

Kelso City Council Agenda

Regular Meeting, 6:00 pm
December 1, 2015
City Hall, Council Chambers
203 South Pacific
Kelso, WA 98626



**Special accommodations for the handicapped and hearing impaired are available
by special arrangement through the City Clerk's Office at 360-423-0900**

Invocation:

Pastor Nick Stumbo from East Hills Alliance Church

Roll Call to Council Members:

1. Approve Minutes:

1.1. November 17, 2015 – Regular Meeting

2. Presentation:

- 2.1. 2016 Legislative Agenda
- 2.2. West Kelso Sub Area Plan

3. Public Hearing:

3.1. Vacate Portion of 2nd Avenue

4. Consent Items:

- 4.1. Reappointments – Standing Boards and Committees
- 4.2. Contract Revision – Compass Lane, Inc.
- 4.3. Water Treatment Chemical Bid Purchase

5. Citizen Business:

6. Council Business:

- 6.1. 2016 Legislative Agenda Adoption
- 6.2. Three Rivers Regional Wastewater Authority Interlocal Agreement

Kelso City Council Agenda

Regular Meeting, 6:00 pm
December 1, 2015
City Hall, Council Chambers
203 South Pacific
Kelso, WA 98626



7. Action/Motion Items:

- 7.1. Ordinance, 1st Reading
 - 7.1.1. Vacate portion of 2nd Avenue
- 7.2. Ordinance, 1st Reading
 - 7.2.1. Comcast Franchise Agreement Renewal
- 7.3. Ordinance, 1st Reading
 - 7.3.1. 2015 Budget Amendment
- 7.4. Ordinance, 1st Reading,
 - 7.4.1. Interfund Loan to Airport
- 7.5. Ordinance, 1st Reading
 - 7.5.1. Amending KMC Chapter 5.05.120, Utility Taxes
- 7.6. Ordinance, 2nd Reading
 - 7.6.1. 2016 Budget Revision No.1
- 7.7. Ordinance, 2nd Reading
 - 7.7.1. Amend KMC Chapter 17.15, Land Use
- 7.8. Ordinance, 2nd Reading
 - 7.8.1. Amend KMC Chapter 17.15, Wireless Facilities
- 7.9. Resolution
 - 7.9.1. Amend Master Fee Schedule, Hydrant fees, Animal License, Engineer & Planning

Other Items:

- City Manager Report
- Staff/Dept Head Reports
- Council Reports
- Other Business
- Executive Session

Pastor Mark Schmutz, Northlake Baptist Church, gave the invocation. Mayor David Futcher led the flag salute. The Regular Meeting of the Kelso City Council was called to order by Mayor Futcher. Councilmembers in attendance were Gary Schimmel, Todd McDaniel, Dan Myers, David Futcher, Jared Franklin, Rick Roberson, and Gary Archer

Minutes: Upon motion by Councilmember Franklin, seconded by Councilmember Schimmel, 'Approve the Minutes of the 11/3/15 Regular Meeting,' motion carried, all voting yes.

PROCLAMATION:

Mayor Futcher read a proclamation declaring the week of November 16th – 20th, 2015, as “**International Education Week**” in the City of Kelso. ASSE International Student Exchange Program Western Regional Director Veryl Anderson and foreign exchange students from the countries: Spain, Georgia, and Pakistan each accepted a proclamation.

PRESENTATIONS:

West Main Revitalization Project: Community Development Director/City Engineer Mike Kardas provided an update on the project.

2015-2016 Biennial Budget Modifications: Finance Director Brian Butterfield provided an overview of the City’s budget for the 2016 fiscal year.

PUBLIC HEARING:

2015-2016 Budget Mid-biennial Review: Mayor Futcher opened the public hearing at 6:40 p.m. The following citizens spoke from the audience:

- Rick Von Rock, 400 N 7th Ave.
- Jim Hill, 1100 N 22nd Ave.
- Rod Wright, 97 Banyon Dr.
- Nancy Malone, 190 Milwaukie Pl.
- Curtis Hart, 115 William Ave.
- Gregg Donges, 606 N 23rd Ave.

There being no further comment from the public, Mayor Futcher closed the public hearing at 6:55 p.m.

CONSENT AGENDA:

1. **Contract Extension – Onsite Computer Services, Compass Lane**
2. **Auditing of Accounts:** \$1, 523,294.01

Upon motion by Councilmember Schimmel, seconded by Councilmember Myers, 'Approve the Consent Agenda and the Auditing of Accounts in the amount of \$1,523,294.01,' motion carried, all voting yes.

CITIZEN BUSINESS:

Rod Wright, 97 Banyon Dr., spoke about looking forward to improvements to the city under the newly elected Council.

Healthy Living Collaborative (HLC) of Southwest Washington: HLC South Kelso Community Health Advocates Jenn Schapman, Ophelia Noble, Sandy Southern, and Val Bales introduced themselves to the Council and spoke about their involvement in the community.

Jim Hill, 1100 N 22nd Ave., spoke about summer job programs for youths.

Anthony Currena, 803 S 6th Ave., spoke about the merging traffic on 3rd Avenue coming from Allen Street.

Curtis Hart, 115 Williams Ave., spoke about water fluoridation, and the proposed salary increase for certain non-represented city employees.

COUNCIL BUSINESS: None.

MOTION ITEMS:

Ordinance No. (1st Reading) 2016 Budget Revision No.1: The Deputy Clerk read the proposed ordinance by title only. Upon motion by Councilmember McDaniel, seconded by Councilmember Myers, 'Pass on 1st reading, 'AN ORDINANCE OF THE CITY OF KELSO RELATING TO PUBLIC EXPENDITURES AND DECLARING AN EMERGENCY UNDER THE PROVISIONS OF RCW 35A.34.150, FIXING THE AMOUNT OF MONEY REQUIRED TO MEET SUCH EMERGENCIES AND AUTHORIZING THE EXPENDITURE OF MONEY NOT PROVIDED FOR IN THE 2015-2016 BIENNIAL BUDGET OF THE CITY,' motion passed, all voting yes.

Ordinance No. (1st Reading) Amend KMC Chapter 17.15, Land Use: The Deputy Clerk read the proposed ordinance by title only. Upon motion by Councilmember Schimmel, seconded by Councilmember Roberson, 'Pass on 1st reading, 'AN ORDINANCE OF THE CITY OF KELSO, WASHINGTON AMENDING KELSO MUNICIPAL CODE CHAPTER 17.15. Motion passed, all voting yes.

Ordinance No. (1st Reading) Amend KMC Chapter 17.15, Wireless Facilities: The Deputy Clerk read the proposed ordinance by title only. Upon motion by Councilmember Schimmel, seconded by Councilmember McDaniel, 'Pass on 1st reading,

‘AN ORDINANCE OF THE CITY OF KELSO, WASHINGTON, RELATING TO COLLOCATION, REMOVAL AND REPLACEMENT OF WIRELESS FACILITIES; ADDING A NEW REGULATORY NOTE TO KELSO MUNICIPAL CODE CHAPTER 17.15.040; ESTABLISHING DEVELOPMENT REGULATIONS FOR COLLOCATION, REMOVAL AND REPLACEMENT OF WIRELESS TRANSMISSION FACILITIES TO CONFORM TO FEDERAL LAW AND REGULATIONS; ESTABLISHING AN APPLICATION SUBMITTAL AND APPROVAL PROCESS; PROVIDING FOR TERMINATION OF NON-CONFORMING STRUCTURES; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.’ City Attorney Parker briefed the Council on the new state law requirements. Motion passed, all voting yes.

Ordinance No. 15-3854 – Setting 2016 Property Tax Levy Amount: The Deputy Clerk read the proposed ordinance by title only. Upon motion by Councilmember McDaniel, seconded by Councilmember Roberson, ‘Adopt Ordinance No. 15-3854, ‘AN ORDINANCE OF THE CITY OF KELSO FIXING THE ESTIMATED AMOUNT TO BE RAISED BY AD VALOREM TAXES AT \$1,450,135 FOR THE 2016 BUDGET OF THE CITY. Councilmembers Schimmel, McDaniel, Myers, Futch, Roberson, and Archer voted yes. Councilmember Franklin voted no. Motion passed, 6 to 1.

Ordinance No. 15-3855 – Updating Water & Sewer Rates: The Deputy Clerk read the proposed ordinance by title only. Upon motion by Councilmember Roberson, seconded by Councilmember Myers, ‘Adopt Ordinance No. 15-3855, ‘AN ORDINANCE OF THE CITY OF KELSO AMENDING ORDINANCE NO. 14-3832 UPDATING WATER AND SEWER RATES. Motion passed, all voting yes.

Ordinance No. 15-3856 – Assumption of the Transportation Benefit District by the City: The Deputy Clerk read the proposed ordinance by title only. Upon motion by Councilmember Roberson, seconded by Councilmember Myers, ‘Adopt Ordinance No. 15-3856, ‘AN ORDINANCE OF THE CITY OF KELSO, WASHINGTON ASSUMING THE RIGHTS, POWERS, FUNCTIONS, AND OBLIGATIONS OF THE KELSO TRANSPORTATION BENEFIT DISTRICT AND AMENDING CHAPTER 3.65 OF THE KELSO MUNICIPAL CODE RELATING TO THE KELSO TRANSPORTATION BENEFIT DISTRICT,’ motion passed, all voting yes.

Resolution No. 15-1145 – Salary Class Matrix/Employee Handbook/Health Benefit Policy Amendment: The Deputy Clerk read the proposed resolution by title only. Upon motion by Councilmember Schimmel, seconded by Councilmember Myers, ‘Pass Resolution No. 15-1145, ‘A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KELSO AMENDING RESOLUTION NO. 14-1130 AND ADOPTING CHANGES TO THE SALARY CLASSIFICATION SYSTEM FOR NON-REPRESENTED EMPLOYEES, AMENDING THE PERSONNEL POLICY HANDBOOK APPLYING TO THE EMPLOYEES OF THE CITY AS INDICATED THEREIN, AMENDING THE CITY OF KELSO EMPLOYEE HEALTH BENEFIT POLICY, AND REPEALING

RESOLUTION NO. 93-680 PERTAINING TO THE EMPLOYEE WHISTLE-BLOWER POLICY. City Manager Taylor provided an overview of the proposed resolution. Lengthy discussion followed.

Nancy Malone, 190 Milwaukee Pl., spoke from the audience about the proposed employee promotions/reclassifications and pay increases.

Councilmembers Schimmel, McDaniel, Myers, Fatcher, Roberson, and Archer voted yes. Councilmember Franklin voted no. Motion passed, 6 to 1.

MANAGER’S REPORT:

Steve Taylor: 1) Announced that there would be an executive session tonight. 2) Brought an application from the Cowlitz Black Bears Organization requesting lodging tax funds to aid in hosting a Westcoast All-Stars event in July 2016. By consensus of the Council, the application is to be referred to the Lodging Tax Advisory Committee and an application opportunity for 2016 lodging tax funds will not be reopened to the public.

COUNCIL REPORTS:

Gary Archer: Have a nice and safe Thanksgiving Holiday.

Rick Roberson: 1) Provided an update on the South Kelso Neighborhood Association (SKNA). He commented that SKNA has a youth program for clean-up events. 2) Reported on his recent activities relating to the spray park and provided an update on his granddaughter. 3) Spoke about the amount of the electrical bill for SKNA’s shared facility at 109 Allen Street. City Manager Taylor commented that Staff would provide a report to Council on the SKNA agreement and information regarding their utility billing.

Jared Franklin: Commented that he had some “Support Your Local Police” fliers to give out to businesses that would like to post one in their window.

Dan Myers: 1) Reported that the Lion’s Club would be contacting the City regarding relocating the donated blue benches from the downtown area to the train depot. 2) Spoke about token operated locks for the public restrooms in the train depot.

Todd McDaniel: Announced that the Cowlitz Transit Authority will be discussing rate increases at their next meeting.

Gary Schimmel: Spoke about various workforce programs available to youths in the community. He commented that the school district has programs for youths in risk of dropping out.

David Fatcher: Spoke about the visit with the delegates from Kelso, Scotland.

EXECUTIVE SESSION:

At 8:00 p.m., Mayor Fatcher announced that the Council would convene into executive session to discuss an employee performance evaluation. The executive session is expected to last approximately 1 hour and no action will be taken. The city attorney was not present.

At 9:00 p.m., it was announced that the executive session would be extended for 1 more hour.

The Council reconvened into regular session at 10:00 p.m.

There being no further business, Mayor Fatcher adjourned the meeting at 10:00 p.m.

MAYOR

CITY CLERK

AGENDA SUMMARY SHEET

Business of the City Council City of Kelso, Washington

SUBJECT TITLE:

2016 State Legislative Agenda

Agenda Item: _____

Dept. of Origin: _____ City Manager _____

For Agenda of: December 1, 2015

PRESENTED BY:

Briahna Murray & Alex Soldano – Gordon
Thomas Honeywell Government Affairs

Originator: _____ Steve Taylor _____

City Attorney: **Janean Parker**

City Manager: **Steve Taylor**

Agenda Item Attachments:

Proposed City of Kelso 2016 State Legislative Agenda
2016 Assn of Washington Cities Legislative Priorities

SUMMARY STATEMENT:

The City's contract lobbyists Briahna Murray and Alex Soldano from Gordon Thomas Honeywell Government Affairs will give Council a preview of the upcoming 2016 state legislative session and present the City's proposed legislative agenda for discussion and consideration.

RECOMMENDED ACTION:



City of Kelso 2016 Legislative Agenda *(Proposed)*

Minor Road Reservoir Replacement

Kelso requests \$3 million to fully fund replacement the failing Minor Road Reservoir. The Minor Road Reservoir is located above and adjacent to I-5 and consists of two 90-year-old 1 million gallon concrete tanks. Both are leaking, structurally deficient, and unfit for repair or rehabilitation. In the event of a seismic event 6.0 or greater, both tanks are at a 100% risk of failure, which would result in catastrophic damage to residents, local homes, and a church/private school. Failure would likely result in significant damage to and closure of I-5. \$1.5 million was allocated to this project in the 2015 Capital Budget, but financing the completion of this project at market rates of interest will result in significant impacts to the City's low and fixed-income ratepayers.

Public Works Infrastructure Funding

During the 2015 legislative session, funding for public works infrastructure projects was essentially eliminated with defunding of the Public Works Assistance Account, including \$1.4 million to complete Yew Street Reconstruction in Kelso. The City supports efforts to create a long-term funding source for public works infrastructure.

Indigent Defense Standards:

Kelso requests additional funding assistance to meet the new Supreme Court-mandated indigent defense standards. The new caseload standards significantly limit the number of cases a public defender can manage. The financial impact of the new regulations on cities' general operating funds is burdensome. Under the new requirements, Kelso's indigent defense costs increased over 60% from \$90,000 to \$145,000 annually. Fortunately, grants through the Office of Public Defense have helped offset these increases in 2015 & 2016, but the continuation of grant funding is not assured. Additional funding provided to cities by the Supreme Court in 2015 via increasing traffic fine amounts will not be sufficient to offset the additional burden. Kelso requests that the Legislature provide additional relief for the financial impact of these new caseload standards.

Transportation Funding

Kelso supports regional priorities to improve vital infrastructure projects, including funding for grant programs, such as the Transportation Improvement Board and the Freight Mobility Strategic Investment Board. Additionally, the City supports the following projects in the City's geographic limits:

West Main Street Realignment Completion

Kelso requests \$5 million for Phase II of the West Main Street Realignment project. The West Main Street Corridor provides a direct route from SR 4 to I-5 through Kelso and improves access to SR 411. Phase II will complete the project and includes right-of-way acquisition, widening of the corridor, and intersection improvements at the SR 4 junction. This project will enhance safety and relieve congestion by offering a direct route between two major state highway facilities.

Hazel Street Rail Crossing Grade Separation

The 2015 transportation package passed by the Legislature included \$25 million for the completion of Kelso's Hazel Street Crossing grade separation between 2019 and 2023. To complete this project, an environmental assessment and permitting must be completed prior to construction. The City seeks allocation of \$900,000 to complete the environmental assessment in a timely manner; allowing construction to begin in 2019.

The City supports the Association of Washington Cities' legislative agenda.



2016 Legislative Session

City Priorities

Washington's 281 cities and towns are where most residents live, learn, work, and play. Working together, we need to make a concerted and assertive effort to ensure every legislator knows that the state is only as strong as its cities and towns.

Infrastructure

Halt the diversion from critical infrastructure programs to help cities grow and prosper

City infrastructure systems are a critical part of a larger network that serves and benefits the entire state. Diversion from programs that support basic local infrastructure means that communities cannot affordably maintain and secure new infrastructure. We need to reboot, and potentially reformulate this partnership. The state's abandonment of these programs cannot be the only option.

Fiscal Sustainability

Ensure sufficient and flexible revenue for essential city services

The current method of funding city services is fundamentally broken. Many available revenue options are either constricted, restricted, or unpredictable. Cities need stable revenue streams to provide essential services such as public safety, infrastructure, and environmental protection to our growing population.

Emergency Responsiveness

Help cities prepare for and address impacts of natural disasters and other emergencies

As a result of recent experiences with devastating wildfires, landslides, and other emergencies, cities need better ways to address emergency management. Examples include greater ability to coordinate response and enhance communication in emergencies, and the authority to ban fireworks sales and use during dangerous conditions.

Public Records

Strengthen the Public Records Act in response to changing technology and burdensome requests

Cities support open and transparent government and continue to seek the best ways to meet this commitment. Unfortunately, there are a growing number of requestors who monopolize resources with broad, voluminous, commercially-driven, or retaliatory requests that do not provide a public benefit proportionate to the taxpayer dollars needed to fulfill these requests. Cities need additional tools to resolve conflicts outside the courtroom and the authority to charge a reasonable fee for electronic and commercial requests. We also need to address the impact changing technology has on public records.

Human Services, Homelessness and Affordable Housing

Enhance the provision of much needed human service programs to address issues that drive increased homelessness and public safety costs

Cities believe that investment in the state's human services network is necessary. Greater access to mental health and substance abuse services is essential. Cities throughout the state are grappling with affordable housing shortages and homelessness. Together with the state, counties, and other partners, we need to develop strategies to address housing shortages and homelessness in cities of all sizes and locations.

Contact:

Dave Williams

Director of Government Relations
davew@awcnet.org • 360.753.4137



AGENDA SUMMARY SHEET
Business of the City of Kelso
City of Kelso, Washington

SUBJECT TITLE:

**PUBLIC HEARING: FOR PROPOSED
ORDINANCE VACATING A PORTION OF
2ND AVENUE IN THE CITY OF KELSO TO
ABUTTING PROPERTY OWNERS**

Agenda Item: _____

Dept. of Origin: Community Development

For Agenda of: December 1, 2015

Cost of Item: _____

PRESENTED BY:

Michael Kardas, P.E.
Community Development Director/City Engineer

City Manager: Steve Taylor

AGENDA ITEM ATTACHMENTS:

SUMMARY STATEMENT:

As a result of the realignment of West Main, there is a portion of 2nd Avenue that is no longer to be used for street purposes. As a result, staff proposes vacating this portion of 2nd avenue back to the abutting property owners. The City would, as a part of the vacation process hold back an easement (as allowed by state law) for the public utilities and services that may remain in the vacated area.

Under state law at RCW 35.79, the process for vacation is by a petition of the abutting property owners (or a resolution of the legislative authority.) to initiate the process. Then a public hearing must be held on the vacation and the City may adopt an ordinance vacating the street or any part thereof.

The City adopted Resolution 15-1134 on November 3, 2015 initiating the vacation process and setting a hearing for December 1st. The City provided all the required notices for the hearing. The City did not receive any objections from the abutting property owners prior to the hearing date. The required public hearing was held in consideration of the proposed ordinance. The proposed ordinance vacates the right of way, conditioned upon the payment of compensation by abutting property owners and the reservation of necessary public utility easements as allowed by the statute. The ordinance also directs Community Development to effectuate the vacation and real property transfers.

FINANCIAL SUMMARY:

Under the statute, the City may provide that the vacation does not become effective until the abutting property owners compensate the City for an amount not in excess of one-half of the appraised value or in the case of a dedication over 25 years in the past to require compensation of the full appraised value. Because the City is the party initiating the vacation petition, staff is recommending payment of one half of the appraised value.

OPTIONS

Do Nothing—under this option, this unused portion of the street would remain property of the city and subject to our control and responsibility for its use, repair, and maintenance.

Vacate the property to the abutting property owners—The City would maintain necessary easements and the property owners would share an access easement.

RECOMMENDED ACTION:

The hearing will allow the city to receive public comment on the proposed ordinance, to vacate a portion of 2nd Avenue in the City of Kelso, to abutting property owners.

AGENDA SUMMARY SHEET

Business of the City Council City of Kelso, Washington

SUBJECT TITLE:

Boards & Commissions Re-Appointments

Agenda Item: _____

Dept. of Origin: City Manager

For Agenda of: December 1, 2015

Originator: Steve Taylor

PRESENTED BY:

Steve Taylor

City Attorney:

City Manager:

Agenda Item Attachments:**SUMMARY STATEMENT:**

Positions on the City's volunteer boards and commissions have term expirations for the appointed positions. The following names are individuals who have agreed to another term of service and want to continue their current participation.

Re-Appointments

- a. Kelso Housing Authority
 - i. Marjorie Pitcher, Term to End 01/01/2021
- b. Lodging Tax Committee, Term to End 12/31/2016
 - i. Bill Marcum
 - ii. Cindy Keeney
 - iii. Pam Fierst
 - iv. Syed Pasha
- c. Park Board
 - i. Pamela Jo Enbusk, Term to End 12/31/2019
- d. Highlander Festival
 - i. Cindy Keeney, Term to End 12/31/2019
- e. Library Board
 - i. Linda Curry, Term to End 12/31/2020
- f. Mosquito Board
 - i. Betty Wilson, Term to End 01/01/2018

RECOMMENDED ACTION:

Staff recommends approval of these re-appointments

AGENDA SUMMARY SHEET

AGENDA ITEM: Revised Agreement
regarding onsite computer support
services for '2016.

AGENDA ITEM # Walk-on

FOR AGENDA OF: 12/1/2015

ORIGINATING DEPT: Finance

DATE SUBMITTED: 11/17/2015

COST OF ITEM: _____

AMT. BUDGETED _____

CITY ATTY. APPROVAL _____

CITY MGR. APPROVAL _____

SUBMITTED BY: Brian Butterfield

AGENDA ITEM PAPERWORK:
Compass Lane Agreement Extension

SUMMARY STATEMENT:

The Agreement for 2016 services for an annual total has been modified to the amount \$87,216.00. This is for 720 hours of onsite computer support, of which 120 will be exclusively to the Police Department. The term of this contract extension is January 1, 2016 through December 31, 2016.

RECOMMENDED ACTION:

Staff recommends approval of the contract extension.



Nov 16, 2015

Contract Extension

The Contract for on-site computer services between the City of Kelso, WA and Compass Lane, Inc. shall be extended from Jan. 1, 2016 to Dec. 31, 2016

The terms of the contract shall be as follows:

On-Site Support – 720 hrs. \$ 87,216.00 annually.

Billable Monthly at \$ 7,268.00 (approx. 60 hours per month).

Additional time over the 720 hours shall be billed at the current hourly rate of \$ 168/hr.

A handwritten signature in black ink that reads "Dave Roberts".

Dave Roberts
President
Compass Lane, Inc.
11/06/2015
Date

City of Kelso, WA

Date

AGENDA SUMMARY SHEET

Business of the City Council City of Kelso, Washington

SUBJECT TITLE:

Water Treatment Chemical Purchase
Award Bids for Year 2016

Agenda Item: _____

Dept. of Origin: Public Works Department

For Agenda of: December 1, 2015

PRESENTED BY:

Randy Johnson
Superintendent of Public Works

Cost of Item: \$44,176.40

City Manager: _____

AGENDA ITEM ATTACHMENTS:

Bid Tabulation Sheet

SUMMARY STATEMENT:

This is the eighteenth year in which both Kelso and Longview have combined their quantities of Water Treatment Plant chemical bulk purchase to obtain favorable prices. Bids were opened on October 27th, 2015 for the 2016 Water Treatment Chemical Purchase. Eight separate bids were received from chemical manufacturers and suppliers. The low bidders for the Water Treatment chemicals the City of Kelso requires are as follows.

CHEMICAL	SUPPLIER	2016 BID PRICE	2015 BID PRICE
Sodium Hydroxide	Univar	.6638 / gallon	.695 / gallon
Sodium Hypochlorite	JCI Jones	.630 / gallon	.59/ gallon
Sodium Fluoride	Brenntag	.740 / pound	.780 / pound

FINANCIAL SUMMARY:

The total estimated Water Treatment Chemical cost for Kelso is \$44,176.40.

RECOMMENDED ACTION:

Staff recommends council make a motion to award bids to the respective low bidders for Water Treatment chemicals purchased for the year 2016.



2016 Chemical Bid Tabulation Sheet
for the City of Longview and City of Kelso

December 1, 2015



BIDDER	BID ITEM 1	BID ITEM 2	BID ITEM 3	BID ITEM 4
<i>(Shaded Area = Low Bidder)</i>	<u>Sodium Flouride</u>	<u>Flourosilicic Acid</u>	<u>Sodium Hydroxide</u>	<u>Sodium Hypochlorite</u>
	(\$ / lb)	(\$ / gal)	(\$ / gal)	(\$ / gal)
Cascade/Columbia	.82 lbs.	\$3.54 gal	.74 gal.	no bid
Thatcher	no bid	no bid	no bid	no bid
Brenntag	.74 lbs.	no bid	no bid	no bid
HASA	no bid	no bid	no bid	.76 gal
JCI Jones	no bid	no bid	.73 gal	.63 gal
Univar	.90 lbs.	no bid	.6638 gal.	no bid
Northstar	no bid	no bid	.685 gal.	no bid
Olin	no bid	no bid	no bid	no bid

City of Kelso Chemical Purchase Comparison, 2015 vs. 2016										
Item	Bid Units	Kelso Bid Quantities			Low Bidders' Unit Prices			Item Cost		
		2014	2015	Quantity Change	2015	2016	Unit Price Change	2014	2015	Cost Change
<u>Flouride</u>	Pounds	15,000	15,000	0	\$0.780	\$0.740	-\$0.040	\$11,700.00	\$11,100.00	-\$600.00
<u>Sodium Hydroxide</u>	Gallons	28,000	28,000	0	\$0.695	\$0.6638	-\$0.031	\$19,460.00	\$18,586.40	-\$873.60
<u>Sodium Hypochlorite</u>	Gallons	23,000	23,000	0	\$0.590	\$0.630	\$0.040	\$13,570.00	\$14,490.00	\$920.00
<u>Not Used</u>		0	0	0	\$0	\$0	\$0.000	\$0.00	\$0.00	\$0.00
								Total	\$44,176.40	-\$553.60

AGENDA SUMMARY SHEET

Business of the City Council City of Kelso, Washington

SUBJECT TITLE:

2016 State Legislative Agenda

Agenda Item: _____

Dept. of Origin: _____ City Manager _____

For Agenda of: December 1, 2015

PRESENTED BY:

Briahna Murray & Alex Soldano – Gordon
Thomas Honeywell Government Affairs

Originator: _____ Steve Taylor _____

City Attorney: **Janean Parker**

City Manager: **Steve Taylor**

Agenda Item Attachments:

Proposed City of Kelso 2016 State Legislative Agenda
2016 Assn of Washington Cities Legislative Priorities

SUMMARY STATEMENT:

Staff is requesting Council to take action on the 2016 State Legislative Agenda following the presentation from the City's contract lobbyists earlier in the agenda. The agenda document also includes support for AWC's 2016 Legislative Priorities.

OPTIONS:

1. Move to approve the 2016 State Legislative Agenda as presented.
2. Do not approve the legislative agenda.
3. Provide staff direction on amendments to the proposed agenda and bring back for further consideration.

RECOMMENDED ACTION:

Move to approve the 2016 State Legislative Agenda as presented.



City of Kelso 2016 Legislative Agenda

(Proposed)

Minor Road Reservoir Replacement

Kelso requests \$3 million to fully fund replacement the failing Minor Road Reservoir. The Minor Road Reservoir is located above and adjacent to I-5 and consists of two 90-year-old 1 million gallon concrete tanks. Both are leaking, structurally deficient, and unfit for repair or rehabilitation. In the event of a seismic event 6.0 or greater, both tanks are at a 100% risk of failure, which would result in catastrophic damage to residents, local homes, and a church/private school. Failure would likely result in significant damage to and closure of I-5. \$1.5 million was allocated to this project in the 2015 Capital Budget, but financing the completion of this project at market rates of interest will result in significant impacts to the City's low and fixed-income ratepayers.

Public Works Infrastructure Funding

During the 2015 legislative session, funding for public works infrastructure projects was essentially eliminated with defunding of the Public Works Assistance Account, including \$1.4 million to complete Yew Street Reconstruction in Kelso. The City supports efforts to create a long-term funding source for public works infrastructure.

Indigent Defense Standards:

Kelso requests additional funding assistance to meet the new Supreme Court-mandated indigent defense standards. The new caseload standards significantly limit the number of cases a public defender can manage. The financial impact of the new regulations on cities' general operating funds is burdensome. Under the new requirements, Kelso's indigent defense costs increased over 60% from \$90,000 to \$145,000 annually. Fortunately, grants through the Office of Public Defense have helped offset these increases in 2015 & 2016, but the continuation of grant funding is not assured. Additional funding provided to cities by the Supreme Court in 2015 via increasing traffic fine amounts will not be sufficient to offset the additional burden. Kelso requests that the Legislature provide additional relief for the financial impact of these new caseload standards.

Transportation Funding

Kelso supports regional priorities to improve vital infrastructure projects, including funding for grant programs, such as the Transportation Improvement Board and the Freight Mobility Strategic Investment Board. Additionally, the City supports the following projects in the City's geographic limits:

West Main Street Realignment Completion

Kelso requests \$5 million for Phase II of the West Main Street Realignment project. The West Main Street Corridor provides a direct route from SR 4 to I-5 through Kelso and improves access to SR 411. Phase II will complete the project and includes right-of-way acquisition, widening of the corridor, and intersection improvements at the SR 4 junction. This project will enhance safety and relieve congestion by offering a direct route between two major state highway facilities.

Hazel Street Rail Crossing Grade Separation

The 2015 transportation package passed by the Legislature included \$25 million for the completion of Kelso's Hazel Street Crossing grade separation between 2019 and 2023. To complete this project, an environmental assessment and permitting must be completed prior to construction. The City seeks allocation of \$900,000 to complete the environmental assessment in a timely manner; allowing construction to begin in 2019.

The City supports the Association of Washington Cities' legislative agenda.



2016 Legislative Session

City Priorities

Washington's 281 cities and towns are where most residents live, learn, work, and play. Working together, we need to make a concerted and assertive effort to ensure every legislator knows that the state is only as strong as its cities and towns.

