADE LOCKS STAFF REPORT

Date Prepared: October 15, 2014

For City Council Meeting on: October 27, 2014

TO: Honorable Mayor and City Council

PREPARED BY: Gordon Zimmerman, City Administrator

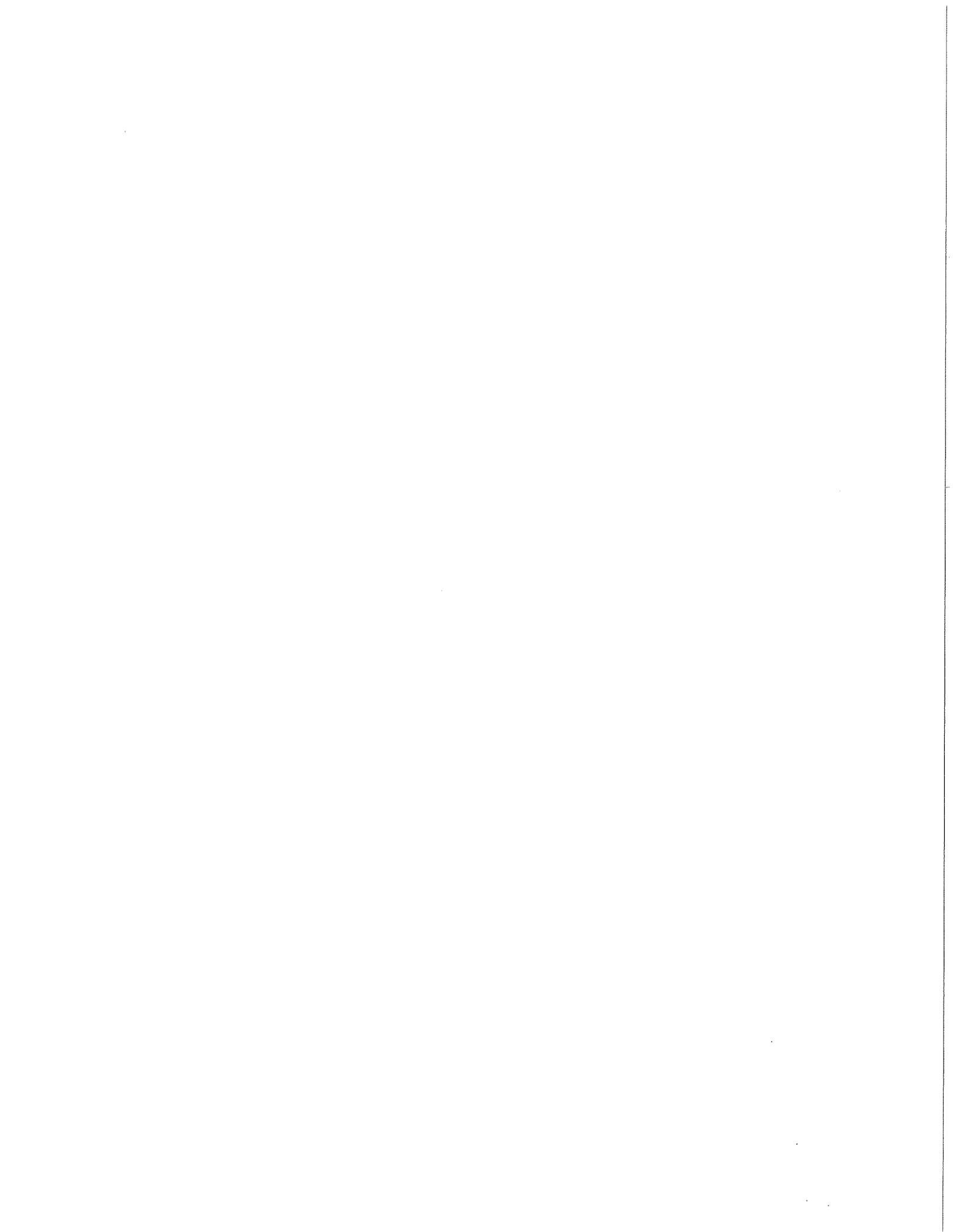
SUBJECT: Approve Second Reading of Ordinance No. 436 Amending Ordinance No. 425 Pertaining to the Regulation of Street Vendors within the City of Cascade Locks

SYNOPSIS: At a recent Joint Work Group for Economic Development Meeting, Les Brown from CRITFC and Tom Zeilman, attorney for the Yakima Nation met with the Committee to discuss the Street Vendor ordinance the Council passed last December. Mr. Zeilman offered to look at our ordinance and make suggests to it, in order not to disturb treaty rights of the Native Americans. These rights center around fishing in the Columbia basin.

The attached ordinance makes the adjustments suggested in his letter.

CITY COUNCIL OPTIONS: This is the second reading of Ordinance No. 436.

RECOMMENDED MOTION: "I move to approve Ordinance No. 436."



ORDINANCE NO. 436

AN ORDINANCE OF THE CITY OF CASCADE LOCKS AMENDING ORDINANCE 425 PERTAINING TO THE REGULATION OF STREET VENDORS WITHIN THE CITY OF CASCADE LOCKS

WHEREAS, the City Council of the City of Cascade Locks has established Ordinance 425 for the regulation of street vendors within the City of Cascade Locks; and

WHEREAS, the City Council considers it necessary to amend Ordinance 425 to exempt enrolled Native American tribal members whose items for sale consist solely of fish harvested pursuant to treaty reserved rights.

THE CITY OF CASCADE LOCKS, HOOD RIVER COUNTY, OREGON, ORDAINS AS FOLLOWS:

Ordinance 425 is amended as follows [additions in underline and deletions in ~~strikeout~~]:

SECTION 1. Street Vendor Defined. A street vendor is a person or persons, including a business entity, who sells items, including but not limited to crafts, artwork, trinkets, souvenirs, produce or animal products from temporary shelters, stands, vehicles or carts on a seasonal basis.

SECTION 2. Registration.

- 1) No person shall operate as a street vendor without first registering with the City of Cascade Locks, except an enrolled member of a federally recognized Indian tribe whose items for sale consist solely of fish harvested pursuant to treaty reserved rights.
- 2) Registration shall be on forms provided by the City. All street vendors shall be required to provide the following information:
 - a) Official picture identification in the form of a valid state issued driver's license, state or tribally issued identification card, or valid passport;
 - b) Current contact information, including a valid mailing address and phone number;
 - c) A current Oregon State food handler's certification if handling food;
 - d) The location of vending;
 - e) If vending on private property, the street vendor must provide a copy of the affected property owner's written permission for placement of a temporary shelter, stand, vehicle or cart; and
 - f) Any other information deemed necessary to enforce this Ordinance.

SECTION 3. Method of Operation.

- 1) No street vendor shall:
 - a) Occupy an area within ten (10) feet of a crosswalk, alleyway or building doorway;
 - b) Obstruct or impede vehicular or pedestrian traffic;
 - c) Leave a location without first picking up, removing and disposing of all trash and refuse remaining within a twenty-five foot (25') radius of their vending area. Each vendor shall be

responsible for maintaining a twenty-five foot (25') radius around their vending area clean of any trash or debris;

- d) Make any loud noise for the purpose of advertising or attracting attention to their wares;
 - e) Leave their shelter, stand, vehicle or cart unattended;
 - f) Sell from any location other than the registered location;
 - g) Solicit or conduct business with any persons in motor vehicles located within any traffic lane on a public street;
 - h) Unreasonably interfere with or obstruct the free flow of pedestrian traffic or access to businesses; or
 - i) Violate any federal, state or local ordinance, statute or regulation.
- 2) If vending on private property, the street vendor must prominently display a copy of the affected property owner's written permission for placement of the street vendor's temporary shelter, stand, vehicle or cart at the vending location.

SECTION 4. Signage.

- 1) No street vendor shall:
- a) Place signs anywhere other than the street vendor's place of business;
 - b) Place more than one sign on each of four sides of the street vendor's temporary shelter, stand, vehicle or cart.
 - c) Place a sign greater than ten square feet on any side of the street vendor's temporary shelter, stand, vehicle or cart.
 - d) Place signs on vehicles other than the vendor's registered sales structure or within the road right-of-way;
 - e) Place signs within ten feet (10') of a crosswalk, alleyway, or fire hydrant; or
 - f) Place signs in any way that obstructs or impedes vehicular or pedestrian traffic.
- 2) One hand held sign is allowed for each approaching travel direction but in no instance shall more than two hand held signs be allowed.
- 3) Hand held signs may only be used on the sidewalk; they shall not be used in the vehicular right of way; including travel lanes, bike lanes, or parking areas.

SECTION 5. Enforcement; Penalty; and Abatement.

- 1) The City Administrator for the City of Cascade Locks or their designee is authorized to enforce this ordinance by issuing a Uniform Citation or other citation form complying with Oregon Revised Code Chapter 153.
- 2) Any person who shall be found guilty of violating any of the provisions of this ordinance commits a civil infraction punishable by up to \$500.00 per incident, plus court costs and other costs associated with enforcement.
- 3) Each day's violation of this ordinance constitutes a separate offense, for which a separate penalty may be imposed.

- 4) In addition to any remedies available under this ordinance, any violation of this ordinance is deemed a nuisance. The abatement of such a nuisance is in addition to any other penalty or remedy. Such nuisance may be abated as provided in Cascade Locks Ordinance No. 344 or in any other manner authorized by law.
- 5) Any temporary shelter, stand, vehicle, cart or sign in violation of this ordinance may be removed by the City Administrator or designee twenty four (24) hours after written notice is delivered to the vendor in person or five (5) days after written notice is mailed to the address registered with the City.
 - a) Any item(s) removed may be stored by the City up to 30 days or until the owner redeems the property by paying a storage and removal charge as established by the City Administrator. The City may dispose of items left longer than 30 days from the date of notice provided in this section.
 - b) Written notice shall include at least the following:
 - i) A statement that the item(s) are in violation of this ordinance;
 - ii) The approximate location of the violation;
 - iii) Date the item(s) will be removed;
 - iv) Statement that the removal and storage costs are the responsibility of the owner or vendor;
 - v) Statement that the item(s) shall be disposed of after thirty (30) days of storage;
 - vi) Cost of removal and storage;
 - vii) Location of storage or person to contact concerning storage;
 - viii) Statement that the owner or vendor may remove the item(s) at their own expense prior to the date of removal; and
 - ix) Statement that further violation will result in immediate removal without prior notification.

SECTION 6. Separability. Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance be declared invalid, such declaration shall not affect the validity of any other section, subsection, paragraph, sentence, clause or phrase; and if this Ordinance, or any portion thereof, should be held to be invalid on one ground but valid on another, it shall be construed that the valid ground is the one upon which said Ordinance, or such portion thereof, was enacted.

SECTION 7. Effective Date. This Ordinance will take effect 30 days after approval by the Mayor.

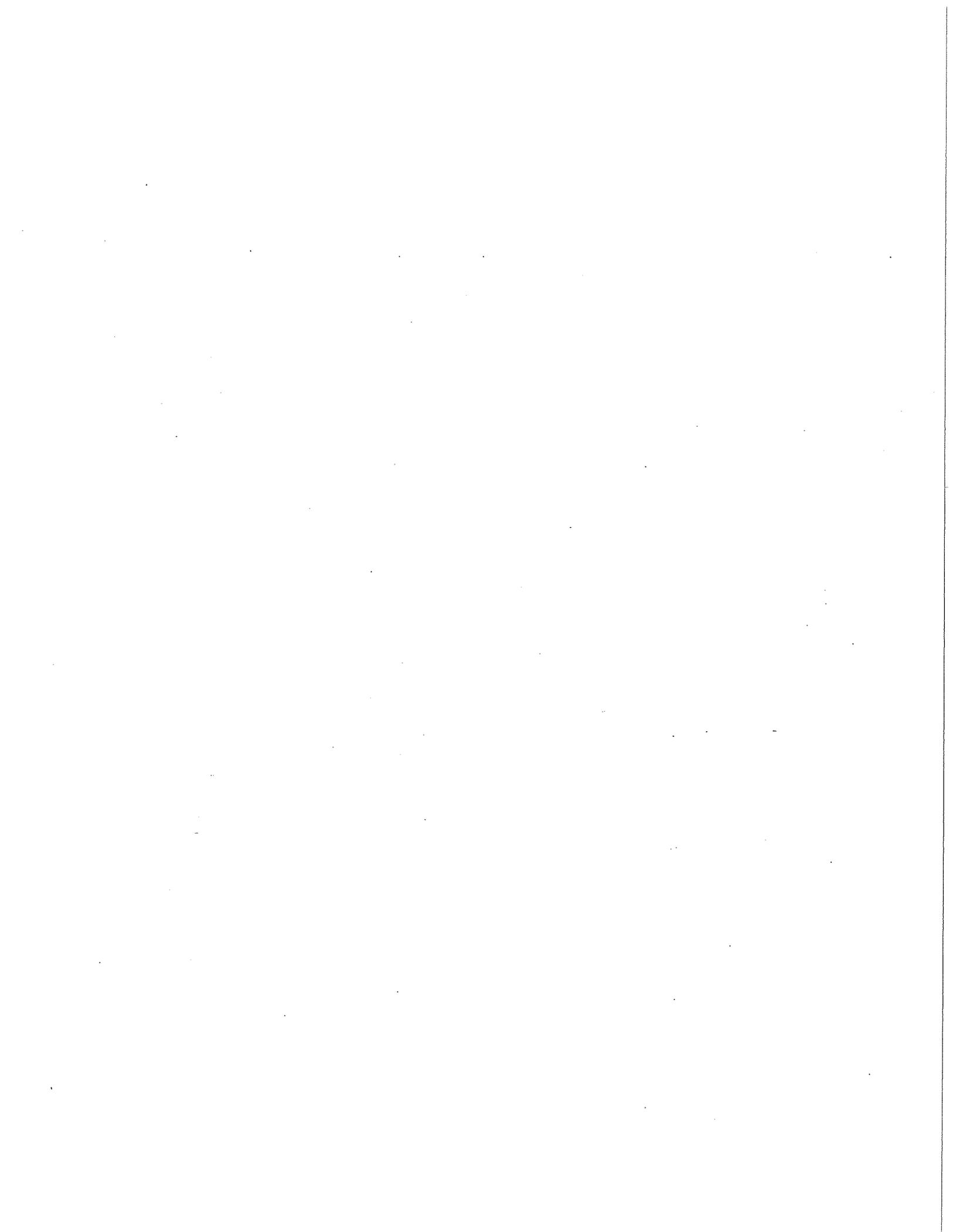
ADOPTED by the City Council this ___ day of October, 2014.

APPROVED by the Mayor this ___ day of October, 2014.

ATTEST:

City Recorder

Mayor



AGENDA ITEM NO: 5d

CASCADE LOCKS STAFF REPORT

Date Prepared: October 15, 2014

For City Council Meeting on: October 27, 2014

TO: Honorable Mayor and City Council

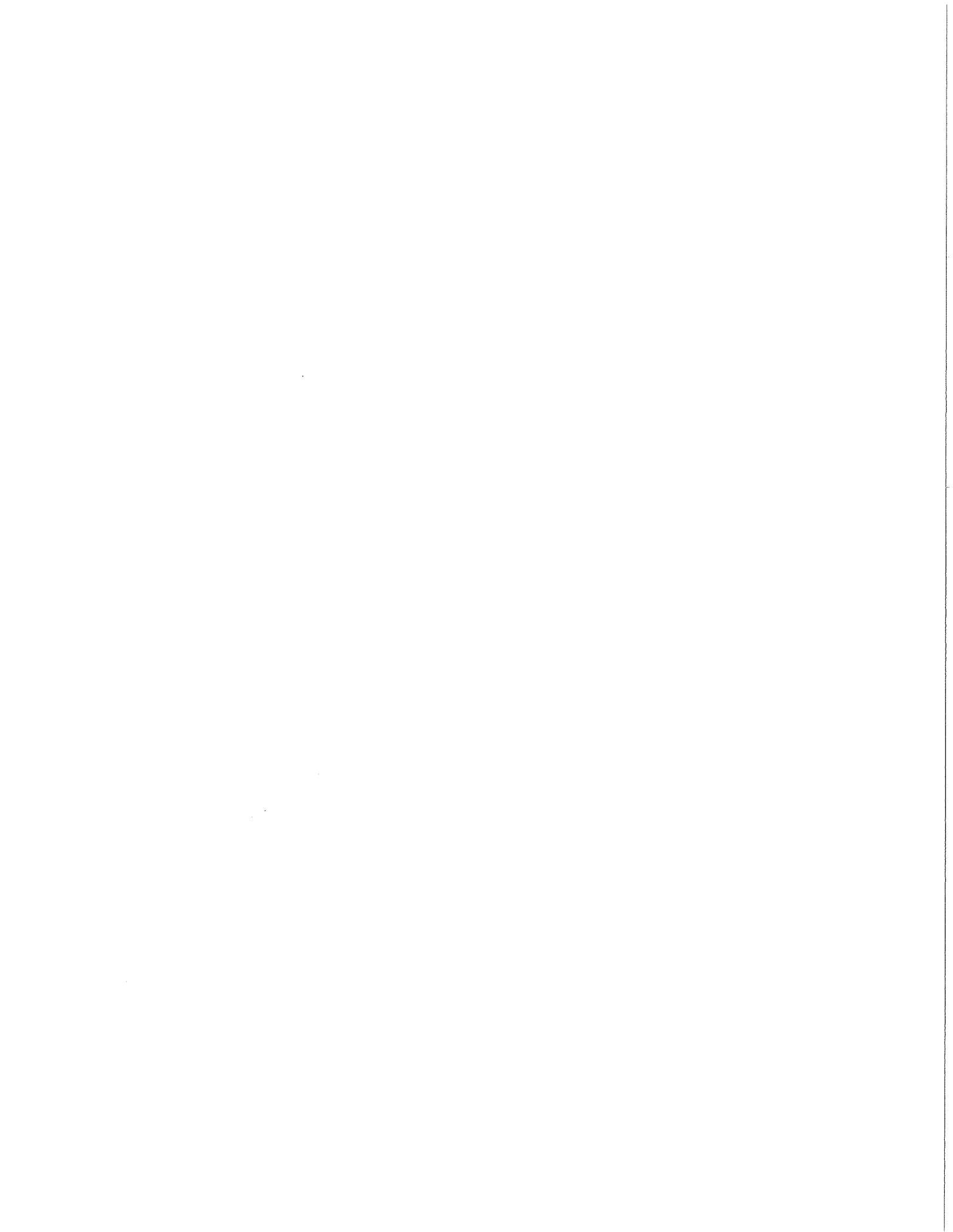
PREPARED BY: Gordon Zimmerman, City Administrator

SUBJECT: Approve Resolution No. 1315 Declaring Certain Property of the City is Not Needed For Public Use

SYNOPSIS: For the past few years the City has tried to sell the old Fire Hall located at 505 NW WaNaPa Street. We currently have an interested buyer. The attached resolution needs to be approved before we can consummate the sale.