Infrastructure

Halt the diversion from critical infrastructure programs to help cities grow and prosper

City infrastructure systems are a critical part of a larger network that serves and benefits the entire state. Diversion from programs that support basic local infrastructure means that communities cannot affordably maintain and secure new infrastructure. We need to reboot, and potentially reformulate this partnership. The state's abandonment of these programs cannot be the only option.

Fiscal Sustainability

Ensure sufficient and flexible revenue for essential city services

The current method of funding city services is fundamentally broken. Many available revenue options are either constricted, restricted, or unpredictable. Cities need stable revenue streams to provide essential services such as public safety, infrastructure, and environmental protection to our growing population.

Emergency Responsiveness

Help cities prepare for and address impacts of natural disasters and other emergencies

As a result of recent experiences with devastating wildfires, landslides, and other emergencies, cities need better ways to address emergency management. Examples include greater ability to coordinate response and enhance communication in emergencies, and the authority to ban fireworks sales and use during dangerous conditions.

Public Records

Strengthen the Public Records Act in response to changing technology and burdensome requests

Cities support open and transparent government and continue to seek the best ways to meet this commitment. Unfortunately, there are a growing number of requestors who monopolize resources with broad, voluminous, commercially-driven, or retaliatory requests that do not provide a public benefit proportionate to the taxpayer dollars needed to fulfill these requests. Cities need additional tools to resolve conflicts outside the courtroom and the authority to charge a reasonable fee for electronic and commercial requests. We also need to address the impact changing technology has on public records.

Human Services, Homelessness and Affordable Housing

Enhance the provision of much needed human service programs to address issues that drive increased homelessness and public safety costs

Cities believe that investment in the state's human services network is necessary. Greater access to mental health and substance abuse services is essential. Cities throughout the state are grappling with affordable housing shortages and homelessness. Together with the state, counties, and other partners, we need to develop strategies to address housing shortages and homelessness in cities of all sizes and locations.

Contact:

Dave Williams

Director of Government Relations
davew@awcnet.org • 360.753.4137



AGENDA SUMMARY SHEET

Business of the City Council City of Kelso, Washington

SUBJECT TITLE: Three Rivers Regional
Wastewater Authority presentation

Agenda Item: _____

Dept. of Origin: Community Development

For Agenda of: December 1, 2015

PRESENTED BY:

Steve Taylor, City Manager

Originator: Steve Taylor

City Attorney: **Janean Parker**

City Manager: **Steve Taylor**

Agenda Item Attachments:

TRRWA Interlocal Formation Agreement
City Attorney Parker Memo re: Formation Agreement – 10-14-2015

SUMMARY STATEMENT:

The City of Kelso belongs to the Three Rivers Regional Wastewater Authority (TRRWA), the entity that receives and treats wastewater from Kelso, Longview, Cowlitz County and Beacon Hill Water & Sewer District. Board members are appointed from each of the member entities to provide governance and oversight of TRRWA's operations. City Engineer Mike Kardas is Kelso's representative on the Board, and City Manager Steve Taylor is the alternate.

Two presentations have previously been made to the City Council regarding a change in governance from the current multi-agency partnership to a Joint Municipal Utility Authority. There are no outstanding comments or concerns from the Council and City staff that have not been addressed within this final draft. The TRRWA Board recommended this final draft of the interlocal formation agreement on November 10th, and the City of Longview approved the agreement on November 19th. Please also see City Attorney Janean Parker's memo for additional information and a summary of the agreement's major points.

The transition of operations to the new entity is proposed to take place on July 1, 2016. At that time, a new Board of Directors consisting of elected officials from the participating entities will be formed, and the current Board will transition to the new "Operating Board." By-laws for both boards are included within this agreement at Exhibits "C" and "D."

OPTIONS:

1. Move to approve the City's participation within the Three Rivers Regional Wastewater Authority as a Joint Municipal Utility Authority and authorize the City Manager to execute the interlocal formation agreement;
2. Do not approve the agreement

3. Provide staff direction with proposed amendments to bring back to the participating entities and schedule for consideration at a later date.

RECOMMENDED ACTION:

Move to approve the City's participation within TRRWA as a Joint Municipal Utility Authority and authorize the City Manager to executive the interlocal formation agreement.

**THREE RIVERS REGIONAL WASTEWATER AUTHORITY
JOINT MUNICIPAL UTILITY SERVICES AGREEMENT**

SECTION 1. PARTIES AND AGREEMENT.

The Parties to this “Agreement” are the City of Kelso, the City of Longview, Cowlitz County, and the Beacon Hill Water and Sewer District. The Parties are the Original Members of the Three Rivers Regional Wastewater Authority. The Parties agree as follows.

SECTION 2. RECITALS AND FINDINGS.

2.1 The public health, safety, and welfare of the residents of Kelso, Longview, Cowlitz County, and the Beacon Hill Water and Sewer District require the continued improvement of systems to provide sewerage collection, treatment, and disposal, the mitigation of water pollution, and the preservation of the area’s water resources.

2.2 Population growth, unique physical and topographic conditions, and the regional commitment to preserve water resources require a central sewage treatment plant, together with interceptors, pumping stations, and other assets and properties (the “Regional Assets”). Under the terms of a previous agreement, the Parties acquired ownership of the land upon which the Regional Assets are situated, together with ownership of related easements for sewer transmission lines. The continued improvement and operation of the Regional Assets require the Parties within the specified Longview-Kelso Urban Area to dispose of their sewage in the Regional Assets.

2.3 In 2005, the Parties organized the THREE RIVERS REGIONAL WASTEWATER AUTHORITY (“TRRWA”), as a successor to the Cowlitz Sewer Operating Board, a “joint board” under Chapter 39.34 RCW, through the “2005 Revised and Restated Interlocal Agreement Among City of Kelso, City of Longview, Beacon Hill Sewer District, and Cowlitz County for Wastewater Treatment & Disposal” last dated December 13, 2005 (the “2005 Interlocal Agreement”), as supplemented by the “Interlocal Agreement for Financing of Biosolids Processing Improvements” last dated May 11, 2006 (the “Supplemental Agreement”), and by the “Supplement to Revised and Restated Interlocal Agreement Among City of Kelso, City of Longview, Beacon Hill Sewer District, and Cowlitz County for Wastewater Treatment & Disposal” last dated November 28, 2006 (together, the “Pre-Formation Agreements”). TRRWA ensures continued operation and improvement of the Regional Assets in order to maintain compliance with applicable federal, state, and local laws and regulations. The Parties jointly govern TRRWA by each appointing a representative to serve on TRRWA’s four-member board. The board exercises necessary powers and responsibilities to operate and maintain the Regional Assets, while ensuring representation in regional authority governance by each Party.

2.4 Prior to the 2005 Interlocal Agreement, the Parties cooperated with respect to the Regional Assets pursuant to the “Interlocal Agreement Among City of Kelso, City of Longview, Beacon Hill Sewer District and Cowlitz County for Wastewater Treatment and Disposal” executed between May and July, 1996, as amended by the agreement denominated “First Amendment to Interlocal Agreement among City of Kelso, City of Longview, Beacon Hill Sewer District, and Cowlitz County for Wastewater Treatment and Disposal” effective June 1,

1998, as amended by the agreement entitled “Revised and Restated Interlocal Agreement Among City of Kelso, City of Longview, Beacon Hill Sewer District, and Cowlitz County for Wastewater Treatment and Disposal” effective on or about the 1st day of September, 2002, as supplemented by two separate agreements each denominated “Interlocal Agreement for Financing of Wastewater Treatment Plant Expansion” and dated July 26, 1999 (one with respect to \$40 million of general obligation bonds issued by the County, and the other with respect to a \$7 million Public Works Trust Fund loan), and as further supplemented by the “Interlocal Agreement for Supplemental Financing of Wastewater Treatment Plan Expansion” executed in April and May 2001, with respect to a \$3 million Public Works Trust Fund loan.

2.5 The Parties continue to be served by the Regional Assets, and each equitably shares in the Regional Assets’ operating costs and improvement financing. TRRWA currently plans and provides for the long-term capital and operational needs of the Regional Assets, which may include mandated technological and regulatory changes and increased capacity and space demands.

2.6 Under the Joint Municipal Utility Services Act (Chapter 39.106 RCW), certain local governments and federally-recognized Indian tribes may enter into joint municipal utility services agreements to form independent municipal corporations to perform any or all of the utility services that their participating members may perform.

2.7 The Parties find that organizing TRRWA as an authority under the Act will enable TRRWA to more effectively and efficiently operate, maintain, and improve the Regional Assets. Because TRRWA’s existing obligations will be the obligations of the successor TRRWA formed under this Agreement, the Parties further find that replacement of the Pre-Formation Agreements with this Agreement will not adversely affect the rights of owners of Bonds currently outstanding under the Parties’ covenants and obligations with respect to the Pre-Formation Agreements. This Agreement therefore organizes TRRWA as a joint municipal utility authority and independent municipal corporation under the Act and replaces the Pre-Formation Agreements in accordance with RCW 39.106.080.

SECTION 3. DEFINITIONS,

3.1 “Act” means the Joint Municipal Utility Services Act, Chapter 39.106 RCW.

3.2 “Additional Member” means any governmental participant, other than an Original Member, that provides wastewater services and joins TRRWA as a Member after execution of this agreement in accordance with Subsection 5.6.

3.3 “Agreement” means this “Three Rivers Regional Wastewater Authority Joint Municipal Utility Services Agreement.”

3.4 “Annual Average Daily Flow” or “AADF” means the total Flow of Wastewater in millions of gallons during a full calendar year, divided by the number of days in such year, expressed in millions of gallons per day.

3.5 “Beacon Hill Water and Sewer District” (formerly the “Beacon Hill Sewer District”) means the Beacon Hill Water and Sewer District, a Washington municipal corporation and water-sewer district organized under Title 57 RCW.

3.6 “Biochemical Oxygen Demand” or “BOD” means a standardized laboratory procedure which measures the amount of oxygen consumed in a wastewater sample during a specified incubation period. This test is described in the most current version of the book entitled “Standard Methods for the Examination of Water and Wastewater.”

3.7 “Board of Directors” or “Board” means the TRRWA Board of Directors, as set forth in SECTION 5.

3.8 “Bonds” means bonds, notes or other evidences of indebtedness issued by TRRWA or by another entity (*e.g.*, by a Member) on behalf of TRRWA.

3.9 “Capital Component” means the portion of TRRWA rates that relates to costs of financing the Regional Assets, as described in Subsection 9.1.

3.10 “Collection Facility” or “Collection Facilities” means sewers, transmission lines, force mains, interceptors, pump stations and other sewer facilities required to collect and deliver wastewater from customers to Transmission Facilities or Treatment Facilities.

3.11 “Contracting Municipal Wastewater Utility” means a county, city, town, water-sewer district, public utility district, other special purpose district, municipal corporation, or other unit of local government of this or another state and any federally-recognized Indian tribe authorized by law to provide a system of sewers for the collection, transmission, or treatment of Wastewater, that has entered into an agreement with TRRWA that provides for TRRWA acceptance of some or all of that entity’s Wastewater.

3.12 “County” means Cowlitz County, Washington, a political subdivision of the State of Washington.

3.13 “Ecology” means the Washington State Department of Ecology, or its successor.

3.14 “Environmental Protection Agency” or “EPA” means the United States Environmental Protection Agency, or its successor.

3.15 “Equivalent Residential Unit” or “ERU” is a measure applied to a user of a sewage system. The number of ERUs assigned to any user (for example, an apartment house, motel, school, hospital, nursing home, or any other public or commercial establishment) is the numerical ratio of the monthly volume of Wastewater contributed by the user to the monthly volume of Wastewater contributed by a single family residence. This ratio serves as a practical basis for computing the number of ERUs contributing Wastewater into the Regional Assets when and if the computation is necessary or desirable to either supplement or replace a direct Flow measurement.

3.16 “Flow” means a volume of Wastewater per unit of time.

3.17 “Formation Date” means the date this Agreement is filed with the Washington Secretary of State and TRRWA is formed as a joint municipal utility services authority in accordance with RCW 39.106.030(1).

3.18 “Former TRRWA” means the intergovernmental entity and joint board authorized and created by the Pre-Formation Agreements under Chapter 39.34 RCW.

3.19 “Improvements” means those improvements to the Regional Assets described in the Updated Sewerage General Plan dated February 1997, as it is amended from time to time, and those in other TRRWA capital facilities improvements plans.

3.20 “Influent Point” means the point at which a Member’s Internal System connects to the Regional Assets.

3.21 “Internal System” means all Collection Facilities, Transmission Facilities, and Treatment Facilities owned and operated by a Member upstream from its respective Influent Point(s).

3.22 “Kelso” means the City of Kelso, Washington, a Washington municipal corporation and code city organized under Title 35A RCW.

3.23 “Longview” means the City of Longview, Washington, a Washington municipal corporation and code city organized under Title 35A RCW.

3.24 “Member” (collectively, the “Members”) means one or more governmental participants of TRRWA, including the Original Members and Additional Members.

3.25 “Million Gallons Per Day” or “MGD” refers to a rate of Wastewater Flow.

3.26 “Maintenance and Operation Component” or “M&O Component” means the portion of TRRWA rates, charges, fees, or other payments that relate to Maintenance and Operation Costs, as described in Subsection 9.1.

3.27 “Maintenance and Operation Costs” or “M&O Costs” means all direct costs and expenses incurred by TRRWA in (i) transporting, treating, and disposing of Wastewater through the Regional Assets, (ii) maintaining, repairing, and replacing the Regional Assets, and (iii) administering a joint Industrial Pre-Treatment program.

3.28 “Operating Board” means the TRRWA Operating Board as set forth in Subsection 5.6.

3.29 “Operations Date” means July 1, 2016, the date this Agreement replaces the Pre-Formation Agreements and TRRWA becomes successor to the Former TRRWA in accordance with RCW 39.106.080.

3.30 “Original Member” or “Party” (collectively, the “Original Members” or the “Parties”) means the governmental entities initially executing this Agreement and described

in SECTION 1, including Kelso, Longview, the Beacon Hill Water and Sewer District, and the County.

3.31 “Pre-Formation Agreements” means, collectively: (i) the “2005 Revised and Restated Interlocal Agreement Among City of Kelso, City of Longview, Beacon Hill Water and Sewer District, and Cowlitz County for Wastewater Treatment & Disposal” last dated December 13, 2005; (ii) the “Interlocal Agreement for Financing of Biosolids Processing Improvements” last dated May 11, 2006; and (iii) the “Supplement to Revised and Restated Interlocal Agreement Among City of Kelso, City of Longview, Beacon Hill Sewer District, and Cowlitz County for Wastewater Treatment & Disposal” last dated November 28, 2006.

3.32 “Regional Assets” means TRRWA’s Treatment Facilities, Transmission Facilities, and other assets together with applicable lands, easements, conveyances, and river crossings operated, maintained, or owned by TRRWA, as depicted on Exhibit A and as may be amended.

3.33 “Reserve Fund” means the separate TRRWA fund established by Subsection 9.6.

3.34 “Service Area” means the area served by the Members’ Internal Systems as depicted on Exhibit B and as may be amended.

3.35 “System Development Charge” or “SDC” means the charge for each new sewer system connection made following execution of this Agreement, as measured in ERUs, for purposes of reimbursing TRRWA for costs incurred to provide existing capacity or paying for the new connection’s use of planned future capacity.

3.36 “Three Rivers Regional Wastewater Authority” or “TRRWA” means the Washington municipal corporation and Washington joint municipal utility services authority organized under Chapter 39.106 RCW and formed by this Agreement.

3.37 “Total Suspended Solids” or “TSS” means that portion of a filtered sample which is retained on a filter pad that is dried at a specified temperature. This test is described in the most current version of a book entitled “Standard Methods for the Examination of Water and Wastewater.”

3.38 “Transmission Facility” or “Transmission Facilities” means transmission lines, force mains, interceptors, pump stations and other facilities required to transfer wastewater from Collection Systems to Treatment Facilities.

3.39 “Treatment Facility” or “Treatment Facilities” means treatment plants, outfalls and other facilities required to treat Wastewater.

3.40 “Wastewater” means all water and liquid Flows in a Collection Facility, Transmission Facility or Treatment Facility, including without limitation industrial, commercial, agricultural, septage, infiltration or inflow, storm or surface water, and domestic sewage (*i.e.*, sanitary wastes normally collected from residential establishments, commercial and industrial wastes of similar strength or quality, and other commercial and industrial wastes that are pre-treated in accordance with Ecology and EPA guidelines).

SECTION 4. FORMATION.

4.1 Formation and Name. On the Formation Date, the “Three Rivers Regional Wastewater Authority” is formed as a joint municipal utility services authority under the Act.

4.2 Purpose and Powers. TRRWA’s purpose is to jointly provide regional Wastewater transmission and treatment for TRRWA Members and other Contracting Municipal Wastewater Utilities. TRRWA may exercise all powers authorized by Chapter 39.106 RCW, subject to the terms of this Agreement. TRRWA will provide all necessary Treatment Facilities, Transmission Facilities, and Wastewater services to receive and dispose of Wastewater collected by its Members within the Service Area and delivered to the Regional Assets in accordance with TRRWA rules. TRRWA may provide Treatment Facilities, Transmission Facilities, and Wastewater services for Contracting Municipal Wastewater Utilities and non-contract dischargers upon Operating Board approval. TRRWA may provide additional Wastewater treatment services as determined by the Operating Board. TRRWA may provide additional utility services as determined by the Board of Directors.

4.3 Membership. TRRWA’s membership consists of the Original Members, together with any Additional Members that may later join TRRWA in accordance with Subsection 5.6.

4.4 Pre-Formation Agreements. As of the Operations Date, this Agreement replaces the Pre-Formation Agreements.

4.5 Historic Agreements. For the avoidance of doubt, the following historic agreements remain superseded: (i) the “Interlocal Agreement Among City of Kelso, City of Longview, Beacon Hill Sewer District and Cowlitz County for Wastewater Treatment and Disposal” executed between May and July, 1996; (ii) the “First Amendment to Interlocal Agreement Among City of Kelso, City of Longview, Beacon Hill Sewer District, and Cowlitz County for Wastewater Treatment and Disposal” effective June 1, 1998; and, (iii) the “Revised and Restated Interlocal Agreement Among City of Kelso, City of Longview, Beacon Hill Sewer District, and Cowlitz County for Wastewater Treatment and Disposal” which was effective on or about the 1st day of September, 2002.

4.6 Ratification of Prior Acts. All actions of the Former TRRWA taken prior to the Operations Date under the Pre-Formation Agreements and not inconsistent with this Agreement are ratified, approved and confirmed in all respects, including without limitation all resolutions, motions, bylaws, rules, policies, procedures, guidelines, manuals, contracts, agreements, minutes, and proceedings.

4.7 Existing Rights and Obligations Confirmed. As of the Operations Date, existing rights and obligations of the Original Members and the Former TRRWA continue as follows:

4.7.1 All existing capacity rights and financial obligations of the Original Members under the terms of the Pre-Formation Agreements are transferred to each of the Original Members under this Agreement, subject to later adjustments under the terms of this Agreement.

4.7.2 All rights and obligations of the Former TRRWA are the rights and obligations of TRRWA. The replacement of the Pre-Formation Agreements does not impair any obligations entered into pursuant to or in reliance on the Pre-Formation Agreements or the Former TRRWA's prior actions that remain in full force and effect on the Operations Date under Subsection 4.6, subject to subsequent amendment, modification, or action.

4.7.3 Existing obligations of the Original Members and the Former TRRWA to irrevocably pledge revenues from the collection of any TRRWA rates established under the Pre-Formation Agreements remain valid and binding obligations of the Original Members and are valid and binding obligations of TRRWA. For as long as any Bonds outstanding as of the Operations Date remain outstanding, each Original Member irrevocably pledges to establish sewer rates and charges, and include amounts in its sewer enterprise fund annual budget, sufficient to provide for payment of TRRWA rates.

4.7.4 For the avoidance of doubt (and without limitation), the following interlocal agreements and financial contracts remain valid:

(a) Interlocal Agreement for Financing of Wastewater Treatment Plant Expansion; July 1999 - pertaining to \$40 million of general obligation bonds issued by the County; bonds refunded in 2002 by special sewer revenue bonds (TRRWA Resolution No. 02-88).

(b) Interlocal Agreement for Financing of Wastewater Treatment Plant Expansion; July 1999 - pertaining to \$7 million public works trust fund loan (PW-99-791-009).

(c) Interlocal Agreement for Supplemental Financing of Wastewater Treatment Plant Expansion; May 2001 - pertaining to \$3 million Public Works Trust Fund loan (PW-01-691-020).

(d) Interlocal Agreement for Supplemental Financing of Wastewater Treatment Plant Expansion Biosolids Handling Improvements; December 2005 - pertaining to \$1 million Public Works Trust Fund loan (PW-05-691-PRE-124).

(e) Interlocal Agreement for Financing of Biosolids Processing Improvements; May 2006 - pertaining to \$14 million of special sewer revenue bonds.

(f) Public Works Trust Fund Construction Loan Agreement PC-08-951-049; March 2008 – in the amount of \$6,630,750.

SECTION 5. TRRWA BOARD OF DIRECTORS ORGANIZATION AND POWERS; OPERATING BOARD ORGANIZATION AND POWERS.

5.1 Board of Directors Composition. TRRWA's Board of Directors consists of one Director and any alternate Directors appointed by each Member. Directors and alternates must be elected officials of the appointing Member. More than one alternate may be appointed to

serve on the Board of Directors when a Member's designated Director is unable to participate in a meeting, but only one Director from each Member may actively participate in a Board of Directors meeting at any time. The Members may appoint and remove their appointee Directors and alternates in such manner as they individually determine.

5.2 Board of Directors Powers. The Board of Directors exercises all policy, oversight and governance powers of TRRWA, and carries out the responsibilities specified in this Agreement. The Board of Directors may adopt appropriate rules, including Board of Directors rules and procedures, and may delegate powers and responsibilities to the Operating Board in addition to those specified in Subsection 5.6. Initial Board of Directors Bylaws (attached as Exhibit C) are adopted by approval of this Agreement. The Board of Directors Bylaws may be modified by the Board of Directors.

5.3 Board of Directors Officers and Legal Counsel. Board of Directors officers consist of a Chair, Vice Chair, and such other officers as the Board of Directors desires. Legal counsel to TRRWA, if any, will report directly to the Board of Directors and will work in coordination with and support the actions of the Operating Board.

5.4 Board of Directors Meetings. The Board of Directors will meet twice per year (or more frequently in the Board of Directors' discretion) under a regular meeting schedule established by resolution, bylaws, or other Board of Directors action. Notice of Board of Directors meetings must conform to the requirements of the Open Public Meetings Act (Chapter 42.30 RCW). Additional requirements regarding notice, preparation and distribution of agendas, minutes and conduct of meetings may be established by the Board of Directors.

5.5 Board of Directors Voting. Each Director will have one (1) vote on issues that come before the Board of Directors.

5.5.1 Board of Directors Majority and M&O Component Voting. The following Board of Directors actions require both (i) a majority vote of the Board of Directors and (ii) approval by Directors representing Members paying more than 50% of the M&O Component, unadjusted for the prior Flow portion period:

- (a) Amend this Agreement.
- (b) Ratify budgets adopted by the Operating Board as required under Subsections 8.1 through 8.3.
- (c) Ratify Member rates, charges, fees, or other required payments adopted by the Operating Board as required under SECTION 9.
- (d) Admit new Members to TRRWA.
- (e) Revise the Service Area.
- (f) Terminate this Agreement.

(g) Determine the Regional Assets' purchase price upon TRRWA's dissolution.

(h) Authorize the borrowing of money or issuance of Bonds by TRRWA or by another entity on behalf of TRRWA.

(i) Authorize the exercise of eminent domain by TRRWA.

5.5.2 Board of Directors Simple Majority Voting. Board of Directors actions not expressly listed in Subsection 5.5.1 are made by majority vote of the Directors present and voting.

5.6 Operating Board.

5.6.1 Operating Board Representation. The Operating Board consists of one Representative appointed by each Member. The appointment, duration, termination, and revocation of any Operating Board Representative rests within the sole discretion of the Representative's appointing Member. Each Member may appoint any number of alternates in its discretion. Due to the technical knowledge necessary to manage and operate the Regional Assets, Members must appoint professional technical personnel as their respective Representatives and alternates to the Operating Board.

5.6.2 Operating Board Powers and Duties. Under the direction of the Board of Directors, the Operating Board operates and administers TRRWA's day-to-day activities. Initial Operating Board Bylaws (attached as Exhibit D) are adopted by approval of this Agreement. The Operating Board Bylaws may be modified by the Operating Board. The Operating Board will:

(a) Perform all powers and duties consistent with: (i) the budget and the rates, charges, fees, or other required payments as ratified by the Board of Directors; and (ii) any other resolutions, rules, authorizations, or directives established by the Board of Directors.

(b) Report directly to the Board of Directors.

(c) Provide Operating Board representation at all meetings of the Board of Directors.

(d) Designate the clerk of the Board of Directors to keep the records, minutes, and other files of the Board of Directors.

(e) Keep the Board of Directors fully advised of TRRWA's financial condition and its future needs.

(f) Exercise general supervision over TRRWA's operational and administrative affairs.

(g) See that all laws and resolutions are faithfully executed.

(h) Perform such other duties necessary to operate, maintain, repair, and administer the Regional Assets or as the Board of Directors may determine by resolution. When the Board of Directors has not established policy or provided direction to the Operating Board regarding a specific matter, the Operating Board may adopt Operating Board policies to address such matters.

5.6.3 Operating Board Voting: Each Operating Board Representative will have one (1) vote on issues that come before the Operating Board. Alternates may participate in Operating Board meetings and discussions, but may only vote when serving in the absence of that alternate's Representative. Operating Board meetings and meeting notices must conform to the requirements of the Open Public Meetings Act (Chapter 42.30 RCW).

5.6.4 Operating Board Majority and M&O Component Voting. The following Operating Board actions require both (i) a majority vote of the Operating Board and (ii) approval by Operating Board Representatives of Members paying more than 50% of the M&O Component, unadjusted for the prior Flow portion period:

- (a) Adopt budgets as required under Subsections 8.1 through 8.3.
- (b) Adopt rates, charges, fees, or other required payments as required under SECTION 9.
- (c) Approve wages and benefits for non-represented TRRWA employees.
- (d) Approve employee collective bargaining agreements.
- (e) Adopt and amend TRRWA rules or regulations.

5.6.5 Operating Board Simple Majority Voting. Operating Board actions not expressly listed in Subsection 5.6.4 are made by majority vote of the Representatives present and voting, and include but are not limited to the following:

- (a) Award construction, service, and material purchase contracts.
- (b) Approve disposition of one or more, but not substantially all, of the Regional Assets (i.e., the sale, lease, mortgage or other encumbrance, transfer, or disposal of the Regional Assets).
- (c) Adopt and amend operating procedures.
- (d) Appoint and remove at any time, plant superintendents or other general managers (if any) of TRRWA's Regional Assets.
- (e) Recommend measures for Board of Directors adoption.

5.6.6 Continuity of Operations. To the extent available and unexpended funds exist in the Maintenance, Reserve, Fixed Asset Replacement, Rate Stabilization, and Severance Funds of the adopted TRRWA budget, and such other similar purposed funds as may be established in the budget, the Operating Board may expend funds and incur obligations to operate, maintain, and repair the Regional Assets as needed or desirable to maintain continuity of operation and maintenance thereof, and may make adjustments within and transfer funds between the above identified Funds of the adopted budget as needed to expend funds for such purposes.

(a) In the event there are not sufficient available and unexpended budgeted funds within the above identified Funds to pay the costs of such operation, maintenance, and repair of the Regional Assets, the Operating Board may amend the TRRWA budget consistent with the requirements of Subsections 8.2 and 8.3 to require additional funds be provided by the Members, subject to ratification of such budget amendment by the Board of Directors.

(b) The Operating Board may delegate to the plant superintendent or other general manager, subject to appropriate financial safeguards and oversight by the Operating Board, authority to initiate emergency operations, maintenance, or repair work and purchase material and equipment related to such work, and to incur obligations in connection therewith, subject to approval and ratification by the Operating Board in accordance with policies and procedures established by the Operating Board.

5.7 Board of Directors Committees and Advisory Boards. The Board of Directors may create committees and advisory boards, including committees to consider finance issues, maintenance and operations matters, and capital planning and infrastructure, when it determines the Operating Board has not provided adequate community representation on the matter. Committees and advisory boards may include either Directors or non-Directors (including Operating Board Representatives), or both. The Board of Directors may not delegate to committees or advisory boards the authority vested in the Board of Directors or the authority vested in the Operating Board under this Agreement.

5.8 Additional Members. The inclusion of each Additional Member requires Board of Directors approval under Subsection 5.5.1. Each Additional Member must “buy in” to TRRWA by paying for its allocable share of Regional Assets and/or by contributing Regional Assets, in such amounts as will be determined by the Board of Directors.

5.9 Withdrawal of a Member. In order to prevent remaining Members from carrying “stranded costs,” any withdrawing Member is responsible for the full cost of its withdrawal to TRRWA, including without limitation the payment or provision for payment of its allocable share of the Capital Component of rates established under Subsection 9.1. The Board of Directors, acting in its reasonable judgment, has the sole power to determine the appropriate payment obligations of a withdrawing Member. The Director representing a Member proposing to leave TRRWA may not vote on the determination of that leaving Member’s payment obligations to TRRWA.

SECTION 6. SEWAGE TREATMENT.

6.1 Member Capacity. TRRWA will treat by means of the Regional Assets, Wastewater discharged by each Member in accordance with TRRWA rules within the Service Area up to the Regional Assets' capacity as long as the discharging Member requires it, barring events and circumstances which are beyond TRRWA's control. Capacity will be available on a "first come, first served" basis, provided such discharges comply with all quality and quantity limits or standards established by TRRWA.

6.2 Rules Governing Flows into the Regional Assets. By resolution, TRRWA may establish rules governing acceptance of Wastewater into the Regional Assets, including without limitation, rules governing Wastewater quality, Wastewater quantity, metering Influent Points, and Member pre-treatment ordinances or resolutions.

SECTION 7. OPERATION, TREATMENT, AND QUALITY OF THE FACILITIES AND THE MEMBERS' INTERNAL SYSTEMS.

7.1 Operation and Maintenance of the Regional Assets. TRRWA is responsible for the operation, maintenance, and administration of the Regional Assets, subject to the terms of this Agreement. TRRWA must operate and maintain the Regional Assets in accordance with generally accepted engineering standards, and the standards established by EPA, Ecology, the Washington State Department of Health, and other federal, state, and local agencies.

7.2 Rules Governing Internal Systems. Each Member must manage its Internal System at its sole expense, including all of its internal facilities as required to maintain the volume and quality of Wastewater within the limits set forth in this Agreement, including without limitation any TRRWA rules adopted under Subsection 6.2. Each Member must ensure the highest practicable standards and practices in the construction, operation, and maintenance of its Internal System.