CITY COUNCIL OPTIONS: Approve, modify, or reject Resolution No. 1315

RECOMMENDED MOTION: "I move to approve Resolution No. 1315 declaring the old Fire Hall located 505 NW WaNaPa Street to be surplus and authorizing the City Administrator and City Attorney to negotiate the sale of the property."



RESOLUTION NO. 1315

RESOLUTION DECLARING CERTAIN REAL PROPERTY OF THE CITY IS NOT NEEDED FOR PUBLIC USE AND AUTHORIZING THE CONVEYANCE OF SUCH PROPERTY

WHEREAS, the City of Cascade Locks ("City") owns certain real property ("Property") commonly known as the Old Fire Hall, located at 505 WaNaPa Street, Cascade Locks, Oregon, and more particularly described in Exhibit "A", Tax Map and Lot No. 2N-7E-12CD-1400 which is attached hereto and incorporated herein by reference; and

WHEREAS, the City does not need the Property for a public use; and

WHEREAS, ORS 271.310 authorizes the City to convey real property when such property is not needed for a public use or when the public interest will be furthered by conveying the property; and

WHEREAS, the City considers it necessary and convenient to convey the Property.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CASCADE LOCKS RESOLVES AS FOLLOWS:

SECTION 1. Findings.

1. The property described in Exhibit "A," Tax Map and Lot No. 2N-7E-12CD-1400 is not needed for public use;
2. The City Council of the City of Cascade Locks considers it necessary or convenient to convey the Property because the Property is currently vacant, the Property needs to be improved to meet code requirements, it will benefit the downtown area to add additional business(es), and the Property is not needed for public use; and
3. The City's City Administrator and City Attorney are hereby authorized to take all necessary steps to negotiate for such Property conveyance.

SECTION 2. Effective Date. This resolution is effective immediately upon adoption by the City Council.

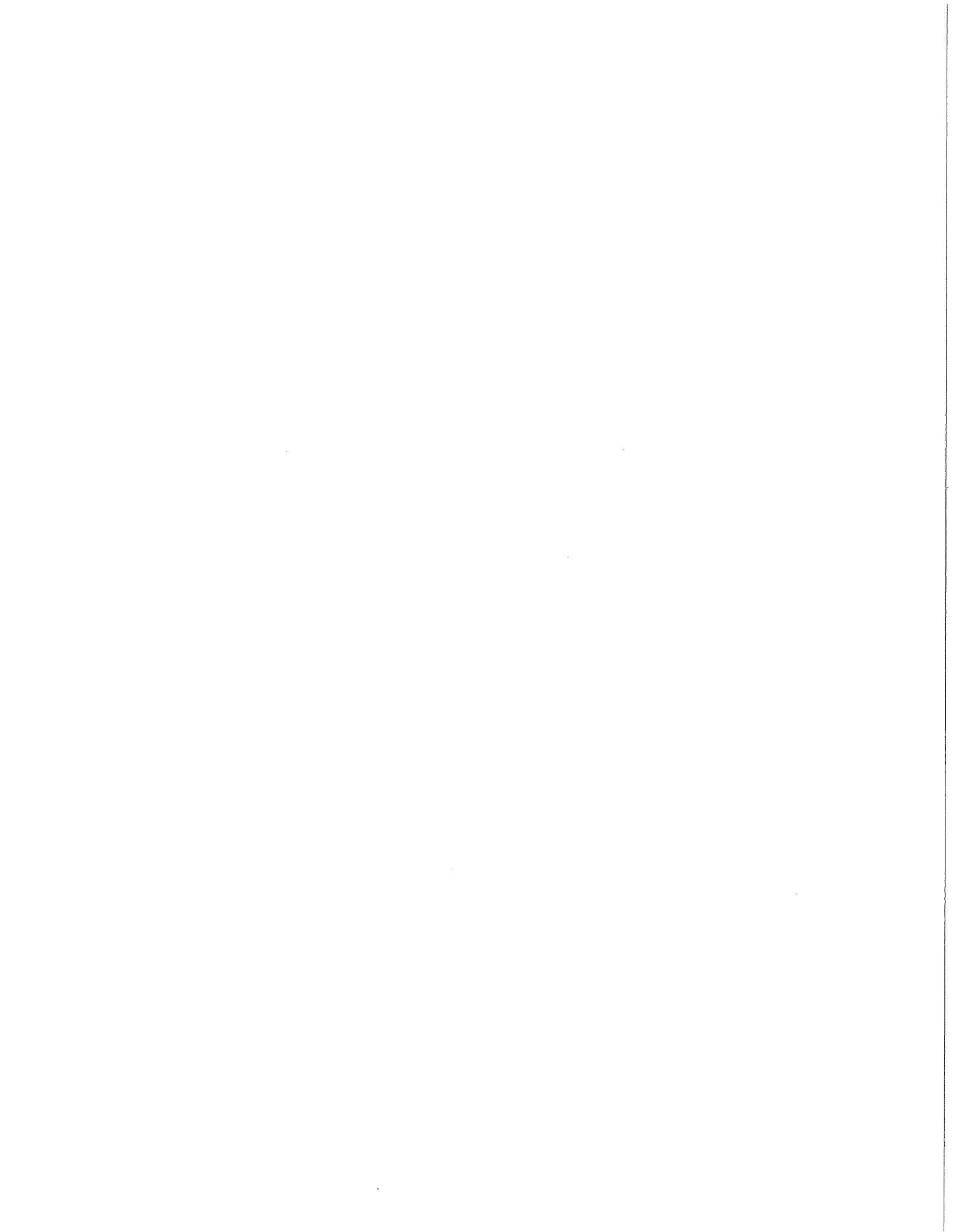
ADOPTED by the City Council this 27th day of October, 2014.

APPROVED by the Mayor this 27th day of October, 2014.

Tom Cramblett, Mayor

ATTEST:

Kathy Woosley, City Recorder

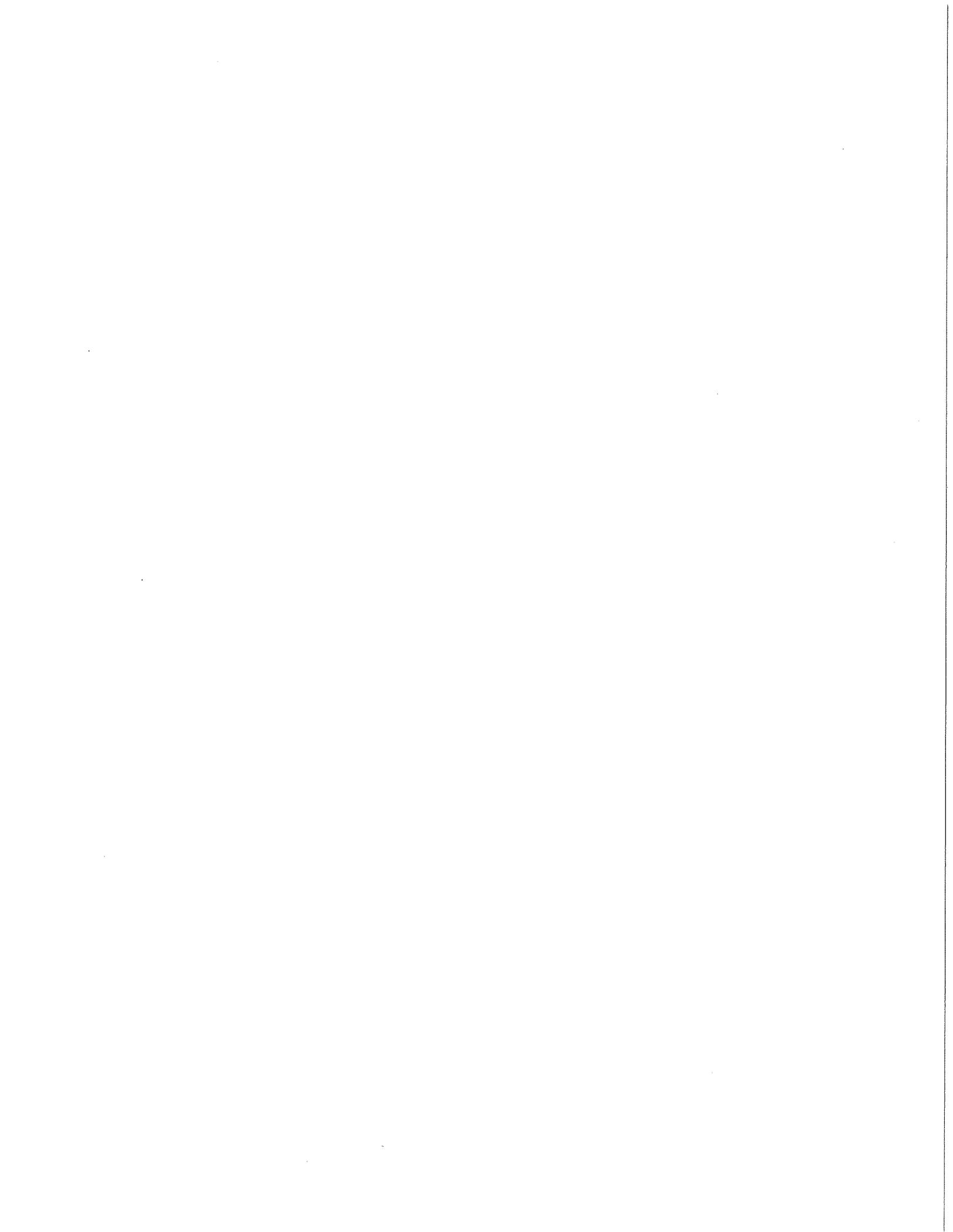


2N	7	12	0	D	1400		2
TAX MAP NO. & SEC.	TAX LOT NUMBER	TYPE	SPEC. INT. IN REAL PROP.	CODE AREA NUMBER			
MAP NUMBER		ACCOUNT NUMBER					

**OFFICIAL RECORD OF DESCRIPTIONS
6696 OF REAL PROPERTY
HOOD RIVER COUNTY ASSESSOR'S OFFICE**

FORMERLY PART OF T.L. NO. _____

INDENT EACH NEW COURSE TO THIS POINT.	DESCRIPTION AND RECORD OF CHANGE	DATE OF ENTRY ON THIS CARD	DEED RECORD		ACRES REMAINING
			VOL.	PG.	
	Cap 3664.87 ft W and 1476.76 ft S. of the 1/4 Sec cor on the E line of Sec 12 and from which the NW cor of Blk 4 Cascade Locks bears S 61° 06' E 32.12 ft; th S 28° 53' W 162.20 ft; th N 61° 06' W 80 ft to the POB; th N 28° 53' E 43.77 ft; th N 43° 15' W 145.48 ft; th S 30° 15' W 1.29 ft; th S 28° 57' E 163.60 ft to the POB.	WD	59	527	0.11
Excs: By: R/W	0.04				0.07
		<i>Deed</i> 7/28/87 8-4-87			
		<i>Deed</i> 7/26/90	901	295	
	<i>Order apprais. Sub. R/P</i>	7/06/90	CC	687-8	



901295⁽³⁾

DEED OF PERSONAL REPRESENTATIVE

THIS INDENTURE MADE AND ENTERED INTO THIS 29th DAY OF March, 1990, by and between Paul King, Personal Representative of the estate of Irene K. Staats, deceased, Party of the First Part, and City of Cascade Locks, State of Oregon, with a mailing address of P.O. Box 308, Cascade Locks, OR, 97014, parties of the Second Part, of the County of Hood River and State of Oregon.
IS TO WITNESS:

THAT WHEREAS the said Party of the First Part, hereinafter called the Personal Representative is the Personal Representative of the estate of Irene K. Staats, deceased, is duly qualified as such, and is still acting as such.

AND WHEREAS, the court found that it was necessary to sell the hereinafter described real estate of the decedent for the purpose of paying obligations of the estate set out in the judgment of the court, found the real estate hereinafter described was subject to such sale, and ordered and adjudged that the same be sold by the Personal Representative at private sale.

AND WHEREAS the Personal Representative did enter into a contract on the 29th day of March, 1990, with the said Parties of the Second Part for the sale of said real estate at the price of \$1,500.00;

AND WHEREAS said sale was the most advantageous to the estate which it was possible for the Personal Representative to negotiate.

AND WHEREAS, the Parties of the Second Part have fully met and complied with the terms and conditions of the said sale as to the payment and security of the purchase price, the same being hereby acknowledged by the Personal Representative.

NOW THEREFORE, for and in consideration of the premises, the Grantor conveys and warrants to the City of Cascade Locks, State of Oregon, Grantee, the following described real property free of encumbrances.

That tract of land in the City of Cascade Locks, County of Hood River, and State of Oregon, described as follows: Commencing at a 2 inch iron pipe monument set in concrete in Easterly boundary line of the Columbia River Highway at a point 3664.87 feet West and 1476.76 feet South of the quarter section corner on the East line of Section 12, Township 2 North.

D.F.
TV 1400
N. C.
City of Cascade Locks

Ref # 6696

2 N 07 12 CD-1400

1

Range 7 East of the Willamette Meridian, and from which an iron pipe at the Northwest corner of Block 4, Cascade Locks, bears South 61 degrees 06' 45" East 32.12 feet distant; thence South 28 degrees 53' 15" West on the Easterly boundary line of said Highway 162.20 feet to a point; thence North 61 degrees 06' 45" West, at right angles to and across said Highway 80.00 feet to an iron pipe driven in the ground in the Westerly boundary line of said Highway for the point of beginning of the tract to be described; running thence North 28 degrees 53' 15" East on the Westerly boundary line of said Highway 43.77 feet to an iron rod driven in the ground for corner, being at the most Southerly corner of that tract of land conveyed to J. A. Merrill et ux, by deed recorded July 14, 1937, in Book 26 at page 192, Deed Records Hood River County; thence North 43 degrees 15' 45" West along the boundary line of said Merrill tract of land 145.48 feet to a point in the Easterly line of the Oregon-Washington Railroad and Navigation Company's right of way; thence South 30 degrees 15' West on said right of way 1.29 feet to a point; thence South 28 degrees 57' 30" East 163.60 feet to the place of beginning of the tract described.

The true consideration for this conveyance is \$1,500.00.

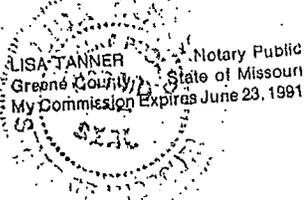
IN TESTIMONY WHEREOF, the said Party of the First Part has set his hand on the day first above written.

X Paul King
Paul King.

Account was in Henry & drena
 Staats Name - as per letter ~~and~~
 dated 1974 saying her husband had
 disappeared 17 years back and court
 documents stating Paul King was
 appointed conservator of her estate &
 am making ownership change.

personally known as the person described in and who executed the foregoing deed and acknowledged that he executed the same in his capacity as personal representative as therein set out and for the uses and purposes therein mentioned.

IN TESTIMONY WHEREOF, I have at the place and date last aforesaid set hereunto my hand and affixed my notarial seal.



Lisa Tanner

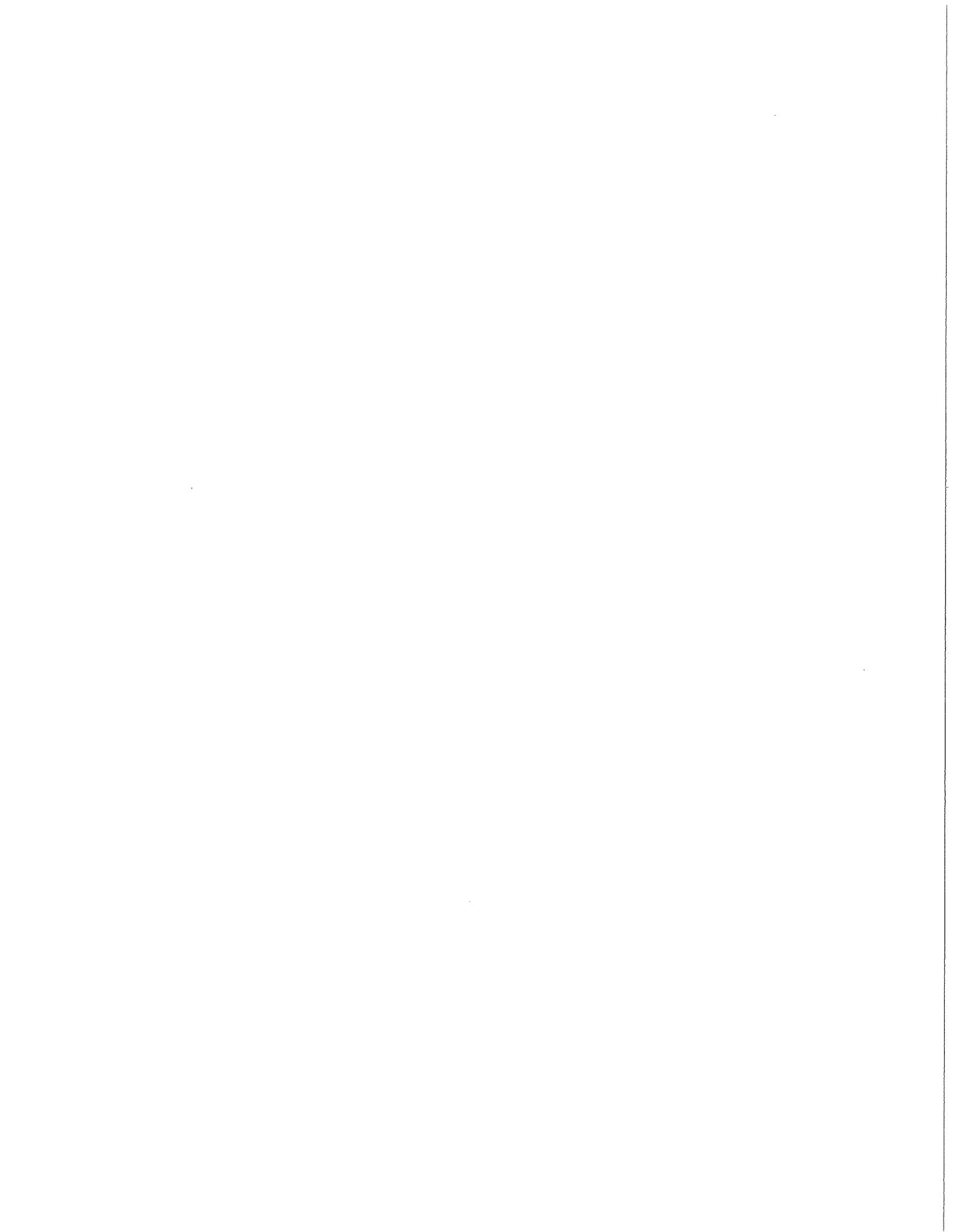
Notary Public, Greene County, Missouri
 My commission expires:

STATE OF OREGON)
 COUNTY OF HOOD RIVER)SS

I, _____, Recorder of said County, do hereby certify that the within instrument of writing was, at _____ o'clock and _____ minutes M., on the _____ day of _____, 19____, duly filed for record in my office, and is recorded in the records of this office in Book _____, at Page _____.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at _____ this _____ day of _____, 19____.

Microfilm N
 M
 STATE OF OREGON
 COUNTY OF HOOD RIVER
 I certify that recorded in:
 Sandra E. Assessment levances to
 By: _____
 Return to: _____
Lisa Tanner



AGENDA ITEM NO: 5e

CASCADE LOCKS STAFF REPORT

Date Prepared: October 15, 2014

For City Council Meeting on: October 27, 2014

TO: Honorable Mayor and City Council

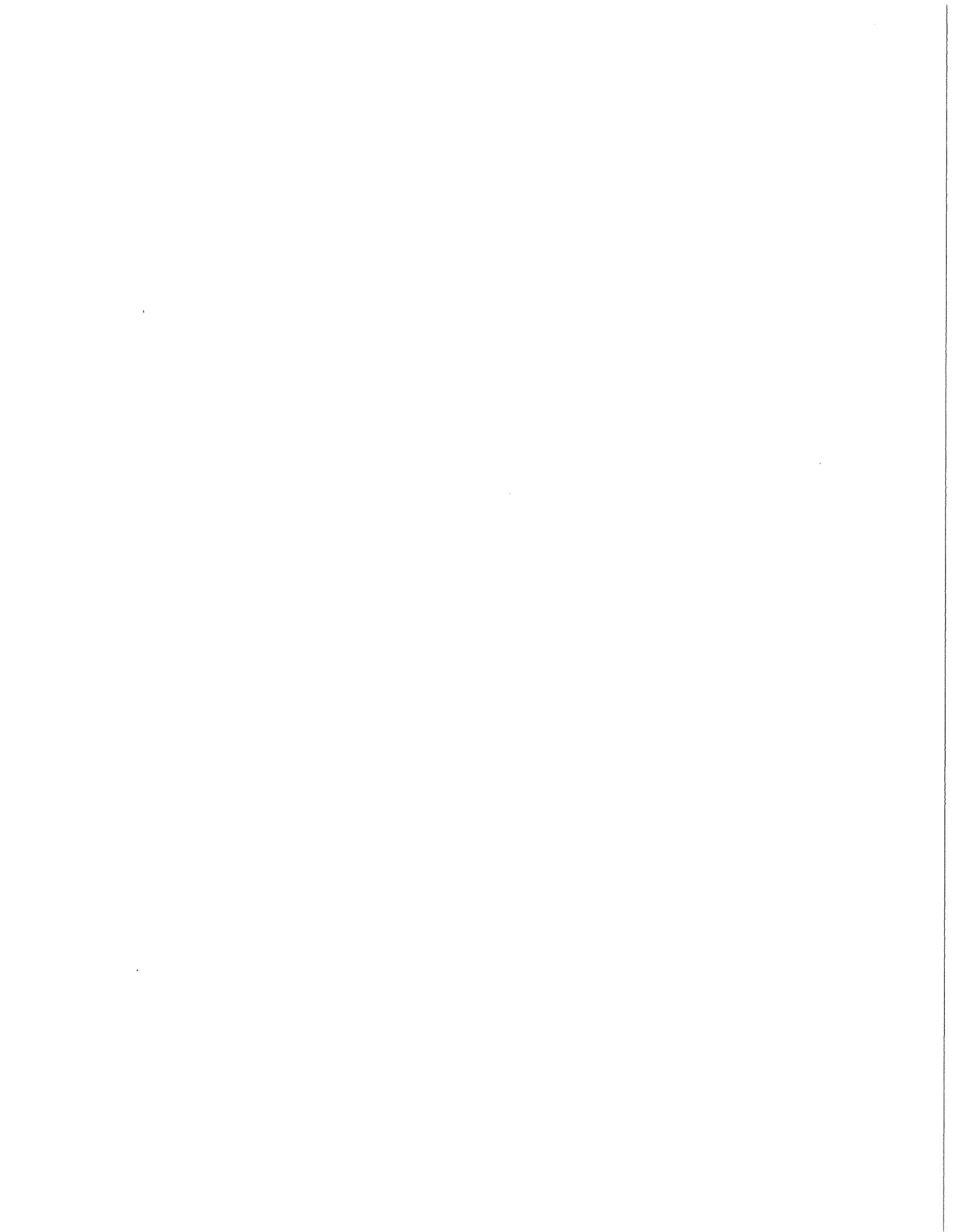
PREPARED BY: Gordon Zimmerman, City Administrator

SUBJECT: Approve Resolution No. 1316 Establishing Water Rate for Large Water Users

SYNOPSIS: With the advent of several potential large water users (businesses which use more than 250,000 gallons per month) the City needs a process that allows for the negotiation of a contract price for those users. This resolution allows for a contract to be negotiated on a case by case basis for those large water users. The contract must be approved by the City Council before it can be implemented. This resolution does not change the rates currently in place for all other users in the City.

CITY COUNCIL OPTIONS: Approve, modify, or reject Resolution No. 1316.

RECOMMENDED MOTION: "I move to approve Resolution No. 1316 which allows large water users to negotiate a contracted price for water."



RESOLUTION NO. 1316

A RESOLUTION ESTABLISHING A FEE FOR THE MAINTENANCE, TESTING AND REPLACEMENT OF WATER METERS; ESTABLISHING WATER RATES; AND REPEALING RESOLUTION NO. 1273.

WHEREAS, it is necessary for the City to establish a fair and equitable fee for maintenance, testing, calibration and replacement of each and every water meter; and

WHEREAS, the current water system is aging and in need of repair; and

WHEREAS, the City Council recognizes the need to expend more funds to repair the aging system; and

WHEREAS, the City must provide water for large industrial water users at a fair, but reduced price; and

WHEREAS, the City must raise rates to pay for the loan for the Water System improvements;

NOW THEREFORE, THE COMMON COUNCIL FOR THE CITY OF CASCADE LOCKS, HOOD RIVER COUNTY, OREGON, RESOLVES AS FOLLOWS:

SECTION 1. Meter Maintenance Fee. A monthly charge will be assessed to each water system customer based upon the size of the supply of each water meter. This fee shall be transferred to the Capital Reserve Fund each month and used for the maintenance, testing, calibration and replacement for each water meter.

SECTION 2. Fire Flow Fee. A monthly charge will be assessed to each water system customer based upon the size of the water meter for the maintenance of hydrants and attendant water transmission lines.

SECTION 3. Calculations of Meter Maintenance and Monthly Capacity Charges.