7.3 Treasurer. TRRWA must appoint a treasurer from time to time by resolution of the Board of Directors, consistent with the provisions of RCW 39.106.050(13).

7.4 Applicable Lien Laws. If TRRWA provides direct retail services (i.e., not through or on behalf of a Member), TRRWA will apply and exercise the powers of a water or sewer district under RCW 57.08.081 or other applicable water-sewer district law.

7.5 Applicable Personnel Laws. With respect to its own employees, TRRWA will apply the personnel laws pertaining to code cities under Chapter 35A.41 RCW, and so long as any Member is a code city with a population of more than 20,000, then the provisions of RCW 35A.41.010 will apply.

7.6 Public Works and Procurement Laws. TRRWA will apply the public works and procurement laws applicable to code cities under RCW 35A.40.210 and RCW 35.23.352. Consistent with RCW 35A.40.210, RCW 35.22.620 will apply so long as any Member has a population of 20,000 or more, and otherwise the provisions of RCW 35.23.352 will apply.

7.7 Eminent Domain Laws. TRRWA will apply and exercise the powers of eminent domain under the laws applicable to code cities pursuant to Chapter 8.12 RCW.

7.8 Surplus Property. TRRWA will apply and exercise the powers respecting surplus property under the laws applicable to code cities pursuant to RCW 35A.11.010.

7.9 Member Governing Laws. If a Member acts for or on behalf of TRRWA with respect to a Regional Asset or proposed Regional Asset, that Member will apply the appropriate laws applicable to that Member's form of government.

7.10 Indemnification. TRRWA will indemnify the Members, their officers and employees for damages caused by the willful misconduct or negligence of TRRWA, its officers, employees and agents. Consistent with RCW 4.96.041, the Board of Directors will establish by resolution a procedure to indemnify TRRWA's past and present officers, employees, and volunteers.

7.11 Ethics. TRRWA, its officers and employees (if any) are subject to the provisions of Chapter 42.23 RCW.

7.12 Public Records. TRRWA will comply with the requirements of Washington public records laws, including Chapter 42.56 RCW.

7.13 Rule Making. Consistent with SECTION 5, the Board of Directors and Operating Board will adopt and amend TRRWA rules and regulations by resolution.

7.14 TRRWA Bonds. When Bonds are issued by a Member on behalf of TRRWA, those Bonds will be issued in accordance with the bond statute or statutes applicable to that Member. When Bonds are issued by TRRWA, those Bonds will be issued in accordance with the bond statute or statutes applicable to one of the Member's form of government, as further specified by resolution of the Board of Directors.

SECTION 8. FINANCES/ENTITY CONTRIBUTIONS.

8.1 Budget Formulation. The Operating Board will adopt TRRWA's budget, which must be formulated in a manner consistent with the relevant budget processes employed by each Member. The budget adopted by the Operating Board is subject to ratification by the Board of Directors. TRRWA will submit each Member's proportionate share of TRRWA's budget to that Member's legislative authority for incorporation into the Member's sewer enterprise fund budget.

8.2 Budget. The budget must include revenues and expenses for maintenance and operations, capital improvements, reserves, and other revenues, expenses, and budget funds established by the Operating Board. The capital improvements portion of the budget must include, without limitation, the following two sections:

8.2.1 Capital Improvements to Maintain and Use Overall Capacity. This portion of the capital budget must include: (a) the necessary reconstruction or replacement of all TRRWA facilities shown on Exhibit A, which will be amended and

reincorporated as part of this Agreement when additional facilities or capacities are added to the Regional Assets as provided for in this Agreement; (b) capacity improvements to TRRWA sewer lines, pumping stations, and other facilities, as shown on Exhibit A, necessary to use the existing primary and secondary treatment capacity of the plant; and (c) upgrades for regulatory compliance within the capacity of TRRWA's Treatment Facilities.

8.2.2 Capital Improvements to Increase Overall Capacity. This portion of the capital budget must include any construction that (a) increases the primary or secondary treatment capacity of TRRWA's Treatment Facilities, (b) increases the capacity of TRRWA's Collection Facilities or Transmission Facilities, or (c) consists of an addition to TRRWA facilities not included on Exhibit A (for example, accepting subsequent ownership of a Member's facility, or new facility construction to serve new areas).

8.3 Required Appropriations. Each Member must fund its portion of the following:

8.3.1 TRRWA's M&O Costs in proportion to that Member's respective Flow to the Regional Assets, as reasonably determined by TRRWA. Adjustments to the amounts paid by Members for their flow-related costs will be based on actual Flows. Adjustments for the prior year will be reflected in the following year's monthly payments to TRRWA in the form of debits or credits, as appropriate or as more specifically provided by TRRWA rule.

8.3.2 TRRWA's repair and replacement costs to existing Regional Assets in proportion to that Member's respective Flow to the Regional Assets.

8.3.3 TRRWA's costs related to upgrades to existing Regional Assets for purposes of capacity expansion or regulatory compliance with new standards by payment from: (a) the SDCs imposed by TRRWA in the portion of the Service Area covered by that Member's sewage utility or (b) other funds equal to that Member's share of the costs proportional to its respective Flow to the Regional Assets, as determined by TRRWA.

8.4 Future Obligations. In the event that capital improvements are funded through Bonds, the governing bodies of each Member will be obligated to execute appropriate legal documents committing the Member to its share of debt service until the Bonds are satisfied.

8.5 System Development Charges. TRRWA may establish SDCs for new connections to Internal Systems that contribute Flow to the Regional Assets. The amount of these charges may be calculated as a function of ERUs to recover the cost of new developments' use of the Regional Assets' capacity. System development charges must be uniform across customer classes (as determined by TRRWA) throughout the Service Area.

8.5.1 Each Member must either (a) collect and remit to TRRWA applicable SDCs or (b) to the extent that Member chooses to not apply the SDCs to new connections, remit to TRRWA an amount equal to that which the Member would have collected by imposing TRRWA's SDCs.

8.5.2 Members must remit to TRRWA on a monthly basis the SDC payments owed under this Subsection 8.5. SDCs for new connections established in stages or phases may be paid as each stage or phase is developed. TRRWA will deposit these SDC remittances into the Reserve Fund established in Subsection 9.6.

8.5.3 If TRRWA is further required by applicable laws or regulations to upgrade the Regional Assets to provide a higher level of wastewater treatment or to modify the methods and/or locations of wastewater discharge, each Member must, if it desires to continue discharging Wastewater into the Regional Assets, pay its proportionate share as established in Subsections 8.1, 8.2, and 8.3.

8.5.4 TRRWA will seek opportunities to reduce or avoid the cost of additional improvements through mutually agreeable modifications in the quantity and quality of Wastewater discharged by the Members.

8.6 Discontinue Discharge. Any Member desiring to discontinue discharging Wastewater into the Regional Assets must give notice of its intent to discontinue not less than three years prior to the date of discontinuance. Unless another Member or other entity assumes the discontinuing Member's Capital Component obligation under Subsection 9.1, the discontinuing Member will remain obligated to pay the Capital Component of TRRWA rates until all Bonds payable from those rates as of the date of discontinuance (and any subsequent refunding Bonds) are redeemed or defeased.

SECTION 9. PAYMENT FOR MAINTENANCE, OPERATION, AND CAPITAL IMPROVEMENT COSTS FOR THE REGIONAL ASSETS.

9.1 TRRWA Rates. The Operating Board will adopt rates, charges, fees, or other payments charged to the Members for treatment of sewage, septage, external sewage sources, and provision of treatment and related services to the Members in amounts at least sufficient for TRRWA to: (a) maintain and operate the Regional Assets (the "M&O Component"); and (b) pay the principal of, interest on, and coverage covenants with respect to any and all revenue Bonds that constitute a charge upon Regional Asset revenues (the "Capital Component"). These rates, charges, fees, or other payments adopted by the Operating Board are subject to ratification by the Board of Directors.

9.2 Contract Rates and Spot Rates. Rates paid by Contracting Municipal Wastewater Utilities under contract with TRRWA will be determined in accordance with the relevant contract approved by the Operating Board. Rates paid by other dischargers without a contract will be determined by the Operating Board. These rates will apply unless modified by the Board of Directors.

9.3 Revenue Obligations. TRRWA may pledge revenue from any rates, charges, fees or other payments established under this Agreement to the repayment of Bonds. Members must timely pay TRRWA those rates, charges, fees or other payments secured by or relied upon by any financing party entitled to the Members' payments to TRRWA and TRRWA's payments to the financing party. TRRWA must impose, and each Member must pay, the Capital Component of the payments required under this SECTION 9 whether or not the Regional Assets are

operating and notwithstanding the suspension, interruption, interference, reduction or curtailment in the operation of the Regional Assets for any reason whatsoever, in whole or in part. Payments by any Member to TRRWA, and payments by TRRWA to any entity financing an indebtedness, may not be subject to any reduction, whether by offset or otherwise, and may not be conditioned upon the performance or nonperformance of any Member, except as otherwise approved by all Members or by separate agreement.

9.4 Monthly Payments. Each Member must make monthly payments to TRRWA for the rates, charges, fees or other payments established by TRRWA under Subsection 9.1 above. The M&O Component of monthly payments must include one twelfth of the Member's proportionate share of the M&O Costs adopted in TRRWA's annual budget for the Regional Assets. Each Member's share of the total annual M&O Costs, and its share of the repair and replacement and other facilities costs comprising the Capital Component, will be determined as set forth in Subsections 8.2 and 8.5.

9.5 Remitting Payments. Each Member's monthly payments are due at the earliest date, depending on the Member's accounts payable cycle. In the event that the Member's payment is received more than 45 days after receipt of a TRRWA bill, TRRWA may impose a late payment surcharge equal to the interest which the payment would have earned for the period in excess of 45 days, based on an interest rate used by the Cowlitz County Assessor for delinquent taxes.

9.6 Reserve Fund. TRRWA must maintain a "Reserve Fund" dedicated to funding capital improvements, upgrades and major replacements. The Reserve Fund is distinct from other TRRWA maintenance and operations funds. SDCs remitted to TRRWA will be deposited into the Reserve Fund. TRRWA may in its discretion deposit into the Reserve Fund amounts from the coverage portion of the Capital Component.

9.6.1 TRRWA may use the Reserve Fund for needed expenditures on an emergency basis and under the terms of this Agreement when the public health, safety, and welfare, legal and regulatory requirements, or unforeseen circumstances require expeditious action.

9.6.2 Money in the Reserve Fund may only be used for system capital improvements, upgrades and replacements to the Regional Assets, or for emergencies. The Reserve Fund may also be used for acquisition of land and existing Treatment Facilities.

9.7 Member's Rates and Sources of Payment. Members must pay the charges described in Subsections 9.1 through 9.6 out of revenues derived through each Member's Internal System. As described in Subsection 9.4, each Member's remittances to TRRWA, except those revenues derived through SDCs, must be treated as operation and maintenance expenditures or as contract resource obligations. Each Member must establish rates and collect fees and charges for sewer service in amounts at least sufficient to pay for (a) the maintenance and operation of the Member's Internal System, including the Member's payments to TRRWA, and (b) the principal and interest on any and all revenue obligations that constitute a charge on the revenue of the Member's Internal System, together with any coverage covenants in the

Member's bond authorizing documents. Each Member must promptly pay all rates, charges, fees, and other payments charged by TRRWA. In the event that a Member contests the amount of any TRRWA rate, charge, fee, or other required payment, that Member will nevertheless promptly pay the amount required by TRRWA and submit the dispute to resolution under SECTION 11. If the dispute resolution process results in a determination that the Member has overpaid the disputed rate, charge, fee, or other payment, TRRWA will reimburse that Member for the overpayment in the manner, at the times, and with the interest determined in the dispute resolution process.

9.8 Books and Accounts. TRRWA will keep full and complete books of accounts showing the costs incurred in connection with the Regional Assets, and the portions applicable to each of the Members. Any of the Members, through an interagency service contract with TRRWA, or outside third parties, may provide administrative support and/or personnel to TRRWA. The costs of these support services and keeping the financial records and accounts of TRRWA will be considered to be a Maintenance and Operation Cost of TRRWA. Audits of the books will be performed as determined by TRRWA or the state, and audit costs will be considered a direct cost of TRRWA. More frequent audits, if requested by any Member, will be charged to the Member or Members making the request.

9.9 Future Financing. If TRRWA determines there is a need to finance all or a portion of the costs of improvements to or extensions of the Regional Assets and it is not practicable for TRRWA to issue Bonds, a Member or a Contracting Municipal Wastewater Utility may, to the extent of their reasonable ability considering their other obligations and consistent with applicable bond covenants, issue Bonds to finance those improvements or extensions. Consistent with Subsection 8.4, the Members will enter into agreements as may be necessary to enable the successful issuance of those Bonds. If, after reasonable efforts to structure and/or issue Bonds, the Members are unable to do so, all Members collectively, to the extent of their reasonable ability considering other obligations of the Members and their respective borrowing abilities, must issue their own Bonds, and advance the proceeds as needed to TRRWA. TRRWA and all of the Members must indemnify and hold the borrowing party free and harmless of and from any indebtedness to the extent of their respective proportionate shares of payment, as such proportionate shares may be determined by reference to Subsections 8.1 through 8.3.

SECTION 10. REPLACEMENT STANDARDS; INSURANCE.

10.1 Replacement and Rehabilitation Standards. TRRWA will implement replacement, reconstruction, rehabilitation, expansion, or upgrading of the Regional Assets in accordance with applicable federal, state, and local laws and regulations. TRRWA will install and construct additions, betterments and improvements to the Regional Assets in accordance with generally recognized engineering standards at least equal to TRRWA standards and in accordance with all applicable federal, state, and local laws and regulations.

10.2 Insurance. TRRWA must purchase and maintain, through its insurance companies or insurance pools, liability insurance for property damage and bodily injury consistent with good utility practice and comprehensive property insurance sufficient to cover the Regional Assets consistent with good utility practice. Members must purchase and maintain,

through their own insurance companies or insurance pools, liability insurance for property damage and bodily injury to TRRWA, TRRWA staff, and the Regional Assets caused by acts or omissions in the operation of the Members' Internal Systems, consistent with good utility practice. In the alternative, TRRWA and each Member may set aside cash in a reserve fund in an amount sufficient to pay for such loss or damage, subject to review and recommendation by TRRWA. TRRWA and any Member may request reasonable written evidence of insurance coverage (*e.g.*, a written certificate of insurance from the applicable carrier) required under this Subsection 10.2 from TRRWA or any Member.

SECTION 11. DISPUTE RESOLUTION.

In the event of a dispute among TRRWA and a Member or Members concerning any matter arising under this Agreement, the dispute will first be considered by an independent review committee. This committee will be composed of one representative from each Member appointed by its legislative authority and one representative appointed by TRRWA. The committee will function as fact finder and attempt to negotiate a voluntary settlement of the dispute. Failing this voluntary resolution, the matter may be resolved through litigation in a court with jurisdiction in Cowlitz County, Washington, unless the parties mutually agree in writing to resolve the claim through binding arbitration.

SECTION 12. TERM; TERMINATION; DISPOSITION OF ASSETS ON TERMINATION.

12.1 Term. This Agreement is perpetual.

12.2 Termination. This Agreement may not be terminated so long as there remain outstanding any Bonds payable from TRRWA rates. Thereafter, this Agreement may be terminated only in accordance with Subsection 5.5.1.

12.3 Disposition of Assets on Termination. Prior to termination, the Members must develop a plan of dissolution to wind up TRRWA's affairs under the following requirements:

12.3.1 The Member with the greatest number of retail ERUs will have the exclusive option to purchase the Regional Assets, including all land, improvements, and rights in property. The purchase price will be the sum as determined by the Board of Directors, and must be paid by the purchasing Member to the other Members as provided in this Subsection. The purchasing Member must assume any indemnity agreement or guarantee by TRRWA or any Member with respect to any Bonds issued for the benefit of TRRWA.

12.3.2 If the Members cannot agree on a purchase price, the purchase price will be established as provided in SECTION 11 and will include a sum equal to the then (on the date of purchase contract execution) fair market value of all of the Regional Assets, including all personal property, cash in banks and on deposit, and all accounts receivable, less all indebtedness. Bonds assumed by the purchasing Member will be taken into consideration as a reduction in the value of the Regional Assets. Each Member's interest will be equal to its proportionate share of payments remitted over the then previous 60 calendar months under the provisions of Subsections 8.1, 8.3, and 9.1 of this Agreement.

The purchasing member need not pay itself for its interest in the Regional Assets. Payment to other Members must be made within twelve (12) months following the effective date of termination of this Agreement, or such other time as the Members may agree upon. If a Member provided funds to TRRWA through the issuance of Bonds, the purchasing Member must indemnify and hold that Member free and harmless from the Bonds.

12.3.3 If the purchasing Member under Subsection 12.3.1 declines to exercise its option to purchase, the other Members may purchase the Regional Assets on the same terms as set forth above and in priority order of greatest number of retail ERUs. If none of the Members elect to purchase the Regional Assets, then TRRWA must sell the Regional Assets as soon as reasonably possible following the effective date of termination. Any remaining TRRWA Bonds must be paid from the proceeds of the sale, and the remaining proceeds will be divided in the proportions as determined by reference to Subsections 8.1, 8.3, and 9.1 of this Agreement. If the proceeds are insufficient to pay the remaining Bonds, the Members will remain obligated to pay the Bonds after dissolution in accordance with Subsection 8.4. The Board of Directors must supervise the termination and sale of the Regional Assets and the distribution of proceeds.

SECTION 13. GENERAL PROVISIONS.

13.1 Entire Agreement; Amendment; Modification. This Agreement constitutes the entire and exclusive agreement between the Parties relating to the specific matters covered in this Agreement. All prior or contemporaneous verbal or written agreements, understandings, representations or practices relative to the foregoing are superseded, revoked and rendered ineffective for any purpose, except as provided for in Subsections 4.6 and 4.7. This Agreement may be altered, amended or revoked only in writing and only in accordance with Subsection 5.5. No verbal agreement or implied covenant may be held to vary the terms of this Agreement, any statute, law or custom to the contrary notwithstanding.

13.2 Governing Laws. This Agreement is governed and construed in accordance with the laws of the State of Washington. Venue in connection with any legal proceeding seeking enforcement of the provisions hereof through injunctive relief or arbitration award pursuant to SECTION 11 of this Agreement is proper only in the Superior Court of the State of Washington for Cowlitz County.

13.3 No Third Party Beneficiaries. There are no third party beneficiaries to this Agreement except for the rights of Bond owners as provided in this Agreement. Only Members, TRRWA, and Bond owners (to the extent necessary to enforce their rights as Bond owners) have any rights or any authority to enforce this Agreement's provisions.

13.4 Severability. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion thereof, will not affect the validity of the remaining provisions of this Agreement.

13.5 Execution and Filing. The Parties may execute this Agreement in one or more counterparts. Before the Operations Date, TRRWA must file this Agreement with the

Washington State Secretary of State (RCW 39.106.030(1)) and pay all related fees. The Members agree to execute or release any other appropriate instruments necessary to satisfy the terms of this Agreement.

Dated _____, 2015. City of Longview

Approved as to Form

City Attorney

David M. Campbell, City Manager

Dated _____, 2015. City of Kelso

Approved as to Form

City Attorney

Steve Taylor, City Manager

Dated _____, 2015. Beacon Hill Water and Sewer District

Approved as to Form

District Counsel

Monte J. Roden, Commission President

Dated _____, 2015. Board of County Commissioners of
Cowlitz County, Washington

Approved as to Form

Deputy Prosecuting Attorney

Michael Karnofski, Commissioner

Dennis Weber, Commissioner

ATTEST:

Clerk of the Board

Joe Gardner, Commissioner

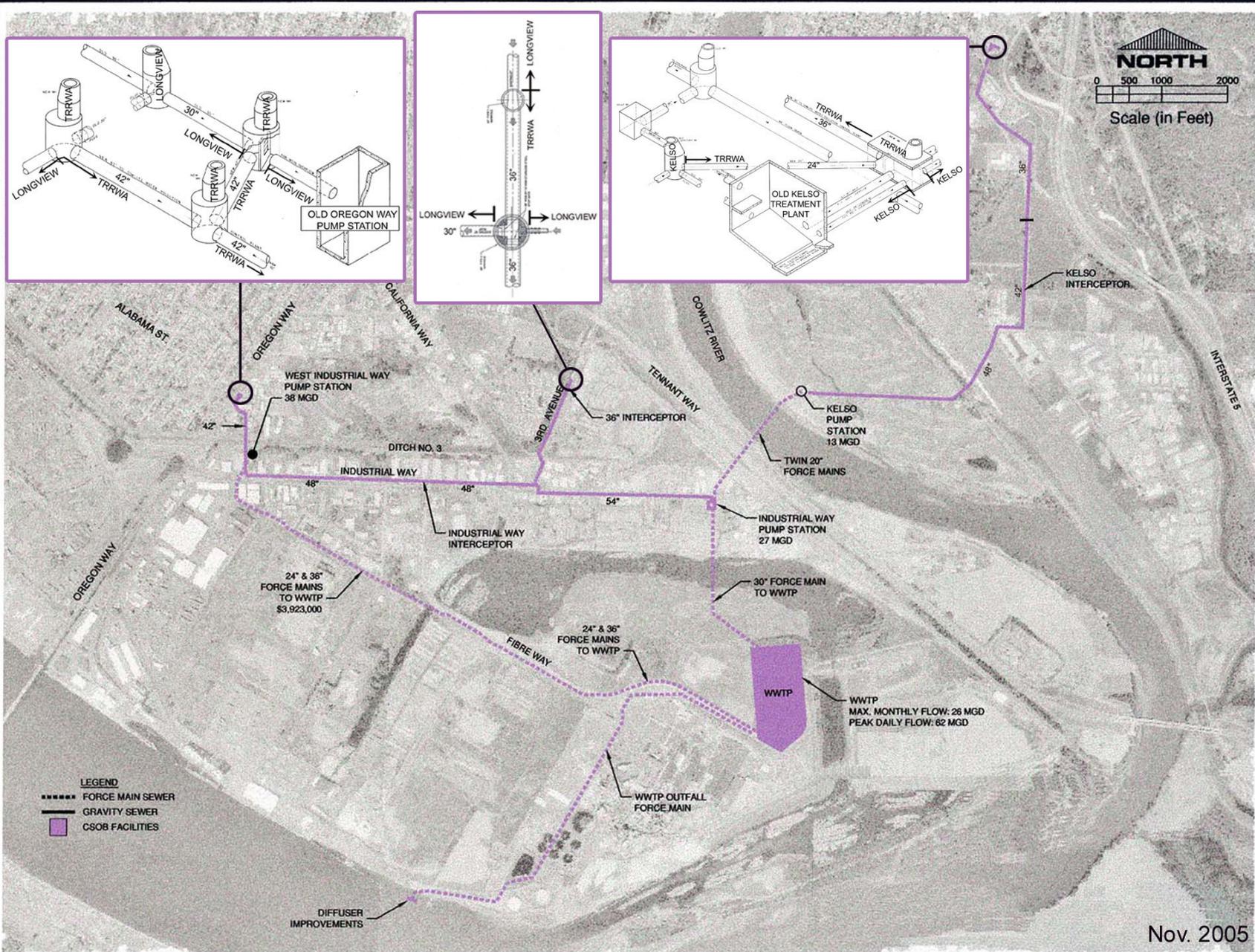
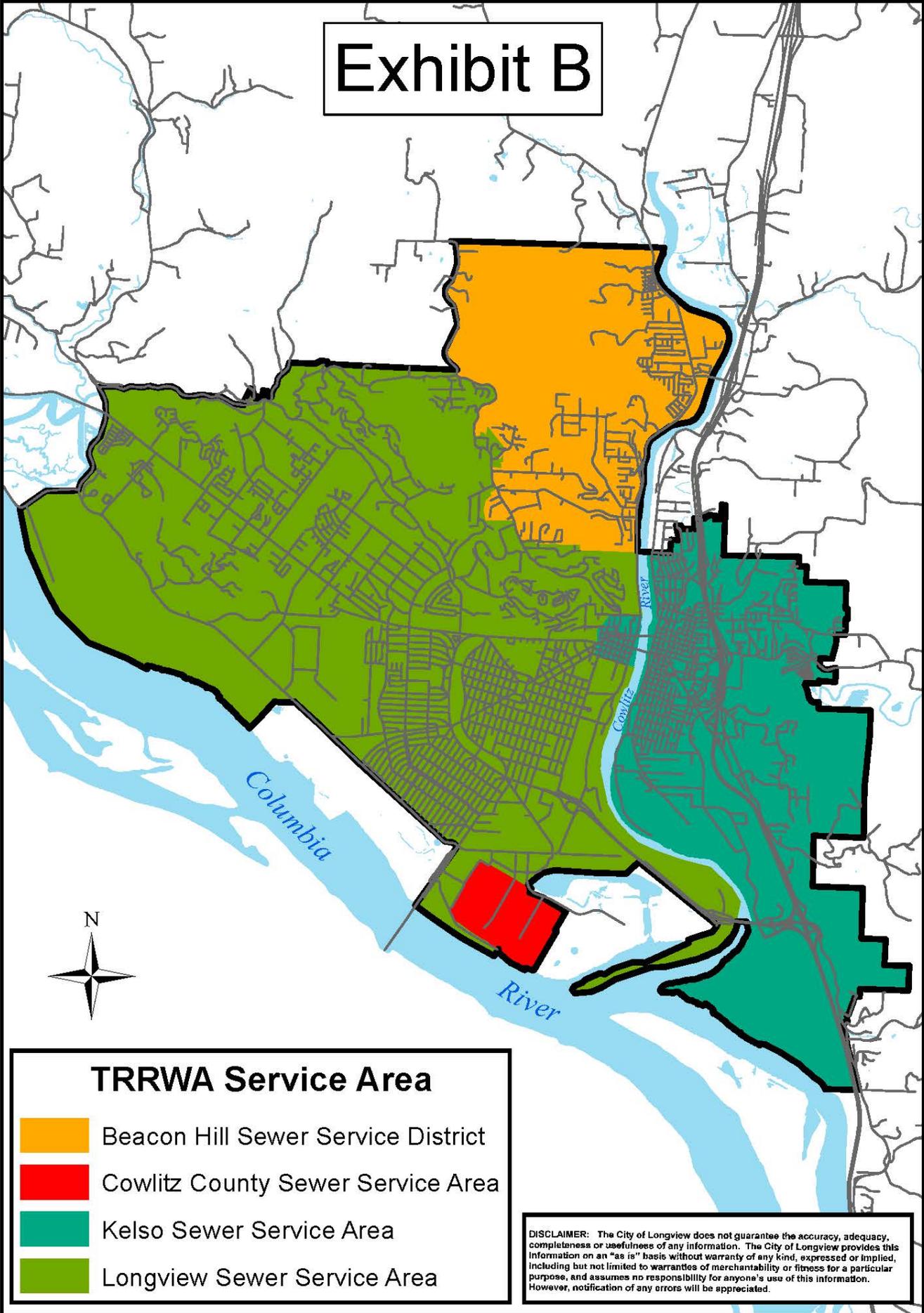


Exhibit B



TRRWA Service Area

-  Beacon Hill Sewer Service District
-  Cowlitz County Sewer Service Area
-  Kelso Sewer Service Area
-  Longview Sewer Service Area

DISCLAIMER: The City of Longview does not guarantee the accuracy, adequacy, completeness or usefulness of any information. The City of Longview provides this information on an "as is" basis without warranty of any kind, expressed or implied, including but not limited to warranties of merchantability or fitness for a particular purpose, and assumes no responsibility for anyone's use of this information. However, notification of any errors will be appreciated.

EXHIBIT C

THREE RIVERS REGIONAL WASTEWATER AUTHORITY BOARD OF DIRECTORS BYLAWS

ARTICLE 1. INTRODUCTION AND DEFINITIONS

Section 1.1 Introduction.

These Bylaws of the Three Rivers Regional Wastewater Authority Board of Directors are effective on the Operations Date set forth in the Three Rivers Regional Wastewater Authority Joint Municipal Utility Services Agreement (“Agreement”). The TRRWA Operating Board operates under separate bylaws.

Section 1.2 Definitions.

All capitalized terms used and not otherwise defined herein have the meanings set forth in the Three Rivers Regional Wastewater Authority Joint Municipal Utility Services Agreement, last executed the ____ day of _____, 2015, together with any and all future amendments thereto (“Agreement”).

ARTICLE 2. THREE RIVERS REGIONAL WASTEWATER AUTHORITY BOARD OF DIRECTORS

Section 2.1 Powers.

In accordance with Section 5 of the Agreement, the Board of Directors exercises all policy, oversight and governance powers of TRRWA. Board of Directors actions must be consistent with and effectuate the terms of the Agreement. Together, the Agreement and these Bylaws serve as the instruments for the Board of Directors’ policy making function.

ARTICLE 3. ACTIONS OF THE BOARD OF DIRECTORS

Section 3.1 Committees.

Consistent with Subsection 5.7 of the Agreement, the Board of Directors may create committees and advisory boards when it determines the Operating Board has not provided adequate community representation on a particular the matter.

Section 3.2 Chairperson.

The Board of Directors will appoint a Chairperson to preside over Board of Directors activities. The Chairperson performs all duties incident to the office of Chairperson and such other duties as are assigned to him or her by the Board of Directors. The Chairperson will serve for one calendar year, and at the end of that year, the responsibilities of the Chairperson will rotate. The initial rotation of the Chairperson position has been established as Beacon Hill Water and Sewer District Director, to City of Kelso Director, to Cowlitz County Director, to City of Longview

Director, back to Beacon Hill Water and Sewer District Director, etc. The rotation may be adjusted if Additional Members join.

For reference, the Operating Board chairperson rotates under the same schedule, but with the initial rotation starting at City of Kelso Representative.

The Director scheduled to next serve as the Chairperson will be the Vice Chairperson, who will serve as temporary Chairperson in the event that the Chairperson is unable to serve in that capacity.

The Chairperson may vote on all matters, and may second any motion of another Director.

Section 3.3 Actions of the Vice Chairperson.

In the event the Chairperson is unable to act, the Vice Chairperson will perform the Chairperson's duties, with all the powers of, and subject to all the restrictions upon, the Chairperson, and as may be further limited by Board of Directors resolution.

In the absence of both the Chairperson and the Vice Chairperson, the Directors and alternates present may appoint a temporary Chairperson by majority vote.

Section 3.4 Clerk and Secretary.

Consistent with Subsection 5.6 of the Agreement, the Operating Board will designate a clerk of the Board of Directors to keep its records, minutes, and other files and provide all necessary notices and communications on behalf of the Board of Directors.

The Board of Directors will appoint a Secretary, which may be the clerk of the Board of Directors. If the Secretary is appointed from among the Board of Directors, the Secretary will be the Director in rotation to become the Chairperson after the Vice Chairperson for compatibility with the rotation of the Chairperson. In coordination with the clerk of the Board of Directors, the Secretary will execute corporate documents, as necessary.

Section 3.5 Treasurer.

The Board of Directors will appoint the Treasurer of TRRWA. In accordance with RCW 30.106.050, the Treasurer may be an officer or employee of TRRWA, the treasurer or chief finance officer of any Washington local government member, or the treasurer of any Washington county in which any member of the authority is located. However, the Treasurer may not be a Director of TRRWA.

Section 3.6 Salaries.

The Directors of the Board serve without salary or other compensation from TRRWA.

In addition, Directors of the Board will not charge TRRWA for time spent conducting TRRWA business, nor will they charge TRRWA for meals, per diem, or other incidentals while acting on behalf of TRRWA as Directors.

ARTICLE 4. MEETINGS

Section 4.1 Regular Meetings.

The Board of Directors will specify by motion or resolution the date, time and place for holding regular meetings of the Board of Directors.

Section 4.2 Special Meetings.

The Chairperson or a majority of the Board of Directors may call special meetings. The call for a special meeting and any required notices will be made as provided in Subsection 4.7. Any meeting pertaining to TRRWA business attended by a majority of Directors requires public notification.

Section 4.3 Place of Meetings.

Meetings will be held at any location agreed upon by the Board of Directors and that is accessible to the general public.

Section 4.4 Quorum.

The attendance of a majority of the Board of Directors (or their respective, voting authorized alternates) constitutes a Quorum for the transaction of business at any Board of Directors meeting. For the purposes of these Bylaws and current Board of Directors composition representing four Members, a majority means a majority of the Board of Directors (or their voting authorized alternates). If a quorum is not present at a meeting, any one Director present may cancel the meeting.

Section 4.5 Manner of Acting.

Unless otherwise specified in the Agreement, the act of a majority of the Board of Directors (or their respective alternates) present at a meeting at which there is a quorum is the act of the Board of Directors.

Section 4.6 Voting.

Each Board Director will have one (1) vote on issues that come before it. Unless otherwise stipulated, alternates serving in the capacity of the appointed Director are authorized to exercise the vote of the Director they are representing.

Board of Directors alternates are entitled to participate in all activities of the Board of Directors in the absence of the Director for whom he or she is appointed as an alternate. Board of Directors alternates may not hold and are not entitled to carry out the duties of the Chairperson or Vice Chairperson.

Section 4.7 Open Public Meetings.

Board of Directors meetings are subject to the Open Public Meetings Act, Chapter 42.30 RCW. Accordingly, the Board of Directors will ensure that its deliberations are conducted openly and that the actions of the Board of Directors are taken openly.

Section 4.8 Executive Session.

As permitted by law, the Board of Directors may exercise its right to move into executive session when it determines necessary. Those other than the Directors, and any other individual determined necessary, will be excused from the meeting.

Section 4.9 Procedure.

The Board of Directors will conduct its meetings consistent with Roberts’ Rules of Order on Parliamentary Procedure, so far as applicable and when not inconsistent with these Bylaws or the Agreement. The Board of Directors may adopt additional rules of procedure to govern the conduct of its meetings.

ARTICLE 5. ADMINISTRATIVE PROVISIONS

Section 5.1 Books, Records, Archives, and Accounting Year of TRRWA.

The Operating Board is responsible for keeping the books, records, and archives of TRRWA.

ARTICLE 6. ADOPTION OF BYLAWS; AMENDMENTS

The Members adopted these Bylaws upon approval of the Agreement creating the THREE RIVERS REGIONAL WASTEWATER AUTHORITY. These Bylaws may be modified or repealed and replaced only by a majority vote of the Board of Directors of the THREE RIVERS REGIONAL WASTEWATER AUTHORITY. All amendments must be attached and incorporated into these Bylaws.

Chairperson

Attest:

Approved as to form:

Secretary

Attorney for TRRWA

EXHIBIT D

THREE RIVERS REGIONAL WASTEWATER AUTHORITY OPERATING BOARD BYLAWS

ARTICLE 1. INTRODUCTION AND DEFINITIONS

Section 1.1 Introduction.

These Bylaws of the Three Rivers Regional Wastewater Authority Operating Board are effective on the Operations Date set forth in the Three Rivers Regional Wastewater Authority Joint Municipal Utility Services Agreement (“Agreement”). The TRRWA Board of Directors operates under separate bylaws.

Section 1.2 Definitions.

All capitalized terms used and not otherwise defined herein have the meanings set forth in the Agreement.

ARTICLE 2. THREE RIVERS REGIONAL WASTEWATER AUTHORITY OPERATING BOARD

Section 2.1 Powers.

In accordance with Subsection 5.6 of the Agreement, the Operating Board exercises all operational and administrative authority to govern TRRWA’s day-to-day activities. Operating Board actions must be consistent with and effectuate the terms of the Agreement. Together, the Agreement and these Bylaws serve as the instruments for conducting the operation, maintenance, repair, and replacement of the Regional Assets. The Operating Board’s powers include, but are not limited to, the following:

- 1) Acquire, construct, receive, and own (in the name of TRRWA) and manage, lease, sell, and otherwise dispose of real and personal property, and intangible property.
- 2) Plan, develop, operate, replace, and maintain the facilities of TRRWA.
- 3) Enter into contracts for goods, services, work, or other benefits to TRRWA.
- 4) Provide for the borrowing of money as permitted by law and approved by the Board of Directors.
- 5) Receive gifts or grants for the planning, design, development, construction, or operation of the Regional Assets, for any TRRWA programs, or for any other objects or activities necessary to carry out TRRWA’s purposes.

- 6) Lend money or provide services or facilities to any Member, Contracting Municipal Wastewater Utility, or other user of TRRWA services in furtherance of TRRWA's purposes.
- 7) Invest TRRWA funds.
- 8) Sue and be sued.
- 9) Hire and fire the Plant Superintendent.
- 10) Fix salaries, wages and other compensation of employees.
- 11) Employ or retain engineering, legal, financial or other specialized personnel and consultants as may be necessary to carry out the purposes of TRRWA.
- 12) Impose, alter, regulate, control and collect rates, charges, and assessments.
- 13) Purchase insurance and/or participate in pooled insurance and self-insurance programs.
- 14) Indemnify Members, officers, employees, volunteers, and other representatives in accordance with applicable law.
- 15) Establish policies, guidelines, or rules to carry out TRRWA's powers and responsibilities.
- 16) To enter into contracts for any services, work or materials pursuant to any Small Works Roster or Consultant Roster maintained by any Member of TRRWA.
- 17) Consistent with Subsection 5.6 of the Agreement, exercise all other powers within the authority of (and that may be exercised individually by all of) the Members with respect to sewage or wastewater conveyance, treatment, disposal, reclamation, reuse, conservation or other TRRWA purposes or functions as set forth in the Agreement.
- 18) Take any other actions as the Operating Board finds necessary to implement a comprehensive plan and to protect and advance TRRWA's interests, the Regional Assets, the Members, and TRRWA's ratepayers that are consistent with the Agreement, Chapter 39.106 RCW, and other applicable law.

ARTICLE 3. ACTIONS OF THE OPERATING BOARD

Section 3.1 Committees.

The Operating Board may convene or appoint committees and advisory bodies as the Operating Board determines appropriate for Member or public review and comment on TRRWA matters and Operating Board work, or any other purpose of TRRWA that is consistent with Board of Directors policy, the Agreement, and applicable law.

Section 3.2 Chairperson.

The Operating Board will appoint a Chairperson to preside over Operating Board activities. The Chairperson will serve for one calendar year, and at the end of that year, the responsibilities of the Chairperson will rotate. The initial rotation of the Chairperson position has been established as City of Kelso Representative, to Cowlitz County Representative, to City of Longview Representative, to Beacon Hill Water and Sewer District Representative, back to City of Kelso Representative, etc. The rotation may be adjusted if Additional Members join.

For reference, the Board of Directors chairperson rotates under the same schedule, but with the initial rotation starting at Beacon Hill Water and Sewer District Director.

The Representative scheduled to next serve as the Chairperson will be the Vice Chairperson, who will serve as temporary Chairperson in the event that the Chairperson is unable to serve in that capacity.

The Chairperson may vote on all matters, and may second any motion of another Representative.

Section 3.3 Actions of the Chairperson.

The Chairperson presides over all Operating Board meetings. The Chairperson may sign deeds, mortgages, bonds, contracts, employee status slips or other instruments as directed by the Operating Board. In general, the Chairperson performs all duties incident to the office of Chairperson and such other duties as are assigned to him or her by the Operating Board.

Section 3.4 Actions of the Vice Chairperson.

In the event the Chairperson is unable to act, the Vice Chairperson will perform the Chairperson's duties, with all the powers of, and subject to all the restrictions upon, the Chairperson, and as may be further limited by Operating Board resolution.

In the absence of both the Chairperson and the Vice Chairperson, the Representatives and alternates present may appoint a temporary Chairperson by majority vote.

Section 3.5 Secretary.

The Operating Board will appoint a Secretary, which may also serve as the clerk of the Board of Directors. Operating Board Representatives may not serve as Secretary to the Operating Board. Responsibilities of the Secretary include, but are not limited to:

- 1) Recording and maintaining minutes of meetings of the Operating Board and minutes which may be generated by committees of the Operating Board.
- 2) See that all notices are duly given in accordance with the provisions of these Bylaws or as required by law.
- 3) Be signatory to communications and actions of the Operating Board or TRRWA, as required.

- 4) Conduct mailings and provide communications as required for Operating Board or TRRWA business.

Section 3.6 Salaries.

The Operating Board Representatives serve without salary or other compensation from TRRWA.

In addition, Operating Board Representatives will not charge TRRWA for time spent conducting TRRWA business, nor will they charge TRRWA for meals, per diem, or other incidentals while acting on behalf of TRRWA as Operating Board Representatives.

ARTICLE 4. MEETINGS

Section 4.1 Regular Meetings.

The Operating Board will specify by motion or resolution the date, time and place for holding regular meetings of the Operating Board.

Section 4.2 Special Meetings.

The Chairperson or a majority of Operating Board Representatives may call special meetings. The call for a special meeting and any required notices will be made as provided in Subsection 4.8. Any meeting pertaining to TRRWA business or administration attended by a majority of the Operating Board Representatives requires public notification.

Section 4.3 Place of Meetings.

Meetings will be held at any location agreed upon by the Operating Board and that is accessible to the general public.

Section 4.4 Quorum.

The attendance of a majority of Operating Board Representatives (or their respective, voting authorized alternates) constitutes a Quorum for the transaction of business at any Operating Board meeting. For the purposes of these Bylaws and current Operating Board composition representing four Members, a majority means a majority of the Operating Board Representatives (or their voting authorized alternates). If a quorum is not present at a meeting, any one Representative present may cancel the meeting.

Section 4.5 Manner of Acting.

Unless otherwise specified in the Agreement, the act of a majority of the Operating Board Representatives (or their respective alternates) present at a meeting at which there is a quorum is the act of the Operating Board.

Section 4.6 Voting.

Each Operating Board Representative will have one (1) vote on issues that come before it. Unless otherwise stipulated, alternates serving in the capacity of the appointed Representative are authorized to exercise the vote of the Representative they are representing.

Further, the Chairperson traditionally has and does vote on issues that come before the Operating Board. No tie-breaking procedure exists. In the event of a deadlock, action is postponed until which time a deadlock can be resolved. The Chairperson is entitled to second any motion, and to participate in the debate of any issue considered by the Operating Board.

Alternate Operating Board Representatives are entitled to participate in all activities of the Operating Board in the absence of the Representative for whom he or she is appointed as an alternate, and may participate in Operating Board discussions but may not vote when the Representative is present. Alternate Operating Board Representatives may not hold and are not entitled to carry out the duties of the Chairperson or Vice Chairperson.

Section 4.7 Presumption of Assent.

An Operating Board Representative (or a voting authorized alternate) present at a meeting where the Operating Board takes action on a matter is presumed to have assented to the action taken unless the Representative's (or alternate's) dissent or abstention is entered in the minutes of the meeting or the Representative (or alternate) files a written dissent or abstention to such action with the person acting as the Secretary of the meeting before the adjournment of the meeting. The right to dissent or abstain does not apply to a Representative (or alternate) who voted in favor of the action.

Section 4.8 Open Public Meetings.

Operating Board meetings are subject to the Open Public Meetings Act, Chapter 42.30 RCW. Accordingly, the Operating Board will ensure that its deliberations are conducted openly and that the actions of the Operating Board are taken openly.

Section 4.9 Executive Session.

As permitted by law, the Operating Board may exercise its right to move into executive session when it determines necessary. Those other than the Representatives, and any other individual determined necessary, will be excused from the meeting.

Section 4.10 Procedure.

The Operating Board will conduct its meetings consistent with Roberts' Rules of Order on Parliamentary Procedure, so far as applicable and when not inconsistent with these Bylaws, the Agreement, any direction from the Board of Directors, or any resolution of the Operating Board. The Board may adopt additional rules of procedure to govern the conduct of its meetings.

ARTICLE 5. EMPLOYEES

The Operating Board appoints a Plant Superintendent that is responsible for implementing TRRWA policy and for general administration of TRRWA's functions.

Subject to the Agreement, direction from the Board of Directors, or other provisions of these Bylaws, the Operating Board may establish such other positions of employment as it determines desirable and will fix the salaries for such positions.

The Plant Superintendent exercises the sole authority to appoint persons to fill other positions of employment authorized by the Operating Board and to dismiss or discipline such employees. The appointments will be based on ability and training appropriate for the position. Except for the purpose of inquiry, the Operating Board and its Representatives will deal with policy implementation or administrative services solely through the Plant Superintendent. The Operating Board and its Representatives may not give directions or orders to employees subordinate to the Plant Superintendent. Nothing in this Article prevents the Board from freely and fully discussing with the Plant Superintendent anything pertaining to appointments, discipline, or removals of subordinate employees.

ARTICLE 6. ADMINISTRATIVE PROVISIONS

Section 6.1 Books and Records of TRRWA.

The Operating Board will secure and obtain financial and bookkeeping services and functions. Records of financial activities are available through the financial services provider, as well as with the Plant Superintendent at the Three Rivers Regional Wastewater Plant.

Section 6.2 Archives of TRRWA.

Records of Operating Board meetings, Operating Board action, and other documentation, drawings, etc. of TRRWA are maintained by the Plant Superintendent at the Three Rivers Regional Wastewater Plant.

Section 6.3 Accounting Year.

The accounting year of TRRWA is the twelve months ending December 31 of each year.

ARTICLE 7. ADOPTION OF BYLAWS; AMENDMENTS

The Members adopted these bylaws upon approval of the Agreement creating the THREE RIVERS REGIONAL WASTEWATER AUTHORITY. These bylaws may be modified or repealed and replaced only by a majority vote of the Operating Board Representatives of the THREE RIVERS REGIONAL WASTEWATER AUTHORITY. All amendments must be attached and incorporated into these Bylaws.

Chairperson

Attest:

Approved as to form:

Secretary

Attorney for TRRWA

**MEMORANDUM
OFFICE OF THE CITY ATTORNEY**



To: Members of City Council
From: Janean Parker, City Attorney
CC: Steve Taylor, City Manager
Date: October 14, 2015
Re: Formation of new Three Rivers Regional Wastewater Authority

The City of Kelso has partnered with the City of Longview, Cowlitz County, and the Beacon Hill Water and Sewer District to establish and maintain a regional wastewater treatment facility for the cost effective and efficient sewage collection, treatment and disposal. Since 2005, the parties have operated as the "Three Rivers Regional Wastewater Authority" or "TRRWA", pursuant to an interlocal agreement among the parties where they share in the capital improvement and operating costs.

In 2011, the state legislature adopted the Municipal Utility Services Act at RCW 39.106 that authorizes local agencies to form an independent municipal corporation to perform utility services. This legislation clarifies the authority to perform these utility functions and makes the operation of such utilities more effective and efficient to operate.

Staff for each of the parties to the TRRWA have been working to reorganize the TRRWA under this legislation. In August of this year, Council heard a presentation from the TRRWA superintendent detailing the process for reorganization and setting forth some of the issues and expected changes. A revised agreement has been prepared that incorporates all of the comments to date. The Board would like the approval from each of the jurisdictions before final adoption by the Board. Upon adoption by each of the jurisdictions, the new TRRWA will become effective when filed with the Secretary of State and commence operations and replace the existing Board on January 1, 2016. All budget activities of the jurisdictions and current Board will be ratified and effective at that time.

Below is a summary of the key elements of the Agreement. Further regulation of the effluent quantity and quality would be adopted subsequently by the Board.

- The TRRWA is formed as a municipal utility under RCW 39.106.

- All rights and obligations of the parties under the prior agreements (including bonds and pledged revenues) are maintained as adjusted by this agreement.
- A Board of Directors is created--one from each member who is an elected official—and the Board governs the TRRWA.
- Certain significant board actions require a majority of the members voting and also a majority of the members paying more than 50% of the maintenance and operations. (i.e. amend agreement, set budget, revise service areas, set member rates etc)
- Other actions require only a simple majority.
- An operating board is created that reports to the board of directors and consists of one representative of each member to be professional technical personnel. Like the Board of directors some decisions require a double majority and other decisions a simple majority.
- Members may be added or withdrawn under certain conditions.
- The TRRWA will operate and maintain the regional wastewater assets, and can set quantity and quality regulations for accepting wastewater; each member is responsible for its own internal wastewater collection and treatment systems prior to entering the TRRWA to the standards set forth in the Agreement and adopted by TRRWA.
- TRRWA will adopt a budget and submit to each member its proportional share to include in that member's budget.
- TRRWA will set its rates and determine each member's portion in proportion to the member's flow.
- Each Member must pay for its proportional share of the costs of the TRRWA to fund maintenance and operation of the regional assets, capital repair and replacement, and system upgrades. Each member is also obligated to share in payment of any TRRWA debt service for capital improvements. These costs are paid from revenues of the member's internal wastewater system and potentially SDC charges.
- The Agreement is perpetual and must remain so long as any outstanding debt service exists.

AGENDA SUMMARY SHEET
Business of the City of Kelso
City of Kelso, Washington

SUBJECT TITLE:

**AN ORDINANCE OF THE CITY OF KELSO
VACATING A PORTION OF 2ND AVENUE IN
THE CITY OF KELSO TO ABUTTING
PROPERTY OWNERS**

Agenda Item: _____

Dept. of Origin: Community Development

For Agenda of: December 1, 2015

Cost of Item: _____

PRESENTED BY:

Michael Kardas, P.E.
Community Development Director/City Engineer

City Manager: Steve Taylor

AGENDA ITEM ATTACHMENTS:

Proposed Ordinance with attachments

SUMMARY STATEMENT:

As a result of the realignment of West Main, there is a portion of 2nd Avenue that is no longer to be used for street purposes. As a result, staff proposes vacating this portion of 2nd avenue back to the abutting property owners. The City would, as a part of the vacation process hold back an easement (as allowed by state law) for the public utilities and services that may remain in the vacated area.

Under state law at RCW 35.79, the process for vacation is by a petition of the abutting property owners (or a resolution of the legislative authority.) to initiate the process. Then a public hearing must be held on the vacation and the City may adopt an ordinance vacating the street or any part thereof.

The City adopted Resolution 15-1134 on November 3, 2015 initiating the vacation process and setting a hearing for December 1st. The City provided all the required notices for the hearing. The City did not receive any objections from the abutting property owners prior to the hearing date. The required public hearing was held in consideration of the proposed ordinance. The proposed ordinance vacates the right of way, conditioned upon the payment of compensation by abutting property owners and the reservation of necessary public utility easements as allowed by the statute. The ordinance also directs Community Development to effectuate the vacation and real property transfers.

FINANCIAL SUMMARY:

Under the statute, the City may provide that the vacation does not become effective until the abutting property owners compensate the City for an amount not in excess of one-half of the appraised value or in the case of a dedication over 25 years in th past to require compensation of the full appraised value. Because the City is the party initiating the vacation petition,staff is recommending payment of one half of the appraised value.

OPTIONS

Do Nothing—under this option, this unused portion of the street would remain property of the city and subject to our control and responsibility for its use, repair, and maintenance.

Vacate the property to the abutting property owners—The City would maintain necessary easements and the property owners would share an access easement.

RECOMMENDED ACTION:

Move to pass the Ordinance on first reading.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KELSO VACATING A PORTION OF 2nd AVENUE IN THE CITY OF KELSO TO ABUTTING PROPERTY OWNERS

WHEREAS, pursuant to RCW 35.79.010, the City Council has the authority to initiate the vacation of a public street or a portion thereof; and

WHEREAS, the City Council passed Resolution No. 15-1134 on November 3, 2015 initiating the procedure for vacating a portion of 2nd Avenue right of way in Kelso, which is legally described in Exhibit A and set a public hearing for the matter on December 1, 2015; and

WHEREAS, twenty days written notice of the time, place, and purpose of the hearing was published and posted in three of the most public places in the City and like notices were posted in conspicuous places at the proposed right-of-way vacation site; furthermore, written notice was given to the abutting property owners having an interest in the vacation; and

WHEREAS, the City did not receive any written objections from the property owners abutting upon that part of the street sought to be vacated prior to the time of the public hearing; and

WHEREAS, a public hearing was conducted by the City Council on December 1, 2015, where Council Members heard testimony, deliberated on the matter; and

WHEREAS, the City Council finds that it is in the public interest to vacate those portions of 2nd Avenue legally described in Exhibit A;

NOW, THEREFORE,
THE CITY COUNCIL OF THE CITY OF KELSO DO ORDAIN AS FOLLOWS:

SECTION 1. Vacation of Street Right of Way. That the real property legally described in Exhibit A, attached hereto and fully incorporated by this reference, consisting of portions of 2nd Avenue, is hereby vacated upon the satisfaction of the conditions set forth in this ordinance.

SECTION 2. Compensation for Vacation. The vacation is conditioned upon and subject specifically to payment to the City of Kelso by the owners of the property abutting upon the street so vacated an amount equal to one half of the full appraised value of the area vacated. One half of the revenue received by the City for such vacation shall be dedicated to the acquisition, improvement,

development and maintenance of public opens space or transportation capital projects within the City.

SECTION 3. Reservation of Easements. The vacation is furthermore conditioned upon and subject specifically to the reservation by the City of a 30 foot easement across the property for public utilities and services, in a location to be determined by the City.

SECTION 4. Authorizing the Community Development Department to effectuate vacation. The Community Development Department is authorized and directed to prepare and execute all necessary documents to effectuate the street vacation, including but not limited to a preparation of an appraisal of the property to be vacated and preservation of a utilities easement in a form acceptable to the Community Development Director, and recording of the vacation upon the completion of the necessary conditions. .

SECTION 5. Severability. The provisions of this Ordinance are declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

SECTION 6. Effective Date. This Ordinance shall be in full force and effect 5 days after its passage and publication of summary as required by law.

ADOPTED by the City Council and **SIGNED** by the Mayor this ____ day of _____, 2015.

ATTEST/AUTHENTICATION:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

MAYOR

PUBLISHED: _____

Exhibit A

LEGAL DESCRIPTION

PORTION OF WEST SECOND STREET TO BE VACATED

FOR CITY OF KELSO, WA

AUGUST 14, 2015

A portion of West Second Street as shown on the Plat of River View Addition to Marysville as recorded in Volume 3 of Plats at Page 69, Cowlitz County Records, located in the Southeast Quarter of Section 27, Township 8 North, Range 2 West of the Willamette Meridian and more particularly described as follows:

Beginning at a point on the West line of Block 9, said Plat of River View Addition to Marysville, said point being North 17°18'37" East, 9.17 feet from the Southwest corner of said Block 9;

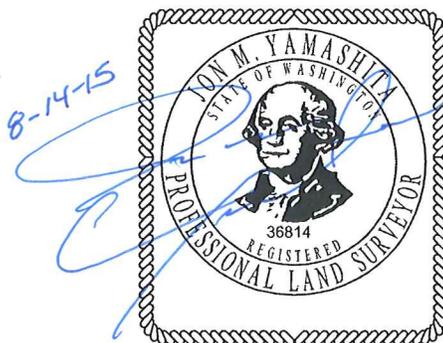
Thence along the West line of said Block 9, North 17°18'37" East, a distance of 215.30 feet to a point which is South 17°18'37" West, 4.96 feet from the Northwest corner of said Block 9;

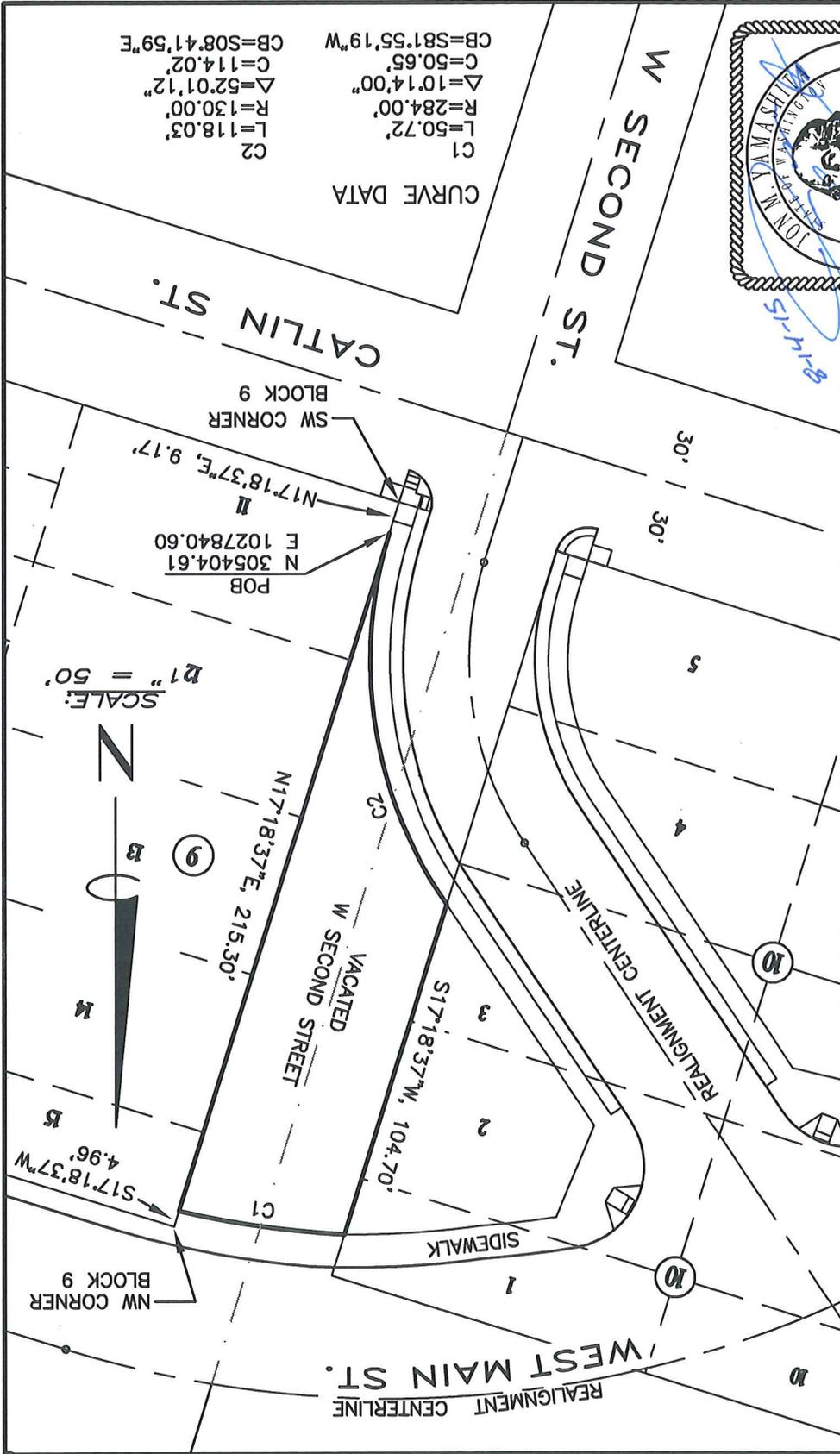
Thence on a 284.00 foot radius circular curve to the left, through a central angle of 10°14'00" (the chord of which bears South 81°55'19" West, 50.65 feet), an arc distance of 50.72 feet to a point on the East line of Block 10, said Plat of River View Addition to Marysville;

Thence along the East line of said Block 10, South 17°18'37" West, a distance of 104.70 feet to a point;

Thence on a 130.00 foot radius circular curve to the right, through a central angle of 52°01'12" (the chord of which bears South 08°41'59" East, 114.02 feet), an arc distance of 118.03 feet to the **Point of Beginning**.

Containing 7,027 square feet or 0.161 Acres, more or less.





- SURVEYING
- CIVIL ENGINEERING
- PLANNING
- WATER & NATURAL RESOURCES
- WETLAND CONSULTING



WWW.OTAK.COM S135664FB165.DWG

STREET VACATION
PORTION W. SECOND STREET
RIVER VIEW ADD. TO MARYSVILLE
SECTION 27, T8N, R2W, W.M.
CITY OF KELSO, COWLITZ COUNTY, WASHINGTON

AGENDA SUMMARY SHEET

Business of the City Council City of Kelso, Washington

**SUBJECT TITLE: AN ORDINANCE
RENEWING THE GRANT OF A FRANCHISE
TO COMCAST OF COLORADO/FLORIDA/
MICHIGAN/NEW MEXICO/
PENNSYLVANIA/WASHINGTON, LLC. TO
OPERATE AND MAINTAIN A CABLE
SYSTEM IN THE CITY OF KELSO; SETTING
FORTH CONDITIONS ACCOMPANYING
THE GRANT OF FRANCHISE; PROVIDING
FOR CITY REGULATION AND
ADMINISTRATION OF THE CABLE
SYSTEM; AND TERMINATING ORDINANCE
NO. 99-3444.**

Agenda Item: _____

Dept. of Origin: _____ City Manager _____

For Agenda of: December 1, 2015

Originator: Steve Taylor, City Manager

City Attorney: **Janean Parker**

City Manager: **Steve Taylor**

PRESENTED BY:

Steve Taylor

Agenda Item Attachments:

Proposed Ordinance Granting Franchise to Comcast Cable

SUMMARY STATEMENT:

The City entered into a 13-year cable franchise agreement with Cowlitz Cablevision in December 1999. The franchise was subsequently transferred to Adelphia Communications, under whose management the agreement was extended three years which set an expiration date of December 2015. The franchise was transferred again to Comcast Cable when they purchased the system from Adelphia. The City has been in "informal" negotiations with Comcast representatives over the past year and both sides have reached an agreement that is now before Council for consideration.