Beginning with the July 1, 2013 billing period, each customer shall pay the following water meter maintenance charge, fire flow, and monthly capacity charge:

Meter Size	Meter Maint.	Base Rate	Fire Flow	Total
5/8 inch	\$ 0.88	\$ 9.50	\$ 1.00	\$ 11.38
3/4 inch	1.10	\$ 14.12	1.00	16.22
1 inch	1.42	\$ 23.34	3.00	27.76
1 1/2 inch	2.82	\$ 46.40	6.00	55.22
2 inch	3.96	\$ 74.07	8.00	86.03
2 inch turbine	6.04	\$ 74.07	10.00	90.11
3 inch turbine	7.78	\$ 161.70	15.00	184.48
3 inch compound	15.60	\$ 161.70	20.00	197.30
4 inch compound	25.20	\$ 290.55	25.00	340.75

SECTION 4. Establishing Rate Per 1,000 Gallons. The charge for all water usage, regardless of purpose, shall be **\$2.50** per 1,000 gallons of water used.

SECTION 5. Large Water Users: For large water users (over 250,000 gallons per month) the City will negotiate a contracted rate on a case by case basis.

SECTION 6. Resource Pricing: For large water users (over 250,000 gallons per month) who purchase water as a resource, the City will negotiate a contracted rate subject to an automatic pricing index such as the Producers Price Index.

SECTION 7. Accidental Meter Damage. If a water meter is accidentally damaged by construction equipment or for any other reason, the person, corporation, partnership or business responsible for operating the equipment which has damaged the water meter shall pay all costs associated with its replacement or repair by the City.

SECTION 8. Meter Tampering. Any person, corporation, partnership or business which attempts to alter the reading on a water meter shall be assessed a fee to recalibrate, repair or replace that or any other water meter so altered. The fee shall include all administrative, inspection, recalibration, repair, replacement or legal costs associated with any attempt to alter a water meter. The City may disconnect such service until such time as all fees are paid by the responsible person, corporation, partnership or business.

SECTION 9. Repeal of Prior Resolutions. Resolution No. 1273 is hereby repealed.

SECTION 10. Effective Date. This resolution shall become effective upon adoption by the City Council and approval by the Mayor.

SECTION 11. Expiration. This resolution shall remain in effect until repealed by the City Council.

ADOPTED by the City Council this 27th day of October, 2014.

APPROVED by the Mayor this 27th day of October, 2014.

Mayor Tom Cramblett

ATTEST:

City Recorder Kathy Woosley

RESOLUTION NO. 1273

A RESOLUTION ESTABLISHING A FEE FOR THE MAINTENANCE, TESTING AND REPLACEMENT OF WATER METERS; ESTABLISHING WATER RATES; AND REPEALING RESOLUTION NO. 1006.

WHEREAS, it is necessary for the City to establish a fair and equitable fee for maintenance, testing, calibration and replacement of each and every water meter; and

WHEREAS, the current water system is aging and in need of repair; and

WHEREAS, the City Council recognizes the need to expend more funds to repair the aging system;

NOW THEREFORE, THE COMMON COUNCIL FOR THE CITY OF CASCADE LOCKS, HOOD RIVER COUNTY, OREGON, RESOLVES AS FOLLOWS:

SECTION 1. Meter Maintenance Fee. A monthly charge will be assessed to each water system customer based upon the size of the supply of each water meter. This fee shall be transferred to the Capital Reserve Fund each month and used for the maintenance, testing, calibration and replacement for each water meter.

SECTION 2. Fire Flow Fee. A monthly charge will be assessed to each water system customer based upon the size of the water meter for the maintenance of hydrants and attendant water transmission lines.

SECTION 3. Calculations of Meter Maintenance and Monthly Capacity Charges.

Beginning with the July 1, 2013 billing period, each customer shall pay the following water meter maintenance charge, fire flow, and monthly capacity charge:

Meter Size	Meter Maint.	Base Rate	Fire Flow	Total
5/8 inch	\$ 0.88	\$ 9.50	\$ 1.00	\$ 11.38
3/4 inch	1.10	\$ 14.12	1.00	16.22
1 inch	1.42	\$ 23.34	3.00	27.76
1 1/2 inch	2.82	\$ 46.40	6.00	55.22
2 inch	3.96	\$ 74.07	8.00	86.03
2 inch turbine	6.04	\$ 74.07	10.00	90.11
3 inch turbine	7.78	\$ 161.70	15.00	184.48
3 inch compound	15.60	\$ 161.70	20.00	197.30
4 inch compound	25.20	\$ 290.55	25.00	340.75

SECTION 4. Establishing Rate Per 1,000 Gallons. The charge for all water usage, regardless of purpose, shall be **\$2.50** per 1,000 gallons of water used.

SECTION 5. Accidental Meter Damage. If a water meter is accidentally damaged by construction equipment or for any other reason, the person, corporation, partnership or business responsible for operating the equipment which has damaged the water meter shall pay all costs associated with its replacement or repair by the City.

SECTION 6. Meter Tampering. Any person, corporation, partnership or business which attempts to alter the reading on a water meter shall be assessed a fee to recalibrate, repair or replace that or any other water meter so altered. The fee shall include all administrative, inspection, recalibration, repair, replacement or legal costs associated with any attempt to alter a water meter. The City may disconnect such service until such time as all fees are paid by the responsible person, corporation, partnership or business.

SECTION 7. Repeal of Prior Resolutions. Resolution No. 1006 is hereby repealed.

SECTION 8. Effective Date. This resolution shall become effective upon adoption by the City Council and approval by the Mayor.

SECTION 9. Expiration. This resolution shall remain in effect until repealed by the City Council.

ADOPTED by the City Council this 10th day of June, 2013.

APPROVED by the Mayor this 10th day of June, 2013.

Mayor Tom Cramblett

ATTEST:

City Recorder Kathy Woosley

AGENDA ITEM NO: 5f

CASCADE LOCKS STAFF REPORT

Date Prepared: October 15, 2014

For City Council Meeting on: October 27, 2014

TO: Honorable Mayor and City Council

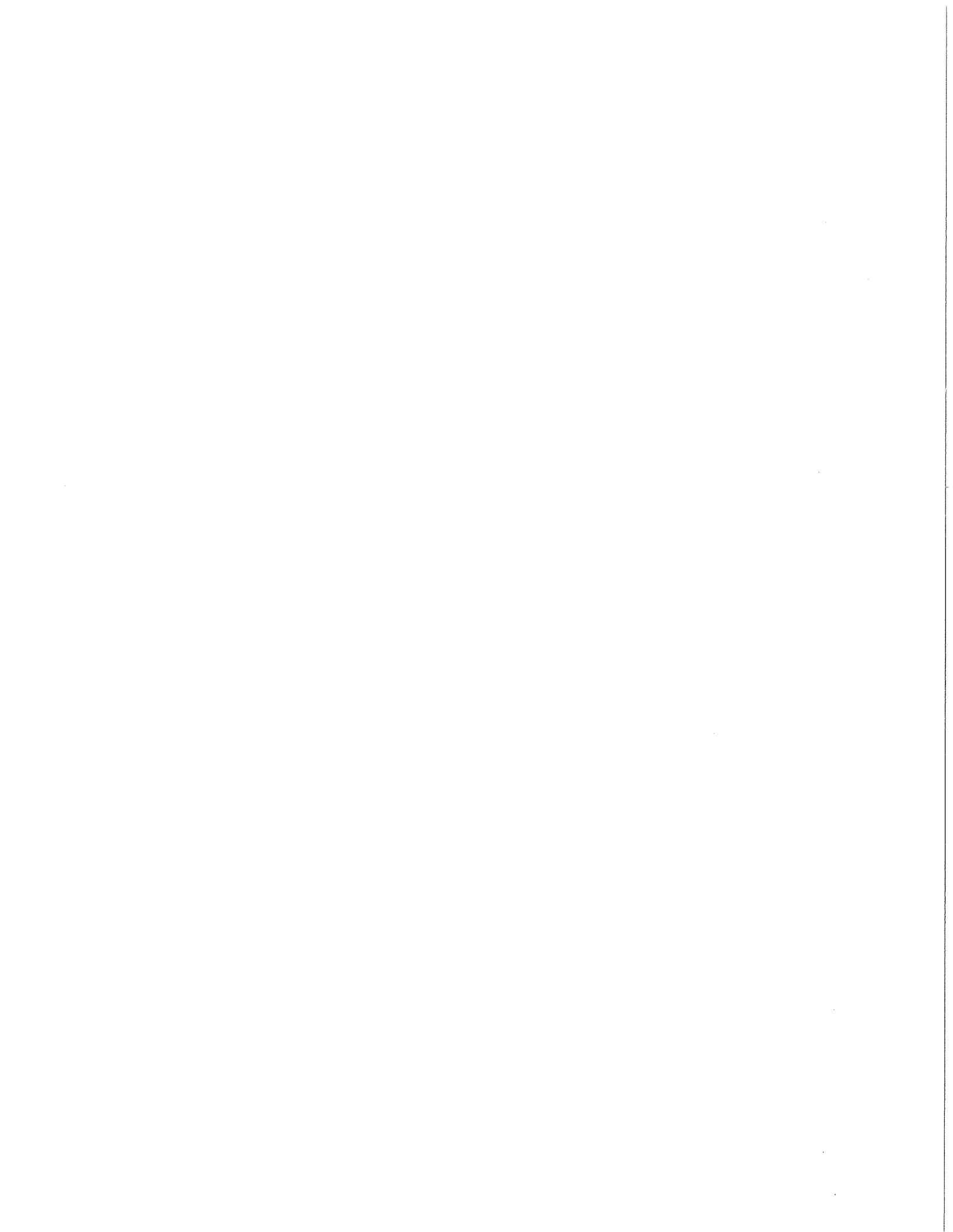
PREPARED BY: Gordon Zimmerman, City Administrator

SUBJECT: Approve Resolution No. 1317 Establishing Sewer Rate for Large Water Users

SYNOPSIS: With the advent of several potential large sewer users (businesses which contribute more than 250,000 gallons per month to the wastewater collection system) the City needs a process that allows for the negotiation of a contract price for those users. This resolution allows for a contract to be negotiated on a case by case basis for those large wastewater contributors. The contract must be approved by the City Council before it can be implemented. This resolution does not change the rates currently in place for all other users in the City.