General Highlights of new franchise:

- Renewed franchise agreement for ten (10) years
- Updated to conform to current federal and state law
- Updated wording and reorganized many provisions from earlier agreement
- Updated and expanded definitions, including the term "Gross Revenue" for fee and tax computation

Specific Changes

- Establishes new Public, Educational, Governmental (PEG) fee of \$0.50/subscriber/month for purchase of capital equipment and structures (prior agreement issued varying levels of grant support during specific years of the franchise term)

- Sets franchise fee at 5% and incorporates an 8% cap on franchise fees and utility taxes combined, exclusive of PEG capital fees
- Added a competitive equity clause
- Removed provisions pertaining to an Institutional Network for the city to use and maintain at its own expense (City never took advantage of this option and currently uses Cascade Networks' high-quality, reliable fiber network)
- Updated remedies and penalties section as well as the indemnification provisions
- Updated the service line extension policies
- Added provisions and timelines for converting PEG channels to High Definition format
- Updates original programming requirements for KLTV to meet in order to retain all three public access channels
- Allows KLTV access to the cable program guide
- Removed the provision requiring a customer service office to be located within Cowlitz County as long as comparable customer service levels are maintained
- Allows Comcast the option to have the cost of providing gratis services to public institutions deducted from its franchise fees

The city charter requires that public notice of a franchise agreement be provided for three consecutive weeks before final adoption. That requirement will be met prior to the December 15th council meeting where this ordinance will be considered on second reading. Cowlitz County approved a franchise renewal with Comcast over a year ago. Kalama and Longview are in the early stages of negotiation with their renewals.

Comcast's representative, Tess Fields, will be at the Council meeting to answer questions about the franchise agreement from the company's perspective.

OPTIONS:

- 1) Move to approve the Ordinance on first reading renewing the franchise agreement with Comcast Cable for ten years.
- 2) Do not approve the Ordinance.
- 3) Delay action on the Ordinance and bring back for consideration following further revision.

RECOMMENDED ACTION:

Approve the ordinance on first reading renewing the cable franchise agreement with Comcast.

AN ORDINANCE RENEWING THE GRANT OF A FRANCHISE TO COMCAST OF COLORADO/FLORIDA/MICHIGAN/NEW MEXICO/PENNSYLVANIA/WASHINGTON, LLC. TO OPERATE AND MAINTAIN A CABLE SYSTEM IN THE CITY OF KELSO; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF FRANCHISE; PROVIDING FOR CITY REGULATION AND ADMINISTRATION OF THE CABLE SYSTEM; AND TERMINATING ORDINANCE NO. 99-3444.

WHEREAS, Comcast of Colorado/Florida/Michigan/New Mexico/Pennsylvania/Washington, LLC., (“Grantee”) desires to continue operation of a Cable System in the rights-of-way of the City of Kelso “City” under the authority of Section 2.01 and 2.10 of the Kelso City Charter; and

WHEREAS, negotiations between Grantee and the City have been completed and the franchise renewal process followed in accordance with the guidelines established by the City Code and the federal Cable Act (47 U.S.C. 546); and

WHEREAS, the City Council has reviewed the qualifications of Grantee and the adequacy of its provision of services in the City of Kelso; and

WHEREAS, the franchise granted by Ordinance No. 99-3444 shall be terminated and be replaced by this Franchise; and

WHEREAS, pursuant to Section 2.11(b) of the City Charter, this Franchise was filed with the City Clerk and published once a week for three successive weeks in the City official newspaper; and

WHEREAS, a public hearing was held on the ____ day of _____, 20__;

NOW, THEREFORE, THE CITY OF KELSO DOES ORDAIN AS FOLLOWS:

Section 1. Franchise Granted. That a franchise is hereby granted to Comcast of Colorado/Florida/Michigan/New Mexico/Pennsylvania/Washington, LLC to operate and maintain a Cable System in the City of Kelso upon the terms and conditions set forth in the Cable Franchise Agreement between the City of Kelso and Comcast of Colorado/Florida/Michigan/New Mexico/Pennsylvania/Washington, LLC., attached hereto as Exhibit “1” and incorporated fully by this reference.

Section 2. City Manager Authorization. That the City Manager is authorized to execute the Cable Franchise Agreement attached hereto as Exhibit “1” and to take such actions as are necessary to effect the Cable Franchise Agreement in accordance with this Ordinance.

Section 3. Ordinance Repealed. That Ordinance No. 99-3444 is hereby repealed and superseded by this Ordinance and the Cable Franchise Agreement attached hereto as Exhibit “1.”

Section 4. Severability. The provisions of this Ordinance are declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

Section 5. Effective Date. This Ordinance and the Franchise granted by this Ordinance and the Franchise Agreement attached hereto as Exhibit “1” shall be effective fifteen (15) days from date of final passage by City Council; provided, however, that Grantee shall have sixty (60) days to accept the Franchise and comply with all conditions for such acceptance. This Franchise shall be voidable at the City’s discretion if Grantee fails to accept within sixty (60) days.

ADOPTED by the City Council and **SIGNED** by the Mayor this ____ day of _____,
2015.

ATTEST/AUTHENTICATION:

MAYOR

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

PUBLISHED: _____

Exhibit "1"

Comcast Cable Television Franchise Agreement

Between

The City of Kelso

And

Comcast of Colorado/Florida/Michigan/New Mexico/Pennsylvania/Washington, LLC

Table of Contents

SECTION 1. DEFINITIONS	7
1.1 "Access," "Public, Educational, and Governmental Access" or "PEG Access,"	7
1.2 "Access Channel"	7
1.3 "Affiliate"	7
1.4 "Applicable Law"	7
1.5 "Basic or Basic Service"	7
1.6 "Cable Act"	7
1.7 "Cable Operator"	7
1.8 "Cable Service"	8
1.9 "Cable System"	8
1.10 "Channel"	8
1.11 "City"	8
1.12 "City Code"	8
1.13 "Designated Access Provider" ("DAP").....	8
1.14 "Day"	8
1.15 "Effective Date"	8
1.16 "Expanded Basic Service"	8
1.17 "FCC"	8
1.18 "Franchise" "Franchise Agreement" or "Agreement"	8
1.19 "Franchise Fee"	8
1.20 "Grantee"	8
1.21 "Gross Revenues"	8
1.22 "Headend"	10
1.23 "Institutional Facilities"	10
1.24 "Normal Business Office Hours"	10
1.25 "Normal Operating Conditions"	10
1.26 "Person"	10
1.27 "Premium Service"	10
1.28 "Public Rights of Way"	10
1.29 "State"	10
1.30 "Subscriber"	10
1.31 "Video Services"	10

SECTION 2. FRANCHISE.....	11
2.1 Grant of Franchise	11
2.2 Police Powers	11
2.3 Franchise Term	11
2.4 Franchise Area	11
2.5 Franchise Nonexclusive	11
2.6 Franchise Acceptance	11
2.7 Competitive Equity	12
2.8 Mid-Term Franchise Review	12
2.9 Transfer or Change of Control.....	13
2.10 Renewal	13
2.11 Conditions of Sale	13
2.12 Right to Require Removal of Property	14
2.13 Continuity of Service Mandatory	14
SECTION 3. CONSTRUCTION AND OPERATION IN PUBLIC RIGHTS-OF-WAY.....	14
3.1 Use of Public Rights of Way.....	14
3.2 Non-Interference.....	14
3.3 Erection of Poles	14
3.4 Undergrounding	15
3.5 Maintenance, Repair, and Restoration	15
3.6 Tree Trimming	16
3.7 Removal and Relocation.....	16
3.8 Movement of Facilities.....	17
3.9 Major Street Improvements.....	17
3.10 As Builts	17
3.11 Emergencies	17
SECTION 4. CABLE SYSTEM CAPACITY AND COMPLIMENTARY SERVICE.....	17
4.1 Cable System Capacity.....	17
4.2 System Upgrade Requirements.....	18
4.3 Construction Plan and Schedule.....	18
4.4 Gratis Cable	18
4.5 Equal and Uniform Service	19
4.6 Cable System Specifications	19

4.7 Technical Standards.....	19
4.8 Performance Testing	19
4.9 Status Monitoring.....	20
SECTION 5. PROGRAMMING AND SERVICES.....	20
5.1 Categories of Programming Service	20
5.2 Changes in Programming Services	20
5.3 Parental Control Device.....	21
5.4 Closed Captioning.....	21
SECTION 6. PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS.....	21
6.1 Access Channels	21
6.2 Control and Administration.....	21
6.3 Cable Guide for PEG	21
6.4 Noncommercial Use of PEG.....	22
6.5 PEG Channel Location.....	22
6.6 PEG Fees	22
6.7 Transition to HD Format.....	23
6.8 Use of PEG Channels	24
6.9 PEG Signals and Equipment.....	24
6.10 Technical Quality	24
6.11 Change in Technology	25
6.12 Relocation of Grantee’s Headend	25
SECTION 7. REGULATORY PROVISIONS	25
7.1 Intent.....	25
7.2 Delegation of Authority to Regulate	25
7.3 Areas of Administrative Authority.....	26
7.4 Regulation of Rates and Charges.....	26
7.5 Franchise Violations, Remedies, and Revocation.....	26
7.6 Liquidated Damages	28
7.7 Removal of Cable Following Termination of Franchise	28
7.8 Failure to Enforce	28
7.9 Alternative Remedies	29
7.10 Compliance with the Laws; Eminent Domain	29
SECTION 8. REPORTING REQUIREMENTS.....	29

8.1 Quarterly Revenue Report	29
8.2 Complaint File and Reports	30
8.3 Annual Report	30
8.4 Monitoring and Compliance Reports	30
8.5 Additional Reports and Information	31
8.6 Grantee Report of Communications with State Regulatory Bodies or Committees.....	31
SECTION 9. CUSTOMER SERVICE POLICIES	31
9.1 Response to Customers and Cooperation with City.....	31
9.2 Customer Service.....	32
SECTION 10. LINE EXTENSION POLICY	32
10.1 Service and Installation	32
10.2 Annexed Areas and Requirements.....	33
SECTION 11. COMPENSATION AND FINANCIAL PROVISIONS	33
11.1 Franchise Fees	33
11.2 Auditing and Financial Records	34
11.3 Performance Bond.....	35
11.4 Validity of Bond	36
11.5 Indemnification by Grantee	36
11.6 Grantee Insurance	36
SECTION 12. MISCELLANEOUS PROVISIONS	37
12.1 Posting and Publication	37
12.2 Guarantee of Performance.....	37
12.3 Entire Agreement	37
12.4 Consent.....	37
12.5 Ordinances Terminated.....	37
12.6 Franchise Acceptance.....	37
12.7 Force Majeure	38
12.8 Work of Contractors and Subcontractors	38
12.9 Severability	38
12.10 Counterparts	38
12.11 No Waiver of Rights.....	38
12.12 No Third Party Beneficiaries.....	39
12.13 Modification	39

12.14 Notices.....	39
12.15 Governing Law.....	39
FRANCHISE ACCEPTANCE	41
EXHIBIT A - FRANCHISE FEE PAYMENT WORKSHEET.....	42
EXHIBIT B - FCC CUSTOMER SERVICE STANDARDS.....	43
EXHIBIT C- CHECKLIST OF NOTICES AND REPORTS.....	45
Exhibit D - Franchise Acceptance.	46

SECTION 1. DEFINITIONS

For the purposes of this Ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, words in the singular number include the plural number, and the use of any gender shall be applicable to all genders whenever the sense requires. The words “shall” and “will” are mandatory and the word “may” is permissive. Where a term in the Franchise is not defined in this section and there is a definition for the term in the Cable Act, the Cable Act definition shall apply. Other terms in the Franchise which are not defined in this section shall be given their common and ordinary meaning.

1.1 “Access,” “Public, Educational, and Governmental Access” or “PEG Access,” refers to the availability, for non-commercial purposes, of a channel, or channels, on the Cable System for Public, Education or Government programming by various agencies, institutions, organizations, groups, and individuals, including the City.

- (A) “Public Access” or “Public Use” means access where organizations, groups, or individual members of the general public, on a non-discriminatory basis, are the primary or designated programmers or users having editorial control over their programming;
- (B) “Education Access” or “Education Use” means access where accredited educational institutions are the primary or designated programmers or users having editorial control over their programming; and
- (C) “Government Access” or “Government Use” means access where government institutions or their designees are the primary or designated programmers or users having editorial control over their programming.
- (D) “PEG Access” means Public Access, Educational Access, and Governmental Access, collectively.

1.2 “Access Channel” means any Channel or portion thereof, designated for non-commercial Access purposes or otherwise made available to facilitate or transmit Access programming or service.

1.3 “Affiliate” means any Person who owns or controls, is owned or controlled by, or is under common ownership or control with, Grantee and its successor corporations. Affiliate also means any person with whom Grantee contracts to provide Cable Services on the Cable System.

1.4 “Applicable Law” means any federal, State or local statute, law, regulation, or other final legal authority governing any of the matters addressed in this Franchise.

1.5 “Basic or Basic Service” means a service tier which includes the retransmission of local television broadcast signals, or as such service tier may be further defined by federal law.

1.6 “Cable Act” means the Cable Communications Policy Act of 1984 and the Cable Television Consumer Protection and Competition Act of 1992 and the Telecommunications Act of 1996, as amended and any future federal cable television legislation.

1.7 “Cable Operator” means any Person or group of Persons, including Grantee, who provide Cable Service over a Cable System and directly owns a significant interest in such Cable System, or who otherwise control or are responsible for, through any arrangement, the management and operation of such a Cable System.

1.8 “Cable Service” means the one-way transmission to Subscribers of video programming or other programming service and Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming services.

1.9 “Cable System” means the meaning specified in the definition of “Cable System” in the Cable Act. As used in this Franchise, unless otherwise specified, the term shall refer to the Cable System constructed and operated by the Grantee in the City under this Franchise.

1.10 “Channel” means a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel (as television channel is defined by the FCC by regulation).

1.11 “City” means the City of Kelso of the State of Washington and all the territory within its present and future boundaries.

1.12 “City Code” means the Municipal Code of the City of Kelso, Washington, as may be amended from time to time.

1.13 “Designated Access Provider” (“DAP”) means the entity or entities designated by the Grantor to manage or co-manage PEG Access Channels and Access Centers. The Grantor may be a Designated Access Provider, however, any entity designated by the Grantor shall not be a third party beneficiary under this agreement.

1.14 “Day” unless otherwise specified shall mean a calendar day.

1.15 “Effective Date” means this Franchise granted by this Ordinance shall be effective 15 days from date of final passage by City Council; provided, however, that Grantee shall have 60 days to accept the Franchise and comply with all conditions for such acceptance. This Franchise shall be voidable at the City’s discretion if Grantee fails to accept within 60 days.

1.16 “Expanded Basic Service” means the next tier of service above the Basic Service tier excluding premium or pay-per-view services.

1.17 “FCC” means the Federal Communications Commission.

1.18 “Franchise” “Franchise Agreement” or “Agreement” means Ordinance No _____, and this Franchise Agreement and the conditions as set forth herein.

1.19 “Franchise Fee” means the fee the City may assess in accordance with Section 622 (g) of the Cable Act (47 U.S.C. 542(g)).

1.20 “Grantee” means Comcast of Colorado/Florida/Michigan/New Mexico, Pennsylvania, Washington, LLC and permitted successors and assigns.

1.21 “Gross Revenues” means, and shall be construed to include, all amounts in whatever form and from all sources derived directly or indirectly by Grantee and/or Affiliate from the operation of Grantee’s Cable System to provide Cable Services within the Franchise Area calculated in accordance with Generally Accepted Accounting Principles (“GAAP”).

(A) Gross revenues include, by way of illustration and not limitation:

- 1) Fees for Cable Services, regardless of whether such Cable Services are provided to residential or commercial Subscribers, including revenues derived from the provision of all Cable Services

(including but not limited to pay or premium Cable Services, digital Cable Services, pay-per-view, pay-per-event, audio channels and video-on-demand Cable Services);

- 2) Installation, disconnection, reconnection, downgrade, upgrade, maintenance, repair, or similar charges associated with Subscriber Cable Service;
 - 3) Converter, remote control, and other Cable Service Equipment rentals, leases, or sales;
 - 4) Payments for pre-paid Cable Services and/or equipment;
 - 5) Advertising revenues as defined herein;
 - 6) Fees including, but not limited to ; (1) late fees, convenience fees and administrative fees which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total Grantee revenues within the Franchise Area; (2) Franchise fees; (3) the FCC user fee.
 - 7) Revenues from program guides; and
 - 8) Commissions from home shopping channels and other Cable Service revenue sharing arrangements which shall be allocated on a pro rata basis using total Cable Service Subscribers within the Franchise Area.
- (B) "Gross Revenues" shall not be net of; (1) any operating expense; (2) any accrual, including without limitation, for commissions to Affiliates; or (3) any other expenditure, regardless of whether such expense, accrual, or expenditure reflects a cash payment.
- (C) "Gross Revenues," however, shall not be double counted. Revenues of both Grantee and an Affiliate that represent a transfer of funds between the Grantee and the Affiliate, and that would otherwise constitute Gross Revenues of both the Grantee and the Affiliate, shall be counted only once for purposes of determining Gross Revenues. Similarly, operating expenses of the Grantee which are payable from Grantee's revenue to an Affiliate and which may otherwise constitute revenue of the Affiliate, shall not constitute additional Gross Revenues for the purpose of this Franchise.
- (D) "Gross Revenues" shall include amounts earned by Affiliates only to the extent that Grantee could, in concept, have earned such types of revenue in connection with the operation of Grantee's Cable System to provide Cable Services and recorded such types of revenue in its books and Records directly, but for the existence of Affiliates.
- (E) "Gross Revenues" shall not include sales taxes imposed by law on Subscribers that the Grantee is obligated to collect. With the exception of recovered bad debt, "Gross Revenues" shall not include bad debt.
- (F) "Advertising Revenues" shall mean amounts derived from sales of advertising that are made available to Grantee's Cable System Subscribers within the Franchise Area and shall be allocated on a pro rata basis using total Cable Service Subscribers reached by the advertising. Whenever Grantee acts as the principal in advertising arrangements involving representation firms and /or advertising interconnects and/or other multichannel video providers, Advertising Revenues subject to Franchise fees shall include the total amount from advertising that is sold, and not be reduced by any operating expenses, (e.g., "revenue offsets" and "contra expenses" and "administrative expenses" or similar expenses), or by fees, commissions, or other amounts paid to or retained by National Cable Communications or Comcast Spotlight or similarly affiliated advertising representations firms to Grantee or their successors involved with sales of advertising on the Cable System within the Franchise Area.
- (G) "Gross Revenues" shall not include:
- 1) actual cable services bad debt write-offs, except any portion which is subsequently collected with shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total Grantee revenues within the Franchise Area;

- 2) any taxes and/or fees on services furnished by Grantee imposed on Subscribers by any municipality, state or other governmental unit, provided that the Franchise fee shall not be regarded as such a tax or fee;
- 3) launch fees and marketing co-op fees; and
- 4) revenues associated with the provision of managed network services provided under separate business contract; and
- 5) PEG capital fee collected from subscribers.

1.22 "Headend" means the Grantee's facility for Signal reception and dissemination on the Cable System, including cables, antennae, wires, satellite dishes, monitors, switches, modulators, processors, equipment for the interconnection of the Cable System with adjacent Cable Systems or other separate communications network, and all other related equipment and facilities.

1.23 "Institutional Facilities" means City Hall, public libraries, police stations (not including incarceration facilities), fire stations, and City owned buildings; provided however that the term shall not include buildings or sites owned by City that are not used for administrative purposes or by the public, or those buildings owned by the City but leased to third parties at which government administrative employees are not regularly stationed.

1.24 "Normal Business Office Hours" means those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week and/or some weekend hours.

1.25 "Normal Operating Conditions" means those Cable Service conditions which are within the control of Grantee. Those conditions which are not within the control of Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System.

1.26 "Person" means any individual, sole proprietorship, partnership, association, corporation, or any other form of organization authorized to do business in the State of Washington, and includes any natural person.

1.27 "Premium Service" means a Cable Service (such as movie channels or pay-per-view programs) offered to Subscribers on a per-channel, per-program, or per-event basis.

1.28 "Public Rights of Way" include, but are not limited to, streets, bridges, sidewalks, trails, paths, public utility easements, and all other public ways, including the subsurface under and air space over these areas, excluding parks and parkways, but only to the extent of the Grantor's right, title, interest, or authority to grant a Franchise to occupy and use such streets and easements for Cable System facilities. "Public Rights of Way" shall also include any easement granted to or owned by the Grantor and acquired, established, dedicated, or devoted for public utility purposes. Nothing in this Agreement shall preclude Grantee's use of private easements as set forth in 47 U.S.C. 541(a)(2).

1.29 "State" means The State of Washington.

1.30 "Subscriber" means any Person who is lawfully receiving, for any purpose or reason, any Cable Service provided by Grantee by means of, or in connection with, the Cable System.

1.31 "Video Services" means programming provided by, or generally considered comparable to programming provided by a cable operator as the term "cable operator" is defined in the Cable Act.

SECTION 2. FRANCHISE

2.1 Grant of Franchise

The City hereby grants to the Grantee a non-exclusive and revocable Franchise to occupy or use City Public Rights of Way to construct, operate, and maintain a Cable System within the Franchise Area, subject to (A) the provisions of this Franchise to provide Cable Service within the City; and (B) all applicable provisions of the City Code and other Applicable Law. Said Franchise shall constitute both a right and an obligation to provide Cable Services as required by the provisions of this Franchise. Nothing in this Franchise shall be construed to prohibit Grantee from providing services other than Cable Services to the extent not prohibited by Applicable Law. The City hereby reserves all of its rights to regulate such other services to the extent consistent with Applicable Law and no provision herein shall be construed to limit or give up any right to regulate.

2.2 Police Powers

Notwithstanding any other provision of this Franchise, Grantee's rights hereunder are subject to the lawful police powers of Grantor to adopt and enforce ordinances of general applicability to protect or advance public safety, health, or welfare of the general public. Grantee agrees to comply with all applicable laws, regulations and ordinances enacted by Grantor or any other legally-constituted governmental unit having lawful jurisdiction over the subject matter hereof; however, nothing herein shall limit Grantee's right to challenge said law, regulation and/or ordinance in the proper forum.

2.3 Franchise Term

The term of the Franchise shall be ten (10) years from the Effective Date, unless extended by mutual written consent or terminated sooner in accordance with this Franchise.

2.4 Franchise Area

The Franchise Area shall be that area within the present or future corporate limits of the City. Cable Service shall be provided to all Persons subject to the service and installation policy outlined in this Franchise Section 10.1.

2.5 Franchise Nonexclusive

The Franchise granted herein shall be nonexclusive and is subject to all prior rights, interests, agreements, permits, easements or licenses granted by City to any Person to use any Public Rights of Way, easement, or property for any purpose whatsoever, including the right of Grantor to use for any purpose it deems fit, including the same or similar purposes allowed by Grantee hereunder. Grantor may at any time grant authorization to use the public rights of way for any purpose not incompatible with Grantee's authority under this Franchise and for such additional Franchises for Cable Systems as City deems appropriate, upon such terms and conditions as City deems appropriate.

2.6 Franchise Acceptance

The Grantee, within sixty (60) days after the tender by the City to Grantee of the Franchise Agreement, adopted by the City, shall file with the City Clerk of the City a written acceptance executed by Grantee, in the form attached hereto as Exhibit "D" Franchise Acceptance. In the event Grantee fails to file the acceptance as required herein this franchise shall be voidable at the discretion of the City.

2.7 Competitive Equity

- (A) The Grantee acknowledges and agrees that the City specifically reserves the right to grant, at any time, such additional franchises or similar lawful authorization for a Cable System or other wireline systems providing video services as it deems appropriate provided, however, such additional grants shall not operate to materially modify, revoke, or terminate any rights previously granted to Grantee. Provided, however, that City agrees that, within ninety (90) days of the Grantee's request, the City shall amend this Franchise to include any material terms or conditions that it makes available to the new entrant, or provide relief from existing material terms or conditions, so as to insure that the regulatory and financial burdens on each entity are materially equivalent. "Material terms and conditions" include, but are not limited to: franchise fees; insurance, system build-out requirements and line extension requirements, uniform service requirements, security instruments; customer service standards; required reports and related record keeping; PEG access channels and fees; and notice and opportunity to cure breaches. The parties agree that this provision shall not require a word for word identical franchise or authorization for a competitive entry, so long as the regulatory and financial burdens on each entity are materially equivalent. The parties agree that, notwithstanding any provision of this subsection, the City shall not be obligated to comply with the provisions of this subsection to the extent doing so would cause the City to violate applicable laws or FCC rules. Video programming services delivered over wireless broadband networks are specifically exempted from the requirements of this section.
- (B) In the event that a competitive franchise is granted by City as described in Section 2.7(A) above, which contains material terms and conditions that are more favorable or less burdensome than the terms of his Franchise, and notice thereof is duly provided to City, the Grantee shall submit to City in writing (1) the basis for Grantee's belief that certain provisions of the Franchise place Grantee at a competitive disadvantage, (2) the provisions to be amended; and (3) specific language modifying any such Franchise provisions. City and Grantee shall negotiate in good faith such amendments to the Franchise within ninety (90) days, unless otherwise agreed to by the parties. In the event the parties are not able to reach agreement in information negotiations, Grantee may exercise its rights under subsection (C) below.
- (C) In the alternative to Franchise modification negotiations as provided for in Section 2.7(B), or if the City and Grantee fail to reach agreement in such negotiations, Grantee may, at its option, elect to replace this Franchise by opting into the franchise or other similar lawful authorization that the City grants to another provider of Cable Services, so as to insure that the regulatory and financial burdens on each entity are equivalent. If Grantee so elects, the City shall immediately commence proceedings to replace this Franchise with the franchise issued to the other Cable Services provider.

2.8 Mid-Term Franchise Review

- (A) Grantor may conduct a Franchise review once every ten years during the term of this Agreement or any extensions of this Agreement. Grantor shall establish a procedure for ensuring an orderly review and full discussion of any matters for review, to include, but not be limited to (1) Grantee's performance; (2) compliance with federal and state laws and regulations; (3) PEG access and community needs and interests; and (4) new developments in cable regulation and technology.
- (B) The purpose of the review shall be to insure, with the benefit of full opportunity for public comment that the Franchise continues to effectively serve the public, in light of new developments in cable law and regulation, cable technology, cable company performance, local regulatory environment, community needs and interests.

- (C) Such review shall be open to the public and shall include at least one public hearing on all matters discussed during the review; which hearing shall be noticed at least one week in advance in a newspaper of general circulation in the Franchise Area.
- (D) If the Grantor has reason to believe that a portion or all of the Cable System does not meet the applicable FCC technical standards, the Grantor, at its expense, reserves the right to appoint a qualified independent engineer to evaluate and verify the technical performance of the Cable System.
- (E) During the evaluation under this Section, Grantee shall fully cooperate with Grantor and shall provide such information and documents as necessary and reasonable to the Grantor's review.

2.9 Transfer or Change of Control

This franchise shall be binding upon, and inure to the benefit of, the successors, legal representatives, and assigns of the Franchisee.

- (A) Neither the Grantee nor any other Person may transfer the Franchise without the prior consent, by ordinance of the City; which consent shall not be unreasonably withheld or delayed. No transfer of control of the Grantee, defined as an acquisition of 51% or greater ownership interest in Grantee, shall take place without the prior written consent, by ordinance of the City, which consent shall not be unreasonably withheld or delayed. No consent shall be required, however, for (1) a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title or interest of the Grantee in the Franchise or in the Cable System in order to secure indebtedness, or (2) a transfer to an entity directly or indirectly owned or controlled by Comcast Corporation. Within thirty (30) days of receiving a request for consent, the city shall, in accordance with the FCC rules and regulations, notify the Grantee in writing of the additional information, if any, it requires to determine the legal, financial, and technical qualifications of the transferee or new controlling party. If the City has not taken final action on the Franchisee's request for consent within one hundred twenty (120) days after receiving such request, consent shall be deemed granted.
- (B) The City's approval shall be based upon the financial responsibility of the party unto whom the franchise is being proposed for sale, assignment, or transfer. The proposed assignee must show it has the financial capability, technical ability, and legal qualifications sufficient to comply with the terms of the franchise as determined by the City, and must agree to comply with all provisions of the franchise.
- (C) The consent or approval of the City to any transfer of the franchise shall not constitute a waiver of release of rights of the City in and to the Public Rights of Way, and any transfer shall by its terms be expressly subordinate to the terms and conditions of this franchise.
- (D) In no event shall a transfer of ownership or control of the franchise be approved without successor in interest becoming signatory to the franchise agreement.

2.10 Renewal

This Franchise shall be renewed in accordance with 47 U.S.C. 546.

2.11 Conditions of Sale

The City may acquire the Cable System as provided 47 U.S.C. 547.

2.12 Right to Require Removal of Property

At the expiration of the term for which the Franchise is granted provided no renewal is granted, or upon its forfeiture or revocation as provided for herein, the City shall have the right to require Grantee to remove at Grantee's own expense all or any part of the Cable System from all Public Rights of Way within the Franchise Area. If Grantee fails to do so, the City may perform the work and collect the cost thereof from Grantee. The actual cost thereof, including direct and indirect administrative costs, shall be a lien upon all plant and property of Grantee effective upon filing of the lien with the Cowlitz County Auditor.

2.13 Continuity of Service Mandatory

Grantee shall make its best effort to ensure that all Subscribers receive continuous uninterrupted Cable Service so long as their financial obligations to Grantee are honored, in the event of purchase, lease-purchase, acquisition, sale, lease, or other transfer to any other Person, including any other operator of a cable communications franchise. Grantee shall cooperate fully to operate the Cable System in accordance with the terms and conditions of this Franchise Agreement through the transition, to maintain continuity of service to all Subscribers.

SECTION 3. CONSTRUCTION AND OPERATION IN PUBLIC RIGHTS-OF-WAY

3.1 Use of Public Rights of Way

Grantee may, subject to the terms of this Franchise, erect, install, construct, repair, replace, reconstruct and retain in, on, over, under, upon, across and along the Public Rights of Way within the City such lines, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of a Cable System within the City. Without limiting the foregoing, Grantee expressly agrees that it will construct, operate and maintain its Cable System in compliance with, and subject to Applicable Law.

3.2 Non-Interference

Grantee shall exert its best efforts to construct and maintain a Cable System so as not to interfere with other use of the Public Rights of Way and the rights and reasonable convenience of property owners who own property that adjoin any such Public Rights of Way. Grantee shall, where possible in the case of above ground lines, make use of existing poles and other facilities available to Grantee. When residents receiving underground service or who will be receiving underground service will be affected by proposed construction or alteration, Grantee shall provide at least seventy-two (72) hours advance notice of the same to such affected residents.

3.3 Erection of Poles

If additional poles in an existing aerial utility system route are required, Grantee shall negotiate with the utility company or provider for the installation of the needed poles. Grantee shall not erect, for any reason, any pole on or along any Public Right of Way in an existing aerial utility system unless approved by the City, which approval shall not be unreasonably withheld. The Grantee shall negotiate the lease of pole space and facilities from the existing pole owners for all aerial construction, and shall comply with all

Applicable Law. In the event the utility company providing the poles moves its facilities underground, Grantee agrees to underground its facilities at that time.

3.4 Undergrounding

- (A) Grantee shall place underground all of its transmission lines which are located or are to be located above the Public Rights of Way of the City in the following cases:
- 1) All other existing utilities are to be or have been placed underground;
 - 2) Undergrounding of utilities are required by statute, resolution, policy or other Applicable Law;
 - 3) Overhead utility lines are moved and placed underground (Grantee shall bear its proportional share of the cost of such movement of its facilities);
 - 4) Grantee is unable to get pole clearance;
 - 5) Underground easements are obtained from developers of new residential areas; or
 - 6) Utilities are overhead but residents request underground service drops (Underground service drops provided at resident's expense, and undergrounding is technically feasible).
- (B) If an ordinance is passed creating a local improvement district which involves placing underground certain utilities including Grantee's cable plant which is then located overhead, Grantee shall participate in such underground project and shall remove poles, cables and overhead wires within such district if requested to do so and place facilities underground. If such undergrounding of Grantee facilities is part of such a project, the costs thereof shall be included in such local improvement district.
- (C) Grantee shall use conduit or its functional equivalent to the greatest extent possible for undergrounding, except for drops from pedestals to Subscribers' homes and for cable on other private property where the owner requests that conduit not be used.
- (D) Grantee shall use, in conjunction with other utility companies or providers, common trenches for underground construction wherever available.

3.5 Maintenance, Repair, and Restoration

- (A) City Codes Apply. Subject to Section 2.2 herein, in connection with the construction, operation or repair of the Cable System, Grantee shall, in all cases, comply with the City Code and all Applicable law.
- (B) Grantee Responsible. All construction, maintenance, or repair of any and all of Grantee's facilities within City Public Rights of Way shall, regardless of who performs the construction, be and remain Grantee's responsibility.
- (C) Permits. Grantee shall obtain, at Grantee's own cost and expense, all necessary permits, licenses, or approvals for construction, operation, maintenance, or repair of the Cable System facilities prior to the commencement thereof. All work shall be performed in a safe, thorough and reliable manner using materials of good and durable quality.
- (D) Schedule and Inspection. Prior to beginning any construction, Grantee shall provide City with a construction schedule for work in the Public Right of Way. City shall have the right to inspect all construction or installation work performed within the Franchise Area and to make such tests as it shall find necessary to ensure compliance with construction or installation standards of this Franchise or Applicable Law.

- (E) Restoration to Prior Condition. In the event Grantee's work causes any disturbance or damage of any street, pavement, sidewalk, driveway or other public or private property, the Grantee shall, at its own cost and expense and in a manner approved by the City, replace and restore all paving, sidewalk, driveway, landscaping or property, in as good condition as before said work was commenced and in accordance with standards for such work set by the City and the City Code.
- (F) New Pavement. Grantee is prohibited from disturbing the paved surface of newly constructed or substantially improved streets for a period of five (5) years after completion of construction. In the event of extraordinary circumstances, the City may authorize such work subject to additional conditions for street repair and/or the negotiation of a non-discriminatory damage fee.
- (G) Disputes. In any dispute over the adequacy of restoration or maintenance relative to this section, final determination shall be the prerogative of the City of Kelso Department of Public Works subject to appeal by Grantee to Hearings Examiner consistent with Section 7.5 herein.

3.6 Tree Trimming

Grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and Public Rights of Way so as to prevent the branches of such trees from coming in contact with the wires and cables of Grantee. Trimming shall be done only in accordance with Applicable Law.

3.7 Removal and Relocation

- (A) Reservation of Rights. Nothing in this Franchise Agreement shall be construed to prevent any public work of the City, including without limitation grading, paving, repairing or altering any street or constructing, repairing or removing any water or sewer line. In addition, the City may vacate or discontinue use of any Public Right of Way. If any property of Grantee shall interfere with the construction or repair of any street or public improvement, or the vacation or abandonment of any street, then upon reasonable notice from City, all such property shall be removed, replaced or relocated in a timely manner as shall be directed by City; such work shall be at the expense of Grantee.
- (B) Relocation of Facilities. In the event that at any time during the period of the Franchise, the city, county or state shall lawfully elect to alter or change the grade of any street, alley, or other Public Rights of Way, the Grantee, upon reasonable notice by the proper governmental entity, shall remove or relocate as necessary its poles, wires, cables, underground conduits, manholes and other fixtures within the public right-of-way at its own expense.
- (C) Failure by Grantee to Remove or Relocate. If Grantee fails, neglects or refuses to remove or relocate its facilities as directed by the City; or in emergencies or where public health and safety or property is endangered, the City may do such work or cause it to be done, and the cost thereof to the City shall be paid by Grantee.
- (D) Procedure for Removal of Cable. Grantee shall not remove any underground cable or conduit which requires trenching or other opening of the Public Rights of Way along the extension of cable to be removed, except as hereinafter provided. Grantee may remove any underground cable from the Public Right of Way which has been installed in such a manner that it can be removed without trenching or other opening of the Public Right of Way along the extension of cable to be removed. Subject to the City Code and other Applicable Law, Grantee shall remove, at its sole cost and expense, any underground cable or conduit by trenching or opening of the Public Right of Way along the extension

thereof or otherwise which is ordered to be removed by the City based upon a determination, in the sole discretion of the City, that removal is required in order to eliminate or prevent a hazardous condition. Underground cable and conduit in the Public Right of Way which is not removed shall be deemed abandoned and title thereto shall be vested in the City.

3.8 Movement of Facilities

- (A) Grantee shall, upon request by any person holding a building moving permit, franchise or other approval issued by the City, temporarily remove, raise or lower its wire to permit the movement of buildings. The expense of such removal, raising or lowering shall be paid by the person requesting same, and Grantee shall be authorized to require such payment in advance. The City shall require all building movers to provide not less than fifteen (15) days' notice to the cable company to arrange for such temporary wire changes.
- (B) If any removal, replacement, modification, or disconnection is requested by another franchise holder to accommodate the construction, operation or repair of the facilities or equipment of such other franchise holder, Grantee shall, after at least thirty (30) days' written notice, take action to effect the necessary changes requested by the responsible entity. Grantee and the other franchise holder shall determine how costs associated with the removal or relocation shall be allocated.

3.9 Major Street Improvements

Grantee is required to place conduit into the utility easements at the time new streets are being constructed or there are major improvements being made to existing streets, provided Grantee is provided reasonable notice of the construction or improvements.

3.10 As Built

Grantee shall maintain "as built" drawings of the Cable System and make them available to the City for inspection upon request. The "as built" drawings shall be updated as changes occur to the System. The Grantee shall provide to City, upon request, a copy of drawings showing the location of the Grantee's facilities in the streets and Public Rights of Way.

3.11 Emergencies

In the event of a situation or circumstance which creates or is contributing to an imminent danger to health, safety, or property, the City may remove or relocate Grantee's Cable System without prior notice.

SECTION 4. CABLE SYSTEM CAPACITY AND COMPLIMENTARY SERVICE

4.1 Cable System Capacity

During the term of this Franchise the Grantee's Cable System shall be capable of providing a minimum of 120 channels of video programming to its customers in the Franchise Area, including Basic Cable.

4.2 System Upgrade Requirements

In any rebuild or upgrade of the Cable System, Grantee shall use equipment and materials which meet or exceed general industry standards. The System, as upgraded, shall have the capacity to provide pay-per-view and other premium services with only installation of equipment where the subscriber connects to the system. In all its construction and service provision activities, Grantee shall meet or exceed the construction, extension, and service requirements set forth in this Franchise Agreement.

4.3 Construction Plan and Schedule.

A detailed construction plan and schedule shall be submitted to the City for review and comment no later than thirty (30) days prior to the commencement of any Cable System upgrade construction. At the request of the City, Grantee shall meet with City at any time during the construction period to report on construction progress and the fulfillment of the construction schedule.

4.4 Gratis Cable

- (A) The Grantee, upon request, and as a voluntary initiative only, shall provide without charge, a Standard Installation and one outlet of Basic Cable and expanded basic service or its equivalent to those Institutional Facilities owned and occupied by the Franchising Authority, fire station, police station, public works shop, libraries, K-12 public school(s) and Designated Access Provider that are within the Service Area and within 125 feet of its Cable System; provided, however, those buildings or portions of buildings housing or occupied by prison/jail populations shall be excluded. Cable Service to the Franchising Authority described herein is a voluntary initiative of Grantee. The Cable Service provided shall not be distributed beyond the originally installed outlet without authorization from Grantee. The Cable Service provided shall not be used for commercial purposes, and such outlets shall not be located in areas open to the public. The Franchising Authority shall take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in the inappropriate use thereof or any loss or damage to the Cable System. The Franchising Authority shall hold the Grantee harmless from any and all liability or claims arising out of the provision and use of Cable Service required by this Section 4.4. The Grantee shall not be required to provide an outlet to such buildings where a non-Standard Installation is required, unless the Franchising Authority or building owner/occupant agrees to pay the incremental cost of any necessary Cable System extension and/or non-Standard Installation. If additional outlets of Basic Cable and expanded basic service are provided to such buildings, the building owner/occupant shall pay the usual installation and service fees associated therewith.
- (B) New Installations. For new installations or relocation of installations, if the drop line to such building exceeds a Standard Installation drop of one hundred twenty-five (125) feet, the Grantee will accommodate the drop up to two hundred fifty (250) feet if the City or other agency provides the necessary attachment point for aerial service or conduit pathway for underground service. If the necessary pathway is not provided the City or other agency agrees to pay the incremental cost of such drop in excess of one hundred twenty-five (125) feet or the necessary distribution line extension of the Cable System, including the cost of such excess labor and materials.
- (C) Grantee does not waive any rights under applicable law regarding Gratis Cable, as set forth in Section 4.4(A). Should Grantee elect to begin offsetting the value of the Gratis Cable against franchise fees, Grantee shall first provide the City with ninety (90) days' prior notice. Upon receipt of such notice, the City shall have the right to waive the requirements of Section 4.4(A), Grantee shall cease to provide

such Gratis Cable, or in the event Grantee shall not cease to provide such Gratis Cable, Grantee shall not offset the value of such Gratis Cable against the franchise fees for those Institutional Facilities.

4.5 Equal and Uniform Service

Subject to Section 2.7 of this document, Grantee shall provide access to equal and uniform Cable Service throughout the Franchise Area to the extent required by applicable law.

4.6 Cable System Specifications

- (A) Cable System Maintenance. In all its construction and service provision activities, Grantee shall meet or exceed the construction, technical performance, extension and service requirements set forth in this Franchise Agreement.
- (B) Emergency Alert Capability. Grantee shall provide and maintain an Emergency Alert System (EAS) consistent with applicable Federal law and regulations including 47 C.F.R., Part 11, and any Washington State Emergency Alert System.
- (C) Standby Power. Grantee shall provide standby power generating capacity at the Cable System control center and at all hubs. Grantee shall maintain standby power supplies, rated at least at two hours' duration, throughout the trunk and distribution networks. In addition, Grantee shall have in place throughout the Franchise term a plan, and all resources necessary for implementation of the plan, for dealing with outages of more than two hours. This outage plan and evidence of requisite implementation resources shall be presented to the City upon request.
- (D) Satellite Earth Stations. Grantee shall provide a sufficient number of earth stations or its equivalent to receive signals from operational communications satellites or its equivalent that carry cable television services accessible to the Grantee throughout the life of the Franchise to carry out its obligations under this Franchise

4.7 Technical Standards

The Grantee shall maintain technical performance of the Cable System in accordance with the Federal Communications Commission (FCC) Rules and Regulations, Part 76, Subpart K (Technical Standards), as now or hereafter constituted. The city may establish reasonable technical standards for the performance of the Cable System if permitted to do so under applicable law.

4.8 Performance Testing

Grantee shall perform all Cable System tests at the intervals required by the FCC, and all other tests reasonably necessary to determine compliance with technical standards required by this Franchise. Written records of all Cable System test results performed by or for Grantee shall be maintained and available for City inspection upon request.

The tests may be witnessed by representatives of the City, and Grantee shall inform the City of the time and place of each test no less than three weeks prior to the scheduled compliance test. Written test reports of compliance testing shall be submitted to the City. If more than one of the locations tested fail to meet the

performance standards, Grantee shall be required to indicate what corrective measures have been taken, and the entire test shall be repeated at the locations which failed. If a second test results in failure of one or more sites, then the City may seek remedies in accordance with Sections 7.5 and 7.6 unless the circumstances of the failure are caused by conditions which are beyond Grantee's control, as determined, acknowledged and verified by the City.

4.9 Status Monitoring

Grantee shall continue to utilize status monitoring of the Cable System which can continually monitor the system for signal quality on the forward and return spectrums of the System. In addition, the Grantee shall maintain status monitoring for all power supplies in its headend(s) and hub(s) as well as the distribution system. Status monitoring shall be capable of notifying the Grantee 24/7 of system problems including utility power outages that will negatively affect its customers.

SECTION 5. PROGRAMMING AND SERVICES

5.1 Categories of Programming Service

Grantee shall provide video programming services in at least the following broad categories:

- News and Information
- Sports
- General Entertainment
- Arts/Performance/Humanities
- Science/Technology
- Children/Family/Seniors
- Foreign Language/Ethnic Programming
- Public, Educational and Governmental Access Programming
- Weather
- Movies
- Religious Programming
- Washington State based News, Information, and Sports, as available
- Travel Information

5.2 Changes in Programming Services

Grantee shall not delete or so limit as to effectively delete any broad category of programming within its control without notifying the City. Further, Grantee shall provide at least thirty (30) days' prior written notice to Subscribers and to the City of Grantee's intent to effectively delete any broad category of programming or any channel within its control including all proposed changes in channel allocation, including any new equipment requirements that may occur as a result of these changes.

Subscribers will be notified by Grantee of any changes in programming services or channel positions as soon as possible in writing. Notice must be given to Subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the Grantee. The Grantee shall also give 30 days' written notice to both Subscribers and the City before implementing any service change. When the change involves the addition or deletion of channels, each channel added or deleted must be separately identified.

For purposes of the carriage of digital broadcast signals, the operator need only identify for Subscribers, the television signal added and not whether that signal may be multiplexed during certain day parts.

5.3 Parental Control Device

Upon request by any Subscriber, Grantee shall make available a parental control or lockout device that will enable the Subscriber to block all access to any and all channels without affecting those not blocked. Grantee shall inform Subscribers of the availability of the lockout device at the time of original subscription and annually thereafter.

5.4 Closed Captioning

Grantee shall at all times comply with the requirements of 47 C.F.R. § 79.1 by providing services for the disabled, including, but not limited to, passing through closed captioning for local programming if provided by City or Designated Access Provider.

SECTION 6. PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS

6.1 Access Channels

Grantee shall continue to provide three (3) Channels on the Cable System for PEG Access purposes, to be shared by the City of Kelso, the City of Longview, the City of Kalama, and Cowlitz County for so long as the three channels are programmed and utilized according to the franchise requirements contained within the current franchise agreements of those jurisdictions. The City and Grantee understand that the communities of Castle Rock and Woodland receive the Access Channels serving City.

In the event City loses access to all the public access channels it shares with Longview, Kalama, and Cowlitz County, and the City has sufficient original local or regional programming (which is defined as 50 hours per week and not duplicated more than twice per week) the Grantee shall provide to the City, for independent administration by the City or its designee throughout the term of this Franchise, one (1) PEG Channel to be cablecast through the Franchise Area. The channel may be used for a combination of Public, Educational, and Governmental programming based on policy or need. If the City does not provide sufficient original local or regional programming for a period of ten (10) consecutive weeks, Grantee may reclaim this channel for unrestricted use.

6.2 Control and Administration

The control and administration of the PEG access Channels shall rest with the City, and the City may delegate, from time to time over the term of this Franchise, such control and administration to various entities as determined in City's sole discretion.

6.3 Cable Guide for PEG

To the extent the configuration of the Cable System allows for detailed program listings to be included on the digital Channel guide, Grantee will allow City or the Designated Access Provider to make arrangements with the Channel guide vendor to make detailed Programming listings available on the guide. The City or DAP will be solely responsible for providing the program information to the vendor in the format and timing required by the vendor and the parties agree that the costs related to such formatting shall be a PEG eligible fee.

6.4 Noncommercial Use of PEG

PEG Channels are for noncommercial programming to be promoted and administered by the City or its designee as allowed under Applicable Law. Permitted noncommercial uses of the PEG Channels shall include by way of example and not limitation: (A) the identification of financial supporters similar to what is provided on public broadcasting stations; or (B) the solicitation of financial support for the provision of PEG programming by the City or third party users for charitable, educational or governmental purposes; or (C) programming offered by accredited, non-profit, educational institutions which may offer telecourses over a PEG Channel. Nothing in this Franchise shall prevent the City or its designee from carrying out fundraising activities to supplement access capital or operating funds consistent with applicable federal law and regulation and such fundraising activity shall not constitute a commercial use of Access channels.

6.5 PEG Channel Location

The PEG Channels will be located reasonably close in proximity to other broadcast Channels and/or other commercial video Channels, excluding pay-per-view programming offered by Grantee in the City. Grantee will give City at least 90 day notice prior to changing any PEG channel location or number.

6.6 PEG Fees

- (A) PEG Fee Amounts. Grantee shall pay to the City as capital support for PEG Access facilities and equipment an amount of fifty cents (\$0.50) per month per Subscriber in the Franchise Area ("PEG Fee"). Grantee shall make such payments quarterly, following the Effective Date of this Franchise Agreement for the preceding quarter ending March 31, June 30, September 30, and December 31. Each payment shall be due and payable no later than forty-five (45) days following the end of the quarter.
- (B) City's use of PEG Fees. In no event shall the City use any portion of the PEG Fee in a manner inconsistent with 47 U.S.C. § 542(g)(2)(C) or any other applicable provisions of the Cable Act and FCC regulations. The City and Grantee agree that the PEG Fee is in addition to the Franchise Fee, and falls within one or more of the exceptions in 47 U.S.C. § 542. Such costs may be categorized, itemized, and passed through to Subscribers as permissible, in accordance with 47 U.S.C. §542 or other Applicable Law.
- (C) City Annual Report to Grantee of PEG Fee Purchases. City or the City's designee shall provide to Grantee, upon Grantee's written request, within ninety (90) days following the end of each calendar year, a report detailing the City's PEG related capital expenditures. If Grantee alleges that City has inappropriately used PEG fees, Grantee agrees to first notify the City of its concern prior to taking any legal action or withholding payment against any other fees owed City.
- (D) Grantee payment of PEG Fees. Grantee agrees that it will not offset or reduce its payment of past, present or future Franchise fees required as a result of its obligation to remit the PEG Funds or the

PEG Fee. Should Grantee continue to provide Cable Service after the scheduled expiration of this Franchise, until and unless this Franchise is superseded by a renewed franchise in accordance with Applicable Law, Grantee shall continue to make monthly PEG Fee payments for, and in support of PEG Channels as specified hereinabove. Any PEG Access capital support amounts owing pursuant to this Franchise which remain unpaid more than thirty (30) Days after the date the payment is due shall be delinquent and shall thereafter accrue interest at the legal interest rate in the State of Washington.

6.7 Transition to HD Format

Grantee shall provide and activate the Government Access Channel in HD format, for a total of one (1) HD channel, in the manner and conditions set forth in Section 6.7 below:

- (A) The City shall notify Grantee in writing of its need to activate the High Definition (HD) format Access Channel under this section and shall provide notice to Grantee that the following criteria have been met:
- 1) At least 80% (eighty percent) of the basic service tier channels excluding PEG Access Channels are provided in HD format;
 - 2) At least 80% (eighty percent) of the Access programming carried on Standard Definition (SD) format Channel, which the Grantor has identified as the Channel to be carried in a HD format Channel, has been produced in an HD format for any three-month time period prior to notice provided under this Section;
 - 3) Not more than 50% (fifty percent) of the Access Programming carried on the SD format Channel, which the City has identified as the Channel to be carried in a HD format Channel, is character-generated only Programming for any three-month time period prior to the notice provided under this Section 6.7(A).
- (B) Each HD format Access Channel provided under this Section will replace one (1) of the SD format Access Channels provided for in Section 6.1. The total number of PEG Access Channels provided in this franchise represents the total number of PEG Access channels available for combined use by the City of Kelso, the City of Longview, the City of Kalama, and Cowlitz County.
- (C) Grantee shall have no more than 120 days from the date of the written notice under Section 6.7(A) to fully activate the Access Channel from the Designated Access Provider to Subscribers in the HD format. Grantee shall verify HD Channel Signal delivery to Subscribers with the Designated Access Provider. The SD format Access Channel being converted to HD format shall be simulcast for at least ninety (90) days following activation of the HD format Access Channel.
- (D) The City acknowledges that receipt of a HD format Access Channel may require Subscribers to buy or lease special equipment, or pay additional HD charges applicable to HD services. Grantee shall not be obligated to provide complimentary HD receiving equipment to institutional or courtesy accounts as a result of the obligations set forth in this Section 6.7.
- (E) Grantee shall provide up to two (2) additional Access Channels in HD, replacing the remaining SD format Access Channels, as long as criteria in Section 6.7(A) is met in addition to the criteria below:
- 1) At least twenty-five percent (25%) of Grantee's cable subscribers within the franchise area regularly views programming carried on the SD format Channel, which the Grantor has identified as the Channel to be carried in a HD format. For the purpose of this subsection, "regularly views" means viewing programs on the Channel at least twice per month. A

survey of Grantee and City may be conducted, and the cost of the survey shall be shared equally between City and Grantee. In lieu of the survey, the parties may mutually agree to utilize viewership data as may become available to Grantee on its cable system.

6.8 Use of PEG Channels

At any time during the term of this franchise, the Grantee may reclaim one PEG channel, upon 90 days written notice, if the following conditions for programming have not been met:

- 1) Public Access Channels: During any eight (8) consecutive weeks, the Public Access channel is not utilized for Locally Produced, Locally Scheduled Original Programming 60% of the time, seven days per week, for any consecutive six (6) hour block during the hours from 12:00pm to 12:00am; or,
- 2) Educational Access channels: During any eight consecutive weeks, the Educational Access Channel is not in use for Locally Scheduled Original Programming 60% of the time, five (5) days per week, for any consecutive six (6) hour block during the hours from 6:00am to 11:00pm; or
- 3) Governmental Access channels: During any eight (8) consecutive weeks, the Governmental Access channel is not in use for Locally Scheduled Original Programming 60% of the time, five (5) days per week, for any consecutive six (6) hour block during the hours from 6:00am to 11:00pm.

For the purpose of this section:

"Locally Produced" means programming produced in the Cowlitz County, Longview, Kelso, Kalama area; and,

"Original Programming" means Programming in its initial cablecast on the System or in its first or second repeat; and,

"Locally Scheduled" means that the scheduling, selection and or playback of Original Programming on a per-program basis is determined in consultation with, or pursuant to the operating procedures of, the Designated Access Provider or, with respect to programming received from and Interconnection, the provider transmitting the programming over the Interconnection. However, carriage on any Access channel of all or a substantial portion of any non-local programming which duplicates programming otherwise carried by Grantee as a part of its basic or expanded basic Cable Services shall not be considered "Locally Scheduled."

6.9 PEG Signals and Equipment

(A) All PEG Channels shall be provided as part of Basic Service in accordance with applicable law. All PEG Channels may be delivered by the City to Grantee in standard digital format or in an HD format in accordance with Section 6.7 herein.

(B) Any and all costs associated with any modification of the PEG Channels or signals after the PEG Channels/signals leave the Designated Access Provider's side of fiber termination panel, or any designated playback center authorized by the City, shall be borne entirely by Grantee and provided free of charge to the City and its designees.

6.10 Technical Quality

- (A) Grantee shall maintain all Upstream and Downstream Access Channels and interconnections of Access Channels at the same or better level of technical quality and reliability provided for its Residential Network and required by this Franchise and all other applicable laws, rules and regulations for Residential Subscriber Channels, Grantee shall provide routing maintenance and shall repair and replace all transmission equipment, including modulators, associated cable and equipment in use upon the effective date of this Franchise, necessary to carry a quality signal to and from Grantor's facilities.
- (B) Grantee shall have no responsibility for the technical production quality of the Access programming distributed on the Access Channels.
- (C) The Grantee shall not cause any programming other than emergency alert signals to override Access Programming on any Access Channel except by specific written permission from the Designated Access Provider.

6.11 Change in Technology

In the event Grantee makes any change in the Cable System and related equipment and facilities or in Grantees signal delivery technology, which directly or indirectly substantially affects the signal quality or transmission of Access Programming, Grantee shall at its own expense take necessary technical steps or provide necessary technical assistance, including the acquisition of all necessary equipment at its facilities to ensure that the capabilities of Designated Access Providers are not diminished or adversely affected by such change. Designated Access Providers shall be responsible for acquisition of necessary equipment at their respective facilities.

6.12 Relocation of Grantee's Headend

In the event Grantee relocates its headend, Grantee will be responsible for replacing or restoring the existing dedicated connection at Grantee's cost so that all the functions and capacity remain available, operate reliably and satisfy all applicable technical standards without additional costs to the City.

SECTION 7. REGULATORY PROVISIONS

7.1 Intent

The City retains the right to administer and regulate activities under the Franchise up to the full extent permitted by Applicable Law.

7.2 Delegation of Authority to Regulate

The City reserves the right to delegate its regulatory authority wholly or in part to agents of the City, including, but not limited to, an agency which may be formed to regulate several franchises in the Cowlitz County region.

7.3 Areas of Administrative Authority

(A) In addition to any other regulatory authority granted to the City by law or franchise, the City or its designee shall have administrative authority in the following areas:

- 1) Administering and enforcing the provisions of this Franchise Agreement, including the adoption of administrative rules and regulations to carry out this responsibility.
- 2) Coordinating the operation of PEG Channel programming.
- 3) Planning expansion and growth of public access programming.
- 4) Formulating and recommending long-range cable communications policy for the Franchise area.
- 5) Disbursing and utilizing Franchise revenues paid to the City.

(B) Grantee shall cooperate fully in facilitating the City's discharge of its administrative authority.

7.4 Regulation of Rates and Charges

(A) Notice of Change in Rates and Charges. Throughout the term of this Franchise, Grantee shall give the City and all Subscribers within the City of Kelso at least thirty (30) days' notice of any intended change to Subscriber rates or charges. Nothing in this Subsection shall be construed to prohibit the reduction or waiving of rates or charges in conjunction with promotional campaigns for the purpose of attracting Subscribers.

(B) Rate Discrimination Prohibited. Within any category of Subscribers, Grantee shall not discriminate among Subscribers with regard to rates and charges made for any Cable Service based on considerations of race, color, creed, sex, marital or economic status, national origin, sexual preference, or neighborhood of residence, except as otherwise provided herein; and for purposes of setting rates and charges, no categorization of Subscribers shall be made by Grantee on the basis of those considerations.

7.5 Franchise Violations, Remedies, and Revocation

(A) Remedies

The City shall have the right to assert the remedies set out below in the event Grantee violates any provision of this Franchise. These remedies are intended to embody the City's and/or the public's rights under Washington state law to the extent permitted by Applicable Law.

- 1) To the extent the City deems necessary to remedy the default, proceed against all or any part of any security provided under the City Code or this Franchise, including, without limitation, any bonds, security funds, or other surety;
- 2) Impose liquidated damages as set forth in Section 7.6, but only after the due process provisions outlined herein have been completed;
- 3) Commencing an action at law for monetary damages or seeking equitable relief, including specific performance; or
- 4) In the case of a Grantee's default as to a material provision of the Franchise, undertake the proceeding to revoke the Franchise.

Grantee shall be responsible for all direct and actual costs related to the enforcement action including, but not limited to, legal and administrative costs. In determining which remedy or remedies for Grantee's violation are appropriate, the City shall take into consideration the nature and extent of the violation, the remedy needed to prevent such violations in the future, whether Grantee has a history of previous violations of the same or similar kind, and such other considerations as are appropriate under the circumstances.

(B) Revocation

The City has the right to revoke this Franchise, and all rights and privileges pertaining thereto, in the event that:

- 1) Grantee is in violation of any material provision of the Franchise Agreement or has demonstrated a pattern of Franchise violations and fails to correct the violation(s) after written notice of the violation(s) and proposed forfeiture and a reasonable opportunity thereafter to correct the violation(s) as noted in section 7.5 (c); or
- 2) Grantee becomes insolvent, unable or unwilling to pay its debts, or is adjudged bankrupt, to the extent permitted by Applicable Law; or
- 3) Grantee is found to have engaged in any or attempted fraud or deceit upon the City, Persons, or Subscribers; or
- 4) Grantee fails to post a performance bond as required under the terms of this Franchise.

(C) Enforcement Procedures

- 1) Notice of Violation or Default. In the event the City believes that the Grantee has not complied with the material terms of the Franchise or has demonstrated a pattern of Franchise violations, it shall first make contact with Grantee to informally discuss the issue. This informal discussion may be via telephone, email or other electronic means and is intended as a courtesy to Grantee prior to issuing a notice of violation. Thereafter the City shall notify the Grantee in writing with specific details regarding the exact nature of the alleged noncompliance or default ("Violation Notice").
- 2) Grantee's Right to Cure or Respond. The Grantee shall have thirty (30) days from the receipt of the Violation Notice to: (A) to respond to the City, contesting the assertion of noncompliance or default; or (B) to cure such default; or (C) in the event that, by nature of the default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the City of the steps being taken and the projected date that they will be completed. The City shall not unreasonably refuse to accept the Grantee's proposed cure date but such decision shall be the City's alone to make.
- 3) Contested Hearings. In the event the Grantee fails to respond to the Violation Notice or in the event that the alleged default is not remedied as required under this Section 7.5 (c), the City may refer the matter to the City's hearing examiner in accordance with Chapter 2.14 of the City Municipal Code. The Grantee will be provided an opportunity to present evidence to contest the alleged violation. City shall notify Grantee of the hearing in writing. The determination as to whether Grantee is in default of this Franchise shall be determined by the hearing examiner, but any such written decision shall be subject to appeal to a court of competent jurisdiction. Such appeal to the appropriate Court shall be filed within thirty (30) days of the issuance of the written decision of the hearing examiner. City shall receive notice from Grantee of any appeal concurrent with any filing to a court of competent jurisdiction.

- 4) In the event the hearing examiner determines that Grantee is in non-compliance with any provision of the Franchise, the City may impose any of the remedies set out in section 7.5(A).