CITY COUNCIL OPTIONS: Approve, modify, or reject Resolution No. 1317.

RECOMMENDED MOTION: "I move to approve Resolution No. 1317 which allows large wastewater users to negotiate a contracted price for sewer services."



RESOLUTION NO. 1317

**A RESOLUTION TO MAINTAIN CURRENT RATES ESTABLISHED BY RESOLUTION NO. 1005,
ADOPT A PROVISION FOR SEWER RATES FOR LARGE INDUSTRIAL WATER USERS,
AND REPEALING RESOLUTION NO. 1005.**

WHEREAS, the City has an outstanding sewer bond; and

WHEREAS, the rates established in 2005 shall be maintained, and

WHEREAS, the City has need to provide a fair rate for large water users (over 250,000 gallons per month) of an industrial nature; now therefore

**THE COMMON COUNCIL FOR THE CITY OF CASCADE LOCKS, HOOD RIVER COUNTY,
OREGON, RESOLVES AS FOLLOWS:**

SECTION 1. Sewer Charges. The sewer user charges as established in 2005 shall be as follows:

A. Residential Sewer Charges shall be as follows:

	Fixed Charge per Unit <u>Up to 10,000 gallons/unit/month</u>	Charge per <u>1,000 gallons</u>
June 20, 2005	\$45.40	\$8.77

B. Residential Summer Sewer Charges shall be a flat rate per month from April 21 through October 19 each year, and the amount of the flat rate shall be the current Fixed Charge per Unit used in the Residential Sewer Charges table above.

C. Commercial, Public Agency and Small Industrial Sewer Charges shall be as follows:

	Fixed Charge per Unit <u>Up to 5,000 gallons/unit/month</u>	Charge per <u>1,000 gallons</u>
June 20, 2005	\$45.40	\$8.77

SECTION 2. Residential Customers. A residential customer is a single-family house, an apartment unit that is intended for year-around occupancy, a mobile-home either on a separate lot or in a mobile-home court that is leased on a month-to-month or longer period. It does NOT include RV parks, motels, hotels, hostels or other living quarters occupied on a seasonal, daily, or weekly basis, nor live-in care facilities. No exceptions from these rates will be allowed for unoccupied units unless the water meter is physically disconnected. In the event that a water meter is disconnected for more than one month, a flat sewer rate of one-half the regular rate per month will be charged to the property owner.

1. Single Family Housing:

- a. Summer Rate: April 21 through October 19. The regular flat rate per month for each single-family residence will be charged and reflected on the bills received June 1 to November 1.

- b. **Winter Rate:** October 20 through April 20. The regular flat rate per month per single-family residence and for each residential unit for usage up to 10,000 gallons of water per residential unit will be charged. If usage exceeds 10,000 gallons of water per month, the regular base rate will not be used and the rate per every 1,000 gallons of water will be assessed. (Example: up to 10,000 gal = \$45.40; OR 11,000 = 11 x 8.77 = \$96.47).
3. **Multiple Housing Units on a Single Water Meter:** (duplexes, apartment buildings and mobile home parks). No exceptions from these rates will be allowed for unoccupied units.
 - a. **Summer Rate:** April 21 through October 19. The regular flat rate per month for each residential unit served by the same water meter will be charged.
 - b. **Winter Rate:** October 20 through April 20. The regular flat rate per housing unit for up to 10,000 gallons of water times the number of housing units will be charged. If the average usage exceeds 10,000 gallons of water times the number of housing units, the base regular flat rate will not be used and the current rate per every 1,000 gallons of water will be assessed.

SECTION 3. Non-Residential Customers. Non-residential customers include RV parks, motels, hotels, hostels or other living quarters occupied on a seasonal, daily, or weekly basis, all retail businesses, offices, medical facilities, food services, wholesale businesses, manufacturers, institutional (including hospitals, day-care, clinic, live-in facilities), clubs, churches, and government owned, leased, or used buildings, schools, parks, warehouses, and any other use not specifically described as a Residential Customer or as an Industrial Customer. If a water meter feeds more than one unit and some of the units could be classified as Residential and some could be classified Non-residential, then the Non-residential rates will apply to all the units on that water meter.

1. **Non-Residential Rate:** Without regard to seasons, the rate will be the regular flat rate per month for usage up to 5,000 gallons of water per month. If usage exceeds 5,000 gallons of water per month, the regular flat rate will not be used and the current rate per every 1,000 gallons of water will be assessed.

SECTION 4. Large Industrial Customers. For industrial customers who use more than 250,000 gallons of water per month, the wastes from industrial customers that send process water to the sewer system will be evaluated for "strength" as milligrams of suspended solids (SS) per liter (mg/l) of sewage and by biological oxygen demand (BOD) in milligrams per liter (mg/l), by a testing agency of the City's choice and at the customer's expense. The City will determine from these tests the cost to treat that strength of sewage and determine a rate per month.

SECTION 5. Future Development. Any future development will be required to install a water meter for each category (Residential, Non-residential or Industrial) of units served in order to facilitate determination of sewer rates. Rates for any development not easily designated as one of the categories described above, shall be determined by the City Administrator. In these cases the developer can appeal the City Administrator's decision to the Council by submitting a written appeal for review within ten (10) days of the notice of the original decision.

SECTION 6. Prohibition of Discounts. The grant and loan conditions of the USDA Rural Development program prohibit the City from subsidizing any class of customer with sewer rates. The City will bill each customer according to the above schedule. The City is also prohibited from subsidizing sewer rates (or System Development Charges (SDC)) for economic development purposes.

SECTION 7. Exceptions to Established Rates.

1. **Unoccupied Units:** No exceptions from the rates established in this Resolution will be allowed for unoccupied units unless the water meter is physically disconnected. In the event that a water meter is disconnected, a flat sewer rate of ~~\$16.25~~ one-half the regular flat rate per residential unit per month will be charged to the property owner.
2. **Demolished Buildings:** Property with no buildings or lots with demolished buildings that are not connected to water service and sewer service will not be charged for sewer service.
3. **No sewer charge shall be assessed to any vacant lot within a mobile home park.**

SECTION 8. Repeal of Prior Resolution. Resolutions No. 1005 is hereby repealed.

SECTION 9. Effective Date. This resolution shall become effective upon adoption by the City Council and approval by the Mayor.

SECTION 11. Expiration. This resolution shall remain in effect until repealed or amended by the City Council.

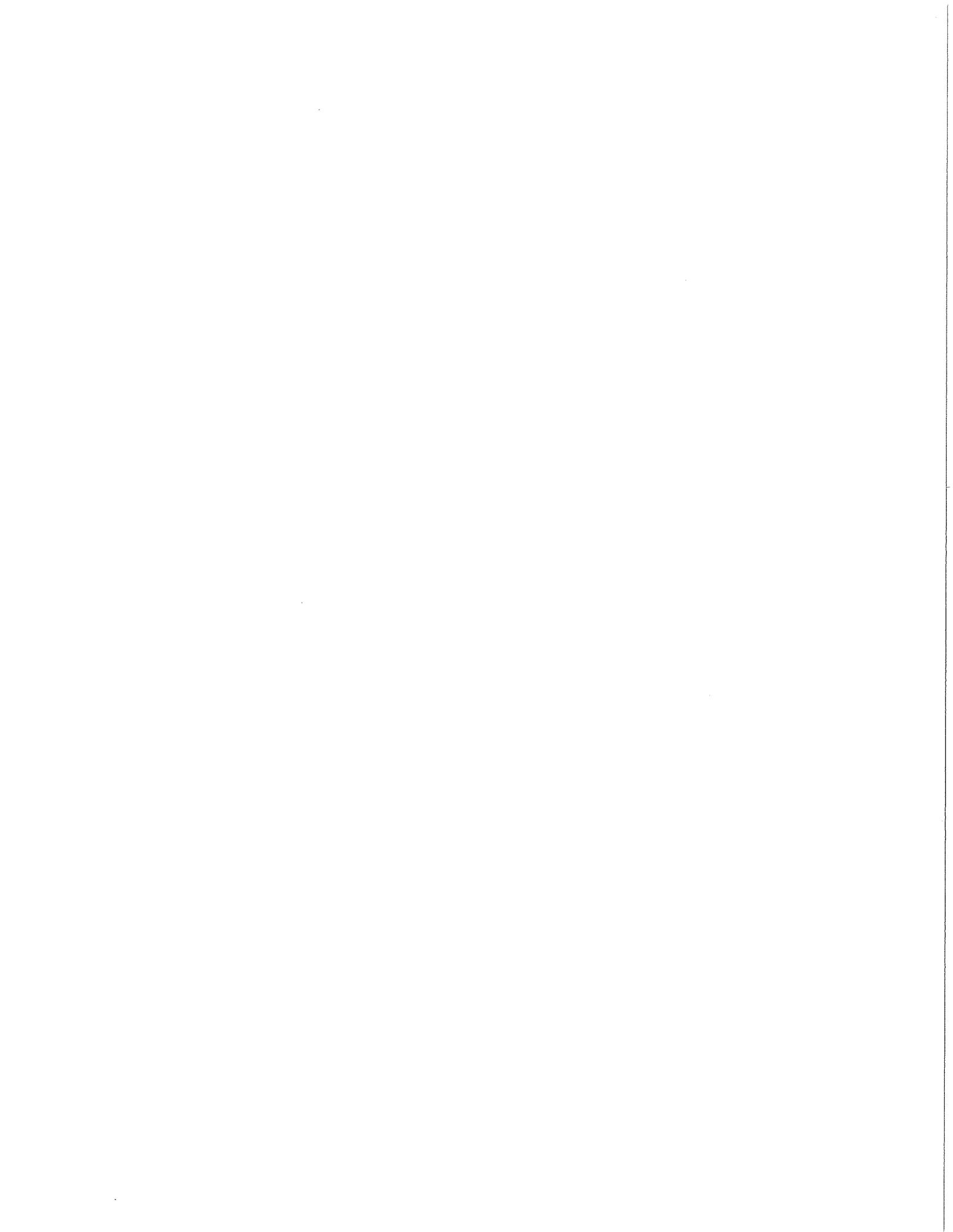
ADOPTED by the City Council this 27th day of October, 2014.

APPROVED by the Mayor this 27th day of October, 2014.

Tom Cramblett, Mayor

ATTEST:

Kathy Woosley, City Recorder



RESOLUTION NO. 1005

revised 02/07/04

A RESOLUTION TO INCREASE THE SEWER RATE TO ACCELERATE DEBT REPAYMENT, MAKE CAPITAL IMPROVEMENTS, AND COVER INCREASING OPERATING COSTS; AND REPEALING RESOLUTIONS NO. 819, 925 AND 926.

WHEREAS, the City has two outstanding sewer bonds; and

WHEREAS, the rate analysis recommends rate increases to retire one of the bonds within the next 10 years;

THE COMMON COUNCIL FOR THE CITY OF CASCADE LOCKS, HOOD RIVER COUNTY, OREGON, RESOLVES AS FOLLOWS:

SECTION 1. Increases in Sewer Charges. The sewer user charges shall be increased three times in the next two years. Each increase will become effective as follows:

A. Residential Sewer Charges shall increase as follows:

	Fixed Charge per Unit Up to 10,000 gallons/unit/month	Charge per 1,000 gallons
Current	\$42.50	\$7.40
February 20, 2004	\$44.57	\$8.07
June 20, 2004	\$45.36	\$8.42
June 20, 2005	\$45.40	\$8.77

B. Residential Summer Sewer Charges shall be a flat rate per month from April 21 through October 19 each year, and the amount of the flat rate shall be the current Fixed Charge per Unit used in the Residential Sewer Charges table above.

C. Commercial, Public Agency and Industrial Sewer Charges shall increase as follows:

	Fixed Charge per Unit Up to 5,000 gallons/unit/month	Charge per 1,000 gallons
Current	\$42.50	\$7.40
February 20, 2004	\$44.57	\$8.07
June 20, 2004	\$45.36	\$8.42
June 20, 2005	\$45.40	\$8.77

SECTION 2. Future Rate Study. Funds for a new rate study shall be included in the budget for FY04/05 and a rate study shall be conducted during that fiscal year.

SECTION 3. Residential Customers. A Residential customer is a single-family house, an apartment unit that is intended for year-around occupancy, a mobile-home either on a separate lot or in a mobile-home court that is leased on a month-to-month or longer period. It does NOT include RV parks, motels, hotels, hostels or other living quarters occupied on a seasonal, daily, or weekly basis, nor live-in care facilities. No exceptions from these rates will be allowed for unoccupied

units unless the water meter is physically disconnected. In the event that a water meter is disconnected for more than one month, a flat sewer rate of one-half the regular rate per month will be charged to the property owner.

1. Single Family Housing:

- a. **Summer Rate:** April 21 through October 19. The regular flat rate per month for each single-family residence will be charged and reflected on the bills received June 1 to November 1.
 - b. **Winter Rate:** October 20 through April 20. The regular flat rate per month per single-family residence and for each residential unit for usage up to 10,000 gallons of water per residential unit. If usage exceeds 10,000 gallons of water per month, the regular base rate will not be used and the rate per every 1,000 gallons of water will be assessed. (Example: up to 10,000 gal = \$45.40; OR 11,000 = 11 x 8.77 = \$96.47).
- 3. Multiple Housing Units on a Single Water Meter:** (duplexes, apartment buildings and mobile home parks). No exceptions from these rates will be allowed for unoccupied units.

- a. **Summer Rate:** April 21 through October 19. The regular flat rate per month for each residential unit served by the same water meter.
- b. **Winter Rate:** October 20 through April 20. The regular flat rate per housing unit for up to 10,000 gallons of water times the number of housing units. If the average usage exceeds 10,000 gallons of water times the number of housing units, the base regular flat rate will not be used and the current rate per every 1,000 gallons of water will be assessed.

SECTION 4. Non-Residential Customers. Non-residential customers include RV parks, motels, hotels, hostels or other living quarters occupied on a seasonal, daily, or weekly basis, all retail businesses, offices, medical facilities, food services, wholesale businesses, manufacturers, institutional (including hospitals, day-care, clinic, live-in facilities), clubs, churches, and government owned, leased, or used buildings, schools, parks, warehouses, and any other use not specifically described as a Residential Customer or as an Industrial Customer. If a water meter feeds more than one unit and some of the units could be classified as Residential and some could be classified Non-residential, then the Non-residential rates will apply to all the units on that water meter.

1. **Non-Residential Rate:** Without regard to seasons, the rate will be the regular flat rate per month for usage up to 5,000 gallons of water per month. If usage exceeds 5,000 gallons of water per month, the regular flat rate will not be used and the current rate per every 1,000 gallons of water will be assessed.

SECTION 5. Industrial Customers. The wastes from industrial customers that send process water to the sewer system will be evaluated for "strength" as milligrams of suspended solids (SS) per liter (mg/l) of sewage and by biological oxygen demand (BOD) in milligrams per liter (mg/l), by a testing agency of the City's choice and at the customer's expense. The City will determine from these tests the cost to treat that strength of sewage, and determine a rate per month.

SECTION 6. Future Development. Any future development will be required to install a water meter for each category (Residential, Non-residential or Industrial) of units served in order to facilitate determination of sewer rates. Rates for any development not easily designated as one of the categories described above, shall be determined by the City Administrator. In these cases the developer can appeal the City Administrator's decision to the Council by submitting a written appeal for review within ten (10) days of the notice of the original decision.

SECTION 7. Prohibition of Discounts. The grant and loan conditions of the USDA Rural Development program prohibit the City from subsidizing any class of customer with sewer rates. The City will bill each customer according to the above schedule. The City is also prohibited from subsidizing sewer rates (or System Development Charges (SDC)) for economic development purposes.

SECTION 8. Exceptions to Established Rates.

1. **Unoccupied Units:** No exceptions from the rates established in this Resolution will be allowed for unoccupied units unless the water meter is physically disconnected. In the event that a water meter is disconnected, a flat sewer rate of ~~\$16.25~~ one-half the regular flat rate per residential unit per month will be charged to the property owner.
2. **Demolished Buildings:** Property with no buildings or lots with demolished buildings that are not connected to water service and sewer service will not be charged for sewer service.
3. **No sewer charge shall be assessed to any vacant lot within a mobile home park.**

SECTION 9. Repeal of Prior Resolutions. Resolutions No. 819, 925 and 926 are hereby repealed..

SECTION 10. Effective Date. This resolution shall become effective upon adoption by the City Council and approval by the Mayor, retroactive to February 20, 2004.

SECTION 11. Expiration. This resolution shall remain in effect until repealed or amended by the City Council.

ADOPTED by the City Council this 23rd day of February, 2004.

APPROVED by the Mayor this 23rd day of February, 2004.

Mayor

ATTEST:

City Recorder