7.6 Liquidated Damages

- (A) Because Grantee's failure to comply with the provisions of this Franchise will result in damage to the City and because it will be impractical to determine the actual amount of such damages, the City and Grantee hereby agree upon and specify certain amounts set forth hereafter in this section which represent both parties' best estimate of the damages.
- (B) The City shall specify any damages subject to this section and shall include such information in the Violation Notice sent to Grantee required under Section 7.5(C)(1). Such Violation Notice may provide for damages sustained prior to the Violation Notice where so provided, and subsequent thereto pending compliance by Grantee.
- (C) To the extent that the City elects to assess liquidated damages as provided in this section and such liquidated damages have been paid, the parties agree that the assessment of liquidated damages does not constitute a waiver by the City of any other right or remedy it may have under the Franchise or Applicable Law.
- (D) Unless otherwise provided, liquidated damages shall accrue once the thirty (30) day cure period has expired following Grantee's receipt of the Violation Notice, unless the City has agreed to extend the thirty (30) day cure period. If Grantee fails to cure within the thirty (30) days, then the liquidated damages accrue from the date of the Violation Notice for a maximum of one hundred-twenty (120) days, whereupon the City shall pursue alternate remedies as provided herein. Nothing in this section prevents the parties from settling any dispute relating to liquidated damages by mutual stipulation.
- (E) Grantee may cure the breach or violation within the time specified in Section 7.5(C)(2) to the City's satisfaction, whereupon no liquidated damages are assessed.
- (F) Schedule of Liquidated Damages. Nothing requires the City to assess liquidated damages, acting in its sole discretion, but such non-assessment does not operate as waiver or estoppel upon the City. Liquidated damages are set as follows:
 - 1) For any non-continuing violation of any material provision, up to \$250.00 per incident.
 - 2) For any continuing violation up to \$500 per incident, not to exceed \$5,000 per year.

7.7 Removal of Cable Following Termination of Franchise

Any order by the City to remove cable or conduit shall be mailed to Grantee not later than thirty (30) calendar days following the final determination of revocation of Grantee's right to occupy public right of way. Grantee shall file written notice with the City not later than thirty (30) calendar days following the date of termination of the Franchise of its intention to remove cable and a schedule for removal by location. The schedule and timing of removal shall be subject to approval and regulation by the City. Removal shall be completed no later than twelve (12) months following the date of expiration of the Franchise.

7.8 Failure to Enforce

Grantee shall not be relieved of any of its obligations to comply promptly with any provision of the Franchise by reason of any failure of the City to enforce prompt compliance, and City's failure to enforce shall not constitute a waiver of rights or acquiescence in Grantee's conduct.

7.9 Alternative Remedies

- (A) As an alternative to the remedy set forth herein, the parties may mutually agree to submit any alleged violation of the provisions of this franchise to arbitration. The matter shall be determined by a board of three arbitrators, all of whom shall be citizens and taxpayers of the State of Washington, and shall be selected as follows: one by the City Council, one by the Grantee, and one by the two so appointed. Should the two arbitrators be unable to name a third, such third arbitrator shall be named by a judge of the Superior Court for Cowlitz County. Said board shall make its decision in writing and file its decision with the parties within sixty (60) days from the date of the appointment of the final arbitrator. The decision of the board shall be by a majority vote and signed by at least two arbitrators. The written decision shall be final and binding upon the parties.
- (B) No provision of this Franchise shall be deemed to bar the right of the parties to seek or obtain judicial relief from a violation of any provision of the Franchise or any rule, regulation, requirement or directive promulgated thereunder. Neither the existence of other remedies identified in the Franchise nor the exercise thereof shall be deemed to bar or otherwise limit the right of the parties to recover monetary damages (except where liquidated damages are otherwise prescribed) for such violation by Grantee, or to seek and obtain judicial enforcement of Grantee's obligations by means of specific performance, injunctive relief or mandate, or any other judicial remedy at law or in equity.

7.10 Compliance with the Laws; Eminent Domain

Grantee shall comply with all applicable federal and State laws and regulations, including regulations of any administrative agency thereof, as well as all generally applicable ordinances, resolutions, rules and regulations of the City heretofore or hereafter adopted or established during the term, of this Franchise. Nothing in the Franchise shall expand or limit the City's right of eminent domain under State law. Nothing in the Franchise shall be deemed to waive the requirements of any lawful code, ordinance or resolution of the City requiring permits, fees to be paid, or regulation of construction.

SECTION 8. REPORTING REQUIREMENTS

8.1 Quarterly Revenue Report

Grantee shall submit to the City along with its franchise fee payment a report showing the basis for computation of such fees showing the basis for the computation of the franchise fees and PEG fees paid during that period in a form and substance substantially equivalent to Exhibit A attached hereto. This report shall separately indicate revenues received by Grantee within the City including, but not limited to such items as listed in the definition of "Gross Revenues" at Section 1.21 of this Franchise.

8.2 Complaint File and Reports

Grantee shall keep an accurate and comprehensive file of any and all complaints regarding the Cable System, in a manner consistent with privacy rights of Subscribers, and Grantee's actions in response to those complaints. Those files shall remain open to the City during normal business hours. Upon written request, Grantee shall provide, an executive summary report quarterly (within 45 days of the end of the preceding quarter) to City, which shall include the following information:

- 1) Nature and type of customer complaint;
- 2) Number, duration, general location and customer impact of unplanned service interruptions
- 3) Any significant construction activities which affect the quality or otherwise enhance the service the Cable System;
- 4) Average response time for service calls;
- 5) Phone activity report that includes use of automated response unit or voice response unit in answering and distributing calls from Subscribers at all call centers whether the calls are answered by a live representative, by an automated attendant or abandoned after thirty (30) seconds of call waiting;
- 6) New areas constructed and available for Cable Service, including multiple dwelling units;
- 7) Video programming changes (additions/deletions);
- 8) Such other information about special problems, activities, or achievements as Grantee may want to provide the City.

8.3 Annual Report

Upon written request, on or before May 31st of each year during the term of this Franchise, Grantee shall present a written report to the City or the City's designee which shall include:

- 1) A summary of gross revenue and franchise fee calculations for the previous year.
- 2) A summary of the previous year's activities for the Franchise Area served by Grantee including, but not limited to, the total number of Subscribers for each category of service, the number of homes passed, miles of overhead and underground cable plant.
- 3) A description of all significant changes and modifications to the system or services that have been implemented in the previous year.

8.4 Monitoring and Compliance Reports

Upon written request, but no more than once a year, Grantee shall provide FCC proof of performance test results. Upon written request, Grantee shall make available for City's review, any other technical testing results related to the system serving the City.

8.5 Additional Reports and Information

- (A) Grantee shall at all times maintain and allow the City access and the right to review a full and complete set of plans, records and "as built" maps showing the exact location of all Cable System equipment installed or in use in the Franchise Area, exclusive of electronics, Subscriber drops and equipment provided in Subscribers' homes. These maps shall be maintained in a standard format and medium agreed upon by the City and the Grantee.
- (B) Confidentiality. The City agrees to treat as confidential any books and records that constitute proprietary or confidential information under federal or state law, to the extent Grantee makes the City aware of such confidentiality. Grantee shall be responsible for clearly and conspicuously marking or identifying as "Confidential" on each page that contains confidential or proprietary information. If the City believes it must release any such books and records marked or identified as "Confidential" in the course of enforcing this Agreement, in response to a public record request, subpoena or other court order, or for any other reason, it shall advise Grantee in advance so that Grantee may take appropriate steps to protect its interests. If the City receives a demand from any Person for disclosure of any information designated by Grantee as confidential, the City shall, so far as consistent with applicable law, advise Grantee and provide Grantee with a copy of any written request by the party demanding access to such information within a reasonable time so Grantee may take appropriate steps to protect the information from disclosure.

8.6 Grantee Report of Communications with State Regulatory Bodies or Committees

Grantee shall notify the City whenever the Grantee names the City in any filings which Grantee may submit to the State of Washington that bear relevance on the terms of this Franchise. Upon request, copies of responses from the State of Washington related to Grantees submittal pertaining to the Cable System serving the City shall likewise be filed.

In addition, Grantee shall within 10 days of any communication to or from any judicial or regulatory agency regarding any alleged or actual violation of a law, regulation or other requirement relating to the City's administration of this Franchise, provide the City a copy of the communication.

SECTION 9. CUSTOMER SERVICE POLICIES

9.1 Response to Customers and Cooperation with City

Grantee shall promptly respond to all requests for service, repair, installation and information from Subscribers. Grantee acknowledges the City's interest in the prompt resolution of all cable complaints and shall work in close cooperation with the City to resolve complaints.

9.2 Customer Service

- (A) The Grantee shall comply with all applicable customer service standards established in the Cable Act or federal rules and regulations, including and not limited to FCC Rules and Regulations, Part 76, Subpart H and Subpart T, and Grantor has the authority to enforce such standards. Nothing in this Section shall limit the rights of the Grantor to establish additional or different standards in accordance with deferral law and regulations. Grantee will comply with privacy rights of Subscribers in accordance with federal, state, and local law.
- (B) Throughout the Agreement term, the Grantee must maintain, at a minimum, one (1) customer service center conveniently located in the City of Longview/Cowlitz County Franchise Area which will be open during normal business hours, as defined by the FCC, to provide Subscribers the opportunity for the receipt and pickup of Subscriber equipment and for bill payments and complaints. Grantee shall install telephones and other equipment so that customer complaints and service requests can be received by Grantee on a 24-hour basis at a toll-free telephone number. Grantee shall have the option to substitute the service center requirement by providing for pick up or drop off of equipment free of charge in any one of the following manners:
- 1) by having Grantee representative going to the customer's residence, or
 - 2) by using a prepaid mailer.
- (C) Grantee also has the option to provide payment drop off locations within the Franchise Area. Grantee shall provide City and Subscribers with at least sixty (60) days' notice of election to discontinue the service center.
- (D) City hereby adopts the customer service standards set forth in §76.309 of the FCC's rules and regulations, as included in Exhibit B.

SECTION 10. LINE EXTENSION POLICY

10.1 Service and Installation

Grantee shall make service available at standard installation and service rates, for every potential subscriber, pursuant to the following requirements:

- (A) In newly developing underground service areas, where a shared trench is provided, Grantee shall extend and make cable television service available to every dwelling unit in areas having at least twenty (20) dwelling units per trench mile, or any proportionate subset thereof, as measured from the existing system, and shall extend its system simultaneously with the installation of utility lines when this density requirement is met.
- (B) In any area served by overhead facilities Grantee shall extend and make cable television service available to every dwelling unit in areas having at least twenty (20) dwelling units per strand mile, or any proportionate subset thereof, as measured from the existing system, and shall extend its system simultaneously with the installation of utility lines when this density requirement is met.
- (C) In any area served by underground facilities that has existing homes that are not served by Grantee, Grantee shall extend and make cable television service available to every dwelling unit in areas having

at least one-hundred twenty (120) dwelling units per trench mile, or any proportionate subset thereof, as measured from the existing system.

- (D) Grantee must extend and make cable television service available to any resident requesting connection at the standard connection charge if the connection to the resident would require no more than a standard 125' aerial drop line.
- (E) With respect to requests for connection requiring an aerial drop line in excess of 125', the Grantee must extend and make available cable television service to such residents at a connection charge not to exceed the actual installation costs incurred by the company for the distance exceeding 125'.
- (F) The Grantee, in its application, may propose a line extension policy which will result in serving more residents of city than as required.

10.2 Annexed Areas and Requirements

- (A) City Notice of Annexation. In the event the City annexes any area which is being provided cable service by Grantee, the City shall provide to Grantee, within (10) ten working days of passage by City Council, a copy of the City ordinance, legal description, if not found in the ordinance, addresses and a map defining the annexed area.
- (B) Grantee Update of Subscriber Information Following Annexation. Grantee shall provide written notice to the City, within one hundred-twenty (120) days following an annexation, indicating that subscriber addresses within the annexation area have been updated to reflect the City as the franchising authority. Grantee shall provide revenue for new subscribers effective from the date of annexation.
- (C) Grantee service to newly annexed areas. Upon the annexation of any additional land area by the City, the following conditions apply:
 - 1) If the annexed area is not currently served by a cable operator, Grantee will be subject to the other provisions of this franchise.
 - 2) If the annexed area is served by a cable operator other than Grantee, the Grantee has the option to extend its Cable System to the newly annexed area if Grantee determines that it is economically feasible to do so.

SECTION 11. COMPENSATION AND FINANCIAL PROVISIONS

11.1 Franchise Fees

- (A) Fee amount. During the term of the Franchise, in consideration of the grant of this Franchise and permission to use the Public Rights of Way in the Franchise Area, Grantee shall pay to the City a franchise fee of 5% of Gross Revenues. If any such law, regulation or valid rule alters the 5% franchise fee enacted by the Cable Act, then the City shall have the authority to increase or decrease the franchise fee accordingly, provided such change is for purposes not inconsistent with Applicable Law, and Grantee agrees to pay the maximum permissible amount. In the event franchise fee is modified by the City, City agrees to provide Grantee with prompt written notice of such modification.

(B) Bundling. In the event Grantee bundles or combines Cable Services (which are subject to the franchise fee) with non-Cable Services (which are not subject to the franchise fee) so that Subscribers pay a single fee for more than one class of service resulting in a discount on Cable Services, Grantee agrees that for the purpose of calculation of the franchise fee, it shall allocate Cable Service revenue no less than a pro rata share of the revenue received for the bundled or combined services. The pro rata share shall be computed on the basis of the published charge for each service in the bundled or combined classes of services when purchased separately.

(C) Fee Payment

- 1) Franchise fees shall be paid quarterly for the preceding quarter ending March 31, June 30, September 30, and December 31. At the time of the quarterly payment, the Grantee shall submit a written report to the City, verified by an officer of Grantee, which shall contain an accurate statement of all Gross Revenues related to operation of the cable system franchised hereunder, in sufficient detail to enable the Grantor to verify the accuracy of franchise fee payments. No acceptance of any payment shall be construed as an accord that the amount paid is, in fact, the correct amount, nor shall such acceptance of payment be construed as a release of any claim which the City may have for further or additional sums payable under the provisions of this section.
- 2) Neither current nor previously paid franchise fees shall be subtracted from the Gross Revenue amount upon which franchise fees are calculated and due for any period, unless otherwise required by Applicable Law. Nor shall copyright fees or other license fees paid by Grantee be subtracted from Gross Revenues for purposes of calculating franchise fees.
- 3) In the event that a franchise fee payment or other sum is not received by the Grantor on or before the due date, or is underpaid, the Grantee shall pay in addition to the payment, or sum due, interest from the due date at a rate equal to the legal interest rate in the State of Washington.

(D) Additional Commitments not Franchise Fees.

No term or condition in this Franchise Agreement shall in any way modify or affect Grantee's obligation to pay Franchise Fees to City. Although the total sum of Franchise Fee payments and additional commitments set forth elsewhere in this Franchise Agreement may total more than five percent (5%) of Grantee's Gross Revenues in any twelve (12) month period, Grantee agrees that the additional commitments herein are not Franchise Fees as defined under any federal law, nor are they to be offset or credited against any Franchise Fee payments due to City. Payment of the Franchise Fees under this Franchise Agreement shall not exempt Grantee from the payment of any generally applicable license, permit fee, or other generally applicable fee, tax, or charge on the business, occupation, property, or income of Grantee that may be lawfully imposed by City.

(E) City Utility or Business & Occupational Taxes.

In addition to the franchise fee, or as an alternative to all or any part of the Franchise Fee, the City may impose a utility or other tax on the Grantee's Gross Revenues, provided that such utility tax is non-discriminatory. In such event, the City agrees that Grantee's total annual payment obligation to the City, exclusive of any PEG capital fee set forth under this agreement, shall not exceed eight percent (8%) of Grantee's Gross Revenues.

11.2 Auditing and Financial Records

(A) Grantee shall manage all of its operations in accordance with a policy of keeping relevant books and records open and accessible to the City. The City shall have the right as necessary for effectively enforcing the Franchise, to inspect at any time during Normal Business Office Hours

upon reasonable notice, all books, records, maps, plans, financial statements, service complaint logs, performance test results, records required to be kept by Grantee and any parent company pursuant to the rules and regulations of the FCC and other regulatory agencies, and other like materials of Grantee and any parent company which relate to the enforcement of the Franchise. Access to the aforementioned records shall not be denied by Grantee to representatives of the City on the basis that said records contain "proprietary" information. However, to the extent allowed by Washington law, the City shall protect the trade secrets and other confidential information of Grantee and any parent company.

- (B) Grantee agrees to meet with representatives of the City upon request to review its methodology of record-keeping, financial reporting, computing franchise fee obligations, and other procedures the understanding of which the City deems necessary for understanding the meaning of reports and records.
- (C) The City or its designee may conduct an audit of other inquiry in relation to payments made by Grantee no more than once every three (3) years during the Term. As a part of the audit process, the City or its designee may inspect Grantee's books and records relative to the Franchise at any time during regular business hours and after thirty (30) calendar days' written notice. All books and records deemed by the City or its designee to be reasonably necessary for such audit or inquiry shall be made available by Grantee in a mutually agreeable format and location within the service area. Grantee agrees to give its full cooperation in any audit or inquiry and shall provide responses to inquiries within thirty (30) calendar days of written request. Grantee may provide such responses after the expiration of the response period above if the City agrees in writing to provide additional time.
- (D) Upon the completion of any such audit by the City, the City shall provide to the Grantee a final report setting forth the City's findings in detail, including any and all substantiating documentation. Enforcement of any overpayment or underpayment shall be undertaken in accordance with Section 7.5 of this Franchise. In the event Grantee has underpaid the City by an amount greater than five percent (5%) underpayment, Grantee agrees to pay the cost of the audit in an amount up to seven thousand five hundred (\$7,500). No such payment shall be required of Grantee until Grantee has exhausted all of its Legal and administrative remedies.
- (E) In the event of an overpayment by Grantee, the City shall have the option of reimbursing Grantee within forty-five (45) days or of requesting in writing within forty-five (45) days that Grantee withhold fifty percent (50%) of each future Franchise Fee payment until such time as said overpayment is recovered and thereafter remitting the full amounts to the City.
- (F) The City agrees to request access to only those books and records, in exercising its rights under this section, which it deems reasonably necessary for the enforcement of the Franchise.

11.3 Performance Bond

Within thirty (30) days after the Grantee's acceptance of this Franchise, Grantee shall post a performance bond, in the amount of fifty thousand dollars (\$50,000.00), to ensure Grantee's faithful performance of the terms of this Franchise. Neither the provisions of this section, any bond accepted by the City pursuant thereto, nor any damages recovered by the City thereunder shall be construed to excuse faithful performance by Grantee or to limit liability of Grantee under the Franchise or for damages, either to the full amount of the bond or otherwise, except as otherwise provided herein.

11.4 Validity of Bond

If, at any time during the term of the Franchise, the condition of the entity issuing the bond shall change in such a manner as to render the bond unsatisfactory to the City, Grantee shall replace such bond by a bond of like amount and similarly conditioned, issued by an entity satisfactory to the City.

11.5 Indemnification by Grantee

Grantee shall, at its sole expense, fully indemnify, defend and hold harmless the City, and in their capacity as such, the officers and employees thereof, from and against any and all claims, suits, actions, liability and judgments for damage or otherwise except those arising wholly from negligence on the part of the City or its employees; for actual or alleged injury to persons or property, including loss of use of property due to an occurrence, whether or not such property is physically damaged or destroyed, in any way arising out of or through or alleged to arise out of or through the acts or omissions of Grantee or its officers, agents, employees, or contractors or to which Grantee's or its officers, agents, employees or contractors acts or omissions in any way contribute, and whether or not such acts or omissions were authorized or contemplated by this Franchise or Applicable Law; arising out of, or alleged to arise out of, any claim for damages for Grantee's invasion of the right of privacy, defamation of any person, firm or corporation, or the violation of infringement of any copyright, trademark, trade name, service mark or patent, or of any other right of any person, firm or corporation; arising out of or alleged to arise out of Grantee's failure to comply with the provisions of any statute, regulation or resolution of the United States, State of Washington or any local agency applicable to Grantee in its business. Nothing herein shall be deemed to prevent the City, its officers, or its employees, from participating in the defense of any litigation by their own counsel, at such parties' expense. Such participation shall not, under any circumstances, relieve Grantee from its duty of defense against liability, or of paying any judgment entered against the City, its officers, or its employees.

Notwithstanding, this Section (11.5) does not include PEG Access programming, operations, administration, or facilities, Access Channel(s), or Designated Access Provider(s), all of which is the City's sole responsibility.

11.6 Grantee Insurance

(A) Grantee shall maintain, throughout the term of the Franchise, liability insurance in the minimum amounts of:

- 1) Commercial General Liability: Two-million dollars (\$2,000,000) combined single limit per occurrence for bodily injury, personal injury, and property damage, and for those policies with aggregate limits, a two-and-one-half million dollars (\$2,500,000) aggregate limit;
- 2) Automobile Liability: Two-million dollars (\$2,000,000) combined single limit per accident for bodily injury and property damage; and
- 3) Two-million dollars (\$2,000,000) for all other types of liability, including claims for damages for invasion of the right of privacy; for defamation of any person, firm, or corporation; for the violation or infringement of any copyright, trademark, trade name, service mark or patent; or, for damage to any other person, firm, or corporation arising out of or alleged to arise out of failure to comply with the provisions of any statute, regulation or resolution of the United States, State of Washington, or any local agency with jurisdiction.

(B) Such insurance shall specifically name as additional insured the City of Kelso, its officers, employees and agents, shall further provide that the policy shall not be modified or canceled during the life of this Franchise without giving 30 days written notice to the City.

(C) Grantee shall file with the City a certificate of insurance showing up-to-date coverage and additional insured coverage, as set forth above. Coverage shall not be changed or canceled without approval of the City.

SECTION 12. MISCELLANEOUS PROVISIONS

12.1 Posting and Publication

Grantee shall assume the cost of posting and publication of this Franchise as such posting and publication is required by law and such is payable upon Grantee's filing of acceptance of this Franchise.

12.2 Guarantee of Performance

Grantee agrees that it enters into this Franchise voluntarily in order to secure and in consideration of the grant from the City of a 10-year Franchise. Performance pursuant to the terms and conditions of this Franchise agreement is guaranteed by Grantee.

12.3 Entire Agreement

This Franchise Agreement contains the entire agreement between the parties, supersedes all prior agreements or proposals except as specifically set forth herein, and cannot be changed orally but only by an instrument in writing executed by the parties.

12.4 Consent

Wherever the consent or approval of either Grantee or the City is specifically required in this Franchise Agreement, such consent or approval shall not be unreasonably withheld.

12.5 Ordinances Terminated

The cable television franchise as originally granted by Ordinance Nos. 99-3444 is hereby terminated.

12.6 Franchise Acceptance

This Franchise granted by this Ordinance shall be effective fifteen (15) days from date of final passage by City Council; provided, however, that Grantee shall have sixty (60) days to accept the Franchise and

comply with all conditions for such acceptance. This Franchise shall be voidable at the City's discretion if Grantee fails to accept within sixty (60) days.

12.7 Force Majeure

If by reason of force majeure the Grantee is unable in whole or in part to carry out its obligations hereunder, the Grantee shall not be deemed in violation or default during the continuance of such inability. The term "force majeure" as used herein shall mean the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders of the government of the United States of America, or of the State of Washington, or their departments, agencies, political subdivisions, or officials; acts of any civil or military authority; insurrections; riots; epidemics; landslides; earthquakes; lightning; fires; hurricanes; volcanic activity; storms; floods; washouts; droughts; restraint of government and people; civil disturbances; explosions; partial or entire failure of utilities; documented work delays caused by waiting for utility providers to service or monitor utility poles to which grantee's facilities are attached and documented unavailability of materials and/or qualified labor to perform the work necessary; and similar occurrences outside the control of the Grantee. The Grantee agrees, however to give its best efforts to remedy as soon as possible, under the circumstances, the cause or causes preventing Grantee from carrying out its responsibilities and duties under this Franchise Agreement.

12.8 Work of Contractors and Subcontractors

Work by contractors and subcontractors are subject to the same restrictions, limitations and conditions as if the work were performed by Grantee. Grantee shall be responsible for all work performed by its contractors and subcontractors, and others performing work on its behalf as if the work were performed by it and shall ensure that all such work is performed in compliance with this Franchise, the City Code and other Applicable Law, and shall be jointly and severally liable for all damages and correcting all damage caused by them. It is Grantee's responsibility to ensure that contractors, subcontractors or other Persons performing work on Grantee's behalf are familiar with the requirements of this Franchise, the City Code and other Applicable Laws governing the work performed by them.

12.9 Severability

If any Section, subsection, paragraph or provision of this Franchise is determined to be illegal, invalid or unconstitutional by any court of competent jurisdiction, such determination shall have no effect on the validity of any other Section, subsection, paragraph or provision of this Franchise, all of which will remain in full force and effect for the term of the Franchise.

12.10 Counterparts

This Franchise Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original copy, and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all parties shall not have signed the same counterpart.

12.11 No Waiver of Rights

Nothing in this Franchise shall be construed as a waiver of any rights, substantive or procedural, either City or Grantee may have under Federal or state law unless such waiver is expressly stated herein.

12.12 No Third Party Beneficiaries

Nothing in this Franchise is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of this Franchise.

12.13 Modification

No provision of this Franchise shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by the City and the Grantee, which amendment shall be authorized on behalf of the City through the adoption of an appropriate resolution or order by the City, as required by applicable law.

12.14 Notices

All notices shall be in writing and shall be sufficiently given and served upon the other party by hand delivery, first class mail, registered or certified, return receipt requested, postage prepaid, or by reputable overnight courier service and addressed as follows:

To the City:

City Manager
City of Kelso
203 Pacific Avenue
P.O. Box 819
Kelso, WA 98626

Non-binding courtesy copy to:

City Attorney
City of Kelso
203 South Pacific Avenue
P.O. Box 819
Kelso, WA 98626

To the Grantee:

Comcast of Colorado/Florida/Michigan/New Mexico/Pennsylvania/Washington, LLC.
Attention: Government Affairs
9605 SW Nimbus Ave.
Beaverton, Oregon 97008

12.15 Governing Law

Franchise shall be deemed to be executed in the State of Washington, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the State of Washington, as applicable to contracts entered into and performed entirely within the State.

FRANCHISE ACCEPTANCE

The undersigned, Comcast of Colorado/Florida/Michigan/New Mexico/Pennsylvania/Washington LLC, does hereby accept the Franchise granted pursuant to Ordinance No. _____ passed and approved on _____, 201_ and does hereby agree that it will comply with and abide by all of the provisions, terms, and conditions of the Franchise subject to applicable federal, state, and local law.

**Comcast of Colorado/Florida/Michigan/
New Mexico/Pennsylvania/Washington, LLC**

City of Kelso

By: _____

By: _____

Name: _____

Name: Stephen Taylor

Its: _____

Its: City Manager

Date: _____

Date: _____

EXHIBIT A - FRANCHISE FEE PAYMENT WORKSHEET

	Month/Year	Month/Year	Month/Year	Total
Subscriber Revenue				
Basic Service				
Expanded Basic Service				
Bad Debt/Write-offs				
Bulk Revenue				
Digital Cable/Services				
Equipment Revenue				
FCC Fee Revenue				
Franchise Fee Revenue				
Guide Revenue				
Inside Wiring				
Installation Charge				
Late Fee Revenue				
Other Revenue				
Premium Service				
Pay-per-view				
Processing Fees				
Allocated Revenue				
Home Shopping Revenue				
Leased Access				
Other Revenue				
Tower & Rental Income				
Local Advertising				
National Advertising				
Bad Debt on Advertising				
TOTAL REVENUE				
Fee Calculated				

Fee Factor: 5%

EXHIBIT B - FCC CUSTOMER SERVICE STANDARDS

Grantee shall comply in all respects with the following customer service requirements established by the §76.309 of the FCC's rules and regulations:

(1) Cable System office hours and telephone availability:

(i) The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to its Subscribers twenty-four (24) hours a day, seven (7) days a week.

(A) Trained company representatives will be available to respond to customer telephone inquiries during Normal Business Hours.

(B) After Normal Business Hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after Normal Business Hours must be responded to by a trained company representative on the next business day.

(ii) Under Normal Operating Conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety percent (90%) of the time under Normal Operating Conditions, measured on a quarterly basis.

(iii) The operator shall not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

(iv) Under Normal Operating Conditions, the customer will receive a busy signal less than three percent (3%) of the time.

(v) Customer service center and bill payment locations will be open at least during Normal Business Office Hours and will be conveniently located.

(2) Installations, Outages and Service Calls. Under Normal Operating Conditions, each of the following standards will be met no less than ninety five percent (95%) of the time measured on a quarterly basis:

(i) Standard Installations will be performed within seven (7) business days after an order has been placed. "Standard" Installations are those that are located up to one hundred twenty-five (125) feet from the existing distribution system.

(ii) Excluding conditions beyond the control of the operator, the cable operator will begin working on "Service Interruptions" promptly and in no event later than twenty-four (24) hours after the interruption becomes known. The cable operator must begin actions to correct other Service problems the next business day after notification of the Service problem.

(iii) The "appointment window" alternatives for Installations, Service calls, and other Installation activities will be either a specific time or, at maximum, a four (4) hour time block during Normal Business Hours. (The operator may schedule Service calls and other Installation activities outside of Normal Business Hours for the express convenience of the customer.)

(iv) An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

(v) If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

(3) Communications between Cable operators and Subscribers:

(i) Refunds. Refund checks will be issued promptly, but no later than either:

(A) The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or

(B) The return of the equipment supplied by the cable operator if service is terminated.

(ii) Credits. Credits for Service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

EXHIBIT C - CHECKLIST OF NOTICES AND REPORTS

This Exhibit provides excerpts from this Agreement related to regular notice and reporting requirements of this document. Other less-routine notice requirements are described in relevant sections of this Agreement and are not listed below.

Reports and notice requirements – Cross-reference – City to Grantee

Section 4.8 – Performance Testing – Grantee shall inform the City of the time and place of each test no less than three weeks prior to the scheduled compliance test

Section 5.2 – Changes in Programming Services – Grantee shall provide at least thirty (30) day's prior written notice to Subscribers and to the City of Grantee's intent to effectively delete any broad category of programming or any channel... including all proposed changes in channel allocation, including any new equipment requirements.... The Grantee shall also give 30 days. written notice to both Subscribers and the City before implementing any service change.

Section 6.5 – PEG Channel Location – Grantee will give the City at least 90 day notice prior to changing any PEG channel location or number.

Section 7.4 – Regulation of Rates and Charges – Grantee shall give the City and all Subscribers within the City of Kelso at least thirty (30) days' notice of any intended change to Subscriber rates or charges.

Section 8.1 – Quarterly Revenue Report

Section 8.2 – Complaint File and Reports

Section 8.3 – Annual Report

Section 8.8 – Grantee report of communications with State regulatory bodies or committees - Grantee shall notify the City whenever the Grantee names the City in any filings which Grantee may submit to the State of Washington that bear relevance on the terms of this Franchise... Grantee shall within 10 days of any communication to or from any judicial or regulatory agency regarding any alleged or actual violation of a law, regulation or other requirement relating to the City's administration of this Franchise, provide the City a copy of the communication

Section 10.2 – Annexed Areas and Requirements - Grantee shall provide written notice to the City, within one hundred-twenty (120) days following an annexation, indicating that subscriber addresses within the annexation area have been updated to reflect the City as the franchising authority.

Reports and notice requirements – Cross-reference – City to Grantee

Section 6.6 – PEG Fees – City annual report to Grantee of PEG fee purchases - City shall provide to Grantee, within ninety (90) days following the end of each calendar year, a report detailing the City's PEG related capital expenditures.

Section 10.2 – Annexed Areas and Requirements - In the event the City annexes any area which is being provided cable service by Grantee, the City shall provide to Grantee, within (10) ten working days of passage by City Council, a copy of the City ordinance, legal description, if not found in the ordinance, addresses and a map defining the annexed area.

Exhibit D - Franchise Acceptance.

The undersigned, Comcast of Colorado/Florida/Michigan/New Mexico/Pennsylvania/Washington LLC, does hereby accept the Franchise granted pursuant to Ordinance No. _____ passed and approved on _____, 201_ and does hereby agree that it will comply with and abide by all of the provisions, terms, and conditions of the Franchise subject to applicable federal, state, and local law.

Comcast of Colorado/Florida/Michigan/New Mexico/Pennsylvania/Washington LLC

By: _____

Its: _____

Date: _____

AGENDA SUMMARY SHEET

AGENDA ITEM: Ordinance 1st reading.
Budget revision #2 for the 2015 fiscal
year.

SUBMITTED BY: Brian Butterfield

AGENDA ITEM # _____
FOR AGENDA OF: 12/1/2015
ORIGINATING DEPT: Finance
DATE SUBMITTED: 11/24/2015
COST OF ITEM: _____
AMT. BUDGETED _____
CITY ATTY. APPROVAL _____
CITY MGR. APPROVAL _____

AGENDA ITEM PAPERWORK:
See attached Ordinance

SUMMARY STATEMENT/DEPT. RECOMMENDATION:

Revisions include the following:

General Fund

- \$150,000 temporary loan to Southwest Washington Regional Airport.

Kelso Station Fund

- \$6,000 to fund monthly maintenance of the HVAC system.

OPTIONS:

- 1) Move to approve ordinance.
- 2) Do not approve ordinance.
- 3) Provide direction to staff regarding desired changes.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KELSO RELATING TO PUBLIC EXPENDITURES AND DECLARING AN EMERGENCY UNDER THE PROVISIONS OF RCW 35A.34.150, FIXING THE AMOUNT OF MONEY REQUIRED TO MEET SUCH EMERGENCIES AND AUTHORIZING THE EXPENDITURE OF MONEY NOT PROVIDED FOR IN THE 2015-2016 BIENNIAL BUDGET OF THE CITY.

THE CITY COUNCIL OF THE CITY OF KELSO DO ORDAIN AS FOLLOWS:

SECTION 1. That by reason of the inability of the City and its officials to foresee and compute with accuracy the actual revenue and necessary expenditures of public funds for the current expenses of the City, it is deemed necessary to make the following amendment to the budget by increasing the following line items by the amounts set forth below for the 2015 Budget, to-wit:

GENERAL FUND

Revenues

001-00-381-10-00	Interfund Loan Repayment	\$ 150,000.00
------------------	--------------------------	---------------

Expenditures

001-01-511-60-10-1	Salaries	\$ 3,000.00
--------------------	----------	-------------

001-01-511-60-20-1	Benefits	1,000.00
--------------------	----------	----------

001-02-512-50-49-0	Contract Services – Muni Court	(8,000.00)
--------------------	--------------------------------	------------

001-03-513-10-10-1	Salaries	3,000.00
--------------------	----------	----------

001-03-513-10-20-1	Benefits	1,000.00
--------------------	----------	----------

001-09-581-10-00-0	Interfund Loan Disbursement	150,000.00
--------------------	-----------------------------	------------

KELSO STATION FUND

Revenues

105-15-308-00-00	Beginning Fund Balance	\$	6,000.00
------------------	------------------------	----	----------

Expenditures

106-15-547-60-48-0	Repairs and Maintenance	\$	6,000.00
--------------------	-------------------------	----	----------

SECTION 2. It is hereby ordered that the aforesaid sum be and the same is hereby appropriated in excess of the budget of the City of Kelso for 2015 and further that said budget be and the same is hereby amended accordingly.

SECTION 3. This Ordinance shall be in full force and effect five days after its passage and publication of summary as required by law.

ADOPTED by the City Council and **SIGNED** by the Mayor this _____ day of December, 2015.

MAYOR

ATTEST/AUTHENTICATION:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

PUBLISHED: _____

AGENDA SUMMARY SHEET

AGENDA ITEM: An ordinance
authorizing an interfund loan from the
General Fund to the Airport Fund
for the purpose of providing
working capital for Airport Improvements.
1st reading.

SUBMITTED BY: Brian Butterfield

AGENDA ITEM # _____
FOR AGENDA OF: 12/1/2015
ORIGINATING DEPT: Finance
DATE SUBMITTED: 11/25/2015
COST OF ITEM: N/A
AMT. BUDGETED N/A
CITY ATTY. APPROVAL _____
CITY MGR. APPROVAL _____

AGENDA ITEM PAPERWORK:

See attached ordinance.

SUMMARY STATEMENT/DEPT. RECOMMENDATION:

Expenditures for various airport improvements may require substantial monies up front to complete the various tasks. However, at this time, the Airport has insufficient funds available to cover all of the expected costs. This temporary loan will provide sufficient funds for such costs. Ultimately, most Airport Improvement expenditures will be reimbursed to the Airport from grants.

Staff recommends adopting the ordinance on first reading.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF KELSO AUTHORIZING THE
TRANSFER OF FUNDS FROM THE GENERAL FUND TO THE AIRPORT
FUND AND PROVIDING FOR THE REPAYMENT OF SUCH LOAN**

WHEREAS, the Southwest Washington Regional Airport Board (“Board”), of which the City is a member, operates the Southwest Washington Regional Airport located in Kelso and owned by the City; and

WHEREAS, the Board has contracted with the City to provide finance and administrative services for the Board, including the requirement for a separate City agency fund for processing of Airport finances; and

WHEREAS, the City has historically provided interfund loan transfers to the Airport fund for purposes of meeting short term Airport capital improvement obligations pending reimbursement from federal grants to the City for such purposes; and

WHEREAS, the Board has requested the interfund loan transfer of \$150,000 pending federal reimbursement; and

WHEREAS, the City finds that certain monies need to be expended from said Airport Fund to cover “Airport Improvement” expenditures for 2015 and 2016; and

WHEREAS, the City, as the Airport sponsor, property owner, and grant recipient, has been approved for grant funding for these “Airport Improvement” expenditures and said funds are only available on a reimbursement basis; and

WHEREAS, the City desires to transfer monies from the General Fund to the Airport Fund to cover said expenditures with the intent of repaying the General Fund when said grant funds are received;

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KELSO DO ORDAIN AS FOLLOWS:

SECTION 1 That the City is authorized to transfer the sum of not more than \$150,000 from the Water/Sewer Fund to the Airport Fund to cover expenditures for 2015 & 2016.

SECTION 2 That the City agrees to repay the General Fund in full from monies the City will receive from Grant Funds dedicated for Airport Improvement Projects. Interest shall be charged on said loan at the rate set by the Local Government Investment Pool (LGIP).

SECTION 3 This Ordinance shall be in full force and effect 5 days after its passage and publication of summary as required by law.

ADOPTED by the City Council and **SIGNED** by the Mayor this 17th day of December, 2015.

ATTEST/AUTHENTICATION:

MAYOR

CITY CLERK
APPROVED AS TO FORM:

CITY ATTORNEY
PUBLISHED:

AGENDA SUMMARY SHEET

Business of the City Council City of Kelso, Washington

SUBJECT TITLE: AN ORDINANCE OF THE CITY OF KELSO AMENDING KMC 5.05.120 TO INCREASE UTILITY BUSINESS TAX RATES ON CABLE TELEVISION ENTERPRISES FROM SIX TO EIGHT PERCENT IN ACCORDANCE WITH THE FRANCHISE AGREEMENT FOR SUCH SERVICES.

Agenda Item: _____

Dept. of Origin: _____ City Manager _____

For Agenda of: December 1, 2015

Originator: Steve Taylor, City Manager

City Attorney: Janean Parker

City Manager: Steve Taylor

PRESENTED BY:

Steve Taylor

Agenda Item Attachments:

Proposed Ordinance Amending KMC 5.05.120

SUMMARY STATEMENT:

The City has negotiated a final draft of an agreement that renews the franchise with Comcast Cable. (Consideration of the ordinance which adopts the new franchise agreement is also an item on the December 1st Council Agenda.) The previous franchise agreement provided an option for the City to levy a 5% franchise fee on the cable enterprise's gross revenues collected within the local franchise area (LFA).

Additionally, the agreement provided for Comcast to pay out an additional 2% of its gross revenues to support Public, Educational, and Governmental (PEG) program operations. The City contracts with KLTV to provide PEG services. Under Washington State law, the City is also able to assess utility taxes on cable services as long as those taxes are reasonably comparable to the rates charged to other utilities. Both the previous and proposed agreements allow the City to charge utility taxes in lieu of the franchise fees, and the City has done so for the duration of the existing franchise.

KMC Section 5.05.120(D) assesses a six percent (6%) utility tax on cable services. Five percent (5%) is retained by the City for general operating expenses and one percent (1%) is remitted to KLTV for PEG programming services. Coupled with Comcast's contribution, KLTV receives a total of three percent (3%) of cable gross operating revenues within the LFA. Under the new franchise agreement, Comcast will no longer provide its two percent (2%) contribution for PEG operations,

so staff is proposing an increase in the cable utility tax from six to eight percent (8%) to retain the financial status quo for PEG. Five percent (5%) of the utility tax would remain within the City's General Fund, and three percent (3%) would be paid to KLTV. Both franchise agreements placed a cap of eight percent (8%) on any combination of utility taxes assessed or franchise fees collected. An eight percent (8%) tax is estimated to generate \$180,000, of which \$67,000 is remitted to KLTV.

Staff will be reviewing the KLTV PEG programming agreements and offering amendments for Council's consideration in the first quarter of 2016.

OPTIONS:

- 1) Move to approve the Ordinance on first reading amending KMC 5.05.120 which increases the cable utility tax from 6% to 8%.
- 2) Do not approve the Ordinance.
- 3) Delay action on the Ordinance and bring back for consideration following further revision.

RECOMMENDED ACTION:

Approve the ordinance on first reading amending KMC 5.05.120.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KELSO AMENDING KMC 5.05.120 TO INCREASE UTILITY BUSINESS TAX RATES ON CABLE TELEVISION ENTERPRISES FROM SIX TO EIGHT PERCENT IN ACCORDANCE WITH THE FRANCHISE AGREEMENT FOR SUCH SERVICES.

WHEREAS, the cable franchise agreement between the City and Comcast Cable has been renewed and adopted by Ordinance No. _____, and the agreement provides for the payment of franchise fees to the City for the right to locate cable facilities within the right-of-way; and

WHEREAS, the franchise agreement allows the City to levy a business & occupation utility tax on the gross revenues of the cable enterprise in lieu of the franchise fees authorized therein; and

WHEREAS, the City under the provisions of the previous franchise agreement levied a six percent (6%) utility tax in lieu of franchise fees, of which one percent (1%) was earmarked by the City for Public, Educational, and Governmental (PEG) programming; and

WHEREAS, the previous franchise agreement provided for Comcast Cable to dedicate an additional two percent (2%) of its gross revenues to support PEG operational costs; and

WHEREAS, the new franchise agreement provides for the City to collect franchise fees and levy utility taxes not to exceed eight percent (8%) of gross revenues;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF KELSO DO
ORDAIN AS FOLLOWS:

SECTION 1. AMENDMENT OF KMC 5.05.120. That Kelso Municipal Code Section 5.05.120—Imposition of the tax—Tax levied. Subsection D is hereby amended to provide as follows:

5.05.120 Imposition of the tax—Tax levied.

Upon every person engaging within the city in any one or more of the businesses hereinafter mentioned, as to such person the license fee shall be equal to the gross operating revenue of the business multiplied by the rate set forth after the business, as follows:

[...]

D. The business of selling and furnishing coaxial cable and fiber optic cable subscriber systems for television and other signal distribution: ~~eight six~~ percent of the total gross revenue. For the purpose of this subsection, “gross revenue” and “total gross revenue” shall be defined as the terms are defined in the current franchise agreement for such services, it being authorized by Ordinance No. _____ ~~99-3444~~.

SECTION 3. SEVERABILITY. The provisions of this Ordinance are declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be in full force and effect January 1, 2016.

ADOPTED by the City Council and **SIGNED** by the Mayor this _____ day of December, 2015.

ATTEST/AUTHENTICATION:

MAYOR

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

PUBLISHED:

AGENDA SUMMARY SHEET

AGENDA ITEM: Ordinance 2nd reading.

Budget revision #1 for the 2016 fiscal
year.

SUBMITTED BY: Brian Butterfield

AGENDA ITEM # _____

FOR AGENDA OF: 12/1/2015

ORIGINATING DEPT: Finance

DATE SUBMITTED: 11/23/2016

COST OF ITEM: _____

AMT. BUDGETED _____

CITY ATTY. APPROVAL _____

CITY MGR. APPROVAL _____

AGENDA ITEM PAPERWORK:

See attached Ordinance

SUMMARY STATEMENT

Revisions include the following:

General Fund - Total expenditures to increase by \$877,467 in 2016.

- \$230,000 to fund new position in the police dept. and nuisance abatement as well as adjustments to the salary matrix in the City's employee manual.
- \$93,000 for professional services related to performance management, public records, union contract negotiations and accounting software.
- \$130,550 in new revenues. \$35K CDBG grant, \$40K admissions tax, \$48K public defense grant, \$8K contribution from Longview.
- \$565,000 FAA grant pass thru for airport improvements. Funded 100% by FAA.**
- \$91,000 PEG fees passed thru to KLTV. Funded by increase in utility tax paid by Comcast.**

Street Fund - Total expenditures to increase by \$107,000 in 2016.

- \$100,000 defer Bridge Scour project from 2015 to 2016.
- \$7,000 for increased city insurance allocation.

Arterial Street Fund - Total expenditures to decrease by \$5,470,500 in 2016.

- Yew Street Reconstruction project and Phase 2 of West Main have been removed from the 2016 budget.
- West Main Revitalization, Bridge Scour project, & Streetlight LED project will be rolled into 2016.

Miscellaneous Funds

- Paths & Trails Fund expenditures will increase by \$45,000 for West Main sidewalks.
- Kelso Station Fund expenditures will increase by \$6,000 for HVAC maintenance.
- Stadium Fund expenditures will decrease by \$10,425 to reflect LTAC recommendations.
- Park Fund expenditures will increase by \$40,000 for capital improvements.
- HUD Grant Fund will roll \$450K from 2015 to 2016 for NICER, West Main Sub-Area & Revitalization projects.
- TBD Fund will roll \$105K from 2015 to 2016 for West Main Revitalization project.
- GO Bond Fund will roll \$320K from 2015 to 2016 for Streetlight LED project.
- Capital Projects Fund expenditures will increase by \$80K to fund debt service from increased REET monies.

Water/Sewer Fund

In Water operations, expenditures will increase by \$149k to cover some small capital improvement projects and certain operating supplies. In Sewer operations, expenditures will increase by \$173K for increased insurance costs (\$23K) and payment to TRRWA (\$150K). The Water and Sewer Capital Funds will increase by \$620K and \$150K, respectively.

Storm Water Drainage Fund

In Storm Water operations, expenditures will increase by \$70 to cover the costs of NPDES compliance. In the Storm Water Capital Fund, expenditures will increase by \$100K for various projects.

** Budget item not included in first reading.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KELSO RELATING TO PUBLIC EXPENDITURES AND DECLARING AN EMERGENCY UNDER THE PROVISIONS OF RCW 35A.34.150, FIXING THE AMOUNT OF MONEY REQUIRED TO MEET SUCH EMERGENCIES AND AUTHORIZING THE EXPENDITURE OF MONEY NOT PROVIDED FOR IN THE 2015-2016 BIENNIAL BUDGET OF THE CITY.

THE CITY COUNCIL OF THE CITY OF KELSO DO ORDAIN AS FOLLOWS:

SECTION 1. That by reason of the inability of the City and its officials to foresee and compute with accuracy the actual revenue and necessary expenditures of public funds for the current expenses of the City, it is deemed necessary to make the following amendment to the budget by increasing the following line items by the amounts set forth below for the 2016 Budget, to-wit:

GENERAL FUND

Revenues

001-00-308-00-00	Beginning Fund Balance	\$ 181,917.00
001-00-316-20-00	Admissions Tax	40,000.00
001-00-316-20-00	B&O Tax – Cable TV	91,000.00
001-00-333-00-00	Federal Grant – Airport Improvements	565,000.00
001-00-334-00-00	State Grant – Public Defense	47,550.00
001-00-337-00-00	Grant – City of Longview	8,000.00
001-00-397-00-02	Transfer from HUD Fund	<u>35,000.00</u>
		\$ 968,467.00

Expenditures

001-01-511-60-10-1	Salaries	\$ (15,298.00)
001-01-511-60-20-1	Benefits	(1,300.00)
001-01-511-60-42-0	PEG Fees - KLTV	91,000.00
001-02-512-50-41-9	Misc. Indigent Defense	1,700.00
001-03-513-10-10-0	Salaries	(4,000.00)
001-03-513-10-10-1	Salaries	16,902.00
001-03-513-10-20-1	Benefits	9,400.00
001-03-513-10-49-2	Miscellaneous Expense	3,500.00
001-05-515-21-21-0	Benefits	2,933.00
001-06-521-10-43-0	Travel	5,500.00
001-06-521-20-11-0	Salaries	17,500.00
001-06-521-20-20-0	Benefits	67,000.00
001-06-521-90-94-0	Equipment Reserve Transfer	14,000.00
001-07-528-80-51-0	911 Service	20,000.00
001-09-518-30-41-1	Professional Services	93,000.00
001-09-546-10-41-0	Professional Services - Airport	11,000.00
001-09-573-10-45-0	Visitors Center Administration	8,000.00
001-09-597-00-00-2	Transfer to 2011 G.O. Bond Fund	(80,000.00)
001-09-597-00-00-6	Transfer to Kelso Station Fund	6,000.00
001-12-532-10-10-0	Salaries	8,360.00
001-12-532-10-20-0	Benefits	6,100.00
001-12-546-10-41-0	Airport Improvements	565,000.00

001-13-558-60-10-0	Salaries	32,200.00
001-13-558-60-20-0	Benefits	9,000.00
001-13-559-10-10-0	Salaries	51,270.00
001-13-559-10-20-0	Benefits	<u>29,700.00</u>
		\$ 968,467.00

STREET FUND

Revenues

101-16-308-00-00	Beginning Fund Balance	\$ 107,000.00
------------------	------------------------	---------------

Expenditures

101-16-542-90-46-0	Insurance	\$ 7,000.00
101-16-597-00-00-0	Transfer to Arterial Street Fund	<u>100,000.00</u>
		\$ 107,000.00

ARTERIAL STREET FUND

Revenues

102-18-308-00-00	Beginning Fund Balance	\$ 22,000.00
102-18-333-20-25	Federal Grants	(300,000.00)
102-18-334-00-00	State Grants	(980,000.00)
102-18-334-03-81	State Grants	(3,797,000.00)
102-18-337-00-00	Rural County Grant Funds	110,000.00
102-18-367-00-01	Private Grants	60,000.00
102-18-381-10-00	I.F. Loan from Fund 206	320,000.00
102-18-382-10-02	Public Works Trust Fund Loan	(1,410,500.00)
102-18-397-00-01	Transfer from HUD Grant Fund	300,000.00

102-18-397-00-01	Transfer from TBD Fund	105,000.00
102-18-397-00-01	Transfer from Street Fund	<u>100,000.00</u>
		\$(5,470,500.00)

Expenditures

102-18-541-16-00-1	2016 Overlay Program	\$ 25,000.00
102-18-595-06-00-2	Yew Street Reconstruction	(1,410,500.00)
102-18-595-14-00-3	West Main Revitalization	815,000.00
102-18-595-15-00-1	West Main – Phase 2	(5,500,000.00)
102-18-595-15-00-2	Bridge Scour Construction	100,000.00
102-18-595-15-00-3	Streetlight LED Project	<u>500,000.00</u>
		\$(5,470,500.00)

PATHS AND TRAILS FUND

Revenues

104-51-308-00-00	Beginning Fund Balance	\$ 43,800.00
------------------	------------------------	--------------

Expenditures

104-51-508-00-00-0	Ending Fund Balance	\$ (1,200.00)
104-51-594-00-00-0	Capital Project	<u>45,000.00</u>
		\$ 43,800.00

KELSO STATION FUND

Revenues

105-15-397-00-00	Transfer from General Fund	\$ 6,000.00
------------------	----------------------------	-------------

Expenditures

105-15-547-60-48-0	Repair and Maintenance	\$ 6,000.00
--------------------	------------------------	-------------

STADIUM FUND

Expenditures

106-20-508-00-00-0	Ending Fund Balance	\$ (10,425.00)
106-20-519-90-44-0	City Advertising	(5,000.00)
106-20-573-10-45-0	Visitor Center Admin.	(4,000.00)
106-20-573-10-46-0	Visitor Center Insurance	(400.00)
106-20-573-20-49-7	Regional Performing Arts	5,000.00
106-20-573-90-49-4	Wayfinding Project	20,000.00
106-20-573-90-49-2	Miscellaneous Events	(5,175.00)

PARK FUND

Revenues

108-21-313-10-00	Retail Sales Tax	\$ 25,000.00
108-21-397-00-00	Transfer from Tam O'Shanter Park Fund	<u>15,000.00</u>
		\$ 40,000.00

Expenditures

108-21-594-76-64-6	Capital Improvements	\$ 40,000.00
--------------------	----------------------	--------------

TAM O'SHANTER PARK FUND

Revenues

111-11-308-00-00	Beginning Fund Balance	\$ 15,000.00
------------------	------------------------	--------------

Expenditures

111-11-597-00-00-0	Transfer to Park Fund	\$ 15,000.00
--------------------	-----------------------	--------------

HUD GRANT FUND

Revenues

114-48-308-00-00	Beginning Fund Balance	\$ 450,000.00
------------------	------------------------	---------------

Expenditures

114-48-559-20-49-1	Miscellaneous Expenditures	\$ 150,000.00
--------------------	----------------------------	---------------

114-48-597-00-00-0	Transfer to Other Funds	<u>300,000.00</u>
--------------------	-------------------------	-------------------

\$ 450,000.00

KELSO TBD FUND

Revenues

125-62-308-00-00	Beginning Fund Balance	\$ 105,000.00
------------------	------------------------	---------------

Expenditures

125-62-597-00-00-0	Transfer to Arterial Street Fund	\$ 105,000.00
--------------------	----------------------------------	---------------

2011 GO BOND FUND

Revenues

206-46-308-00-00	Beginning Fund Balance	\$ 320,000.00
------------------	------------------------	---------------

Expenditures

206-46-581-10-00-0	I.F. Loan to Arterial Street Fund	\$ 320,000.00
--------------------	-----------------------------------	---------------

CAPITAL PROJECTS FUND

Revenues

301-60-308-00-00	Beginning Fund Balance	\$ 80,000.00
------------------	------------------------	--------------

Expenditures

301-60-597-00-00-1	Transfer to Debt Service Fund	\$ 80,000.00
--------------------	-------------------------------	--------------

WATER FUND

Expenditures

403-25-508-00-00-0	Ending Fund Balance	\$ (149,000.00)
--------------------	---------------------	-----------------

403-25-534-50-31-0	Supplies	20,000.00
--------------------	----------	-----------

403-25-534-50-48-0	Repair and Maintenance	44,000.00
--------------------	------------------------	-----------

403-25-538-40-48-0	Repair and Maintenance	(42,000.00)
--------------------	------------------------	-------------

403-25-594-34-64-0	Capital Expense - Structures	20,000.00
--------------------	------------------------------	-----------

403-25-594-34-64-1	Capital Expense - Equipment	47,000.00
--------------------	-----------------------------	-----------

403-25-594-40-64-0	Capital Expense - Equipment	60,000.00
--------------------	-----------------------------	-----------

SEWER FUND

Expenditures

405-25-508-00-00-0	Ending Fund Balance	\$ (173,000.00)
--------------------	---------------------	-----------------

405-25-535-10-46-0	Insurance	23,000.00
--------------------	-----------	-----------

405-25-535-10-51-0	Regional Sewage Treatment	150,000.00
--------------------	---------------------------	------------

WATER CAPITAL FUND

404-17-308-00-00	Beginning Fund Balance	\$ 450,500.00
404-17-334-00-00	State Grants	(2,600,000.00)
404-17-382-20-00	Bond Proceeds	<u>2,769,500.00</u>
		\$ 620,000.00
<u>Expenditures</u>		
404-17-594-10-00-5	Minor Road Reservoir	\$ 350,000.00
404-17-594-15-00-2	South Kelso Drive Waterline	120,000.00
404-17-594-16-00-1	2016 Annual Replacements	<u>150,000.00</u>
		\$ 620,000.00

DRAINAGE FUND

Revenues

407-52-308-00-00	Beginning Fund Balance	\$ 70,000.00
------------------	------------------------	--------------

Expenditures

407-52-594-34-62-0	NPDES Compliance	\$ 70,000.00
--------------------	------------------	--------------

SEWER CAPITAL FUND

Revenues

408-28-308-00-00	Beginning Fund Balance	\$ 150,000.00
------------------	------------------------	---------------

Expenditures

408-28-594-16-00-1	Annual Replacement Program	\$ 150,000.00
--------------------	----------------------------	---------------

DRAINAGE CAPITAL FUND

Revenues

410-52-308-00-00	Beginning Fund Balance	\$ 100,000.00
------------------	------------------------	---------------

Expenditures

410-52-594-15-00-3	Minor Storm Drain - Investigation	\$ 50,000.00
--------------------	-----------------------------------	--------------

410-52-594-16-00-1	Annual Replacement Program	<u>50,000.00</u>
--------------------	----------------------------	------------------

		\$ 100,000.00
--	--	---------------

EQUIPMENT RESERVE FUND

Revenues

502-33-365-90-01	Contribution - Police	\$ 14,000.00
------------------	-----------------------	--------------

Expenditures

502-33-594-48-64-2	Police Fleet	\$ 14,000.00
--------------------	--------------	--------------

SECTION 2. It is hereby ordered that the aforesaid sum be and the same is hereby appropriated in excess of the budget of the City of Kelso for 2016 and further that said budget be and the same is hereby amended accordingly.

SECTION 3. This Ordinance shall be in full force and effect five days after its passage and publication of summary as required by law.

ADOPTED by the City Council and **SIGNED** by the Mayor this _____ day of December, 2015.

MAYOR

ATTEST/AUTHENTICATION:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

PUBLISHED: _____

AGENDA SUMMARY SHEET

Business of the City Council City of Kelso, Washington

SUBJECT TITLE: AN ORDINANCE OF THE CITY OF KELSO, WASHINGTON AMENDING KELSO MUNICIPAL CODE CHAPTER 17.15.

Agenda Item: _____

Dept. of Origin: Community Development

For Agenda of: December 1, 2015

Originator: Steve Taylor

PRESENTED BY:

Janean Parker

City Attorney: **Janean Parker**

City Manager: **Steve Taylor**

Agenda Item Attachments:

Proposed Ordinance
Exhibit A – Revised Land Use Table
Exhibit B – Revised Footnotes
WCIA Audit Memo

SUMMARY STATEMENT:

In 2014 the City's insurance provider conducted an audit of the City of Kelso's Land Use Liability practices. As a result of that audit WCIA identified four areas for the City to review for consistency with recent state legislative enactments; accessory dwelling units, manufactured housing/recreational vehicles, temporary encampments for the homeless, and wireless facilities.

Correspondence between the City's planning consultant, City staff and WCIA confirmed that our current regulations addressing accessory dwelling units are consistent with the state law and no changes are needed.

Although the City is in the process of updating all of our development regulations they will not be ready for consideration and adoption by Council until 2016 so interim amendments have been prepared to satisfy the WCIA requirements before the end of 2015. These revisions will be incorporated into the 2016 draft regulations and will remain in effect when the new regulations are adopted. The proposed changes will bring the City's regulations regarding manufactured housing, recreational vehicles, and temporary encampments for the homeless into compliance with State law. Also incorporated into the changes were fixes to several typos/errors in the Table of Permitted Uses.

The Planning Commission heard a presentation on the proposed changes at their October 13th meeting. A public hearing was held at the November 10th Planning Commission meeting where the Commissioners recommended the City Council adopt the proposed changes. No public comments were received.

RECOMMENDED ACTION:

Move to approve on second reading an ordinance amending Chapter 17.15 Permitted, Administrative and Conditional uses to the Kelso Municipal Code.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF KELSO, WASHINGTON
AMENDING KELSO MUNICIPAL CODE CHAPTER 17.15.**

WHEREAS, the City of Kelso has adopted and is implementing official land use controls in accordance with the provisions of the Kelso Comprehensive Plan and the laws of Washington State; and

WHEREAS, the Washington Cities Insurance Authority (WCIA) periodically conducts a review of the Kelso Municipal Code to make sure that the City's regulations are consistent with the most recent provisions of state law; and

WHEREAS, WCIA has requested that the City review the provisions of the Kelso Municipal Code and make changes, as appropriate, so that the City's Development Regulations are consistent with recent legislative enactments, particularly as it relates to manufactured housing, recreational vehicles, and temporary encampments for the homeless sponsored by religious organizations; and

WHEREAS, the City in consultation with WCIA has identified several appropriate revisions to the Kelso Municipal Code; and

WHEREAS, the City in conducting the WCIA review also identified a few typographical errors in the codified version of the Kelso Municipal Code that need to be corrected; and

WHEREAS the City Council finds that the health safety and welfare of the community is best served by these amendments to the Kelso Municipal Code; and

WHEREAS, the SEPA Responsible Official issued a threshold decision for this draft ordinance on October 23, 2015, which was not appealed; and

WHEREAS, the Planning Commission held a public hearing on the draft amendments to the Kelso Municipal Code on November 10, 2015; and

WHEREAS, the Planning Commission recommended approval of the draft amendments to the City Council; and

WHEREAS, on November 17, 2015, the City Council considered the draft amendments to the Kelso Municipal Code during its regular meeting; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KELSO DO ORDAIN
AS FOLLOWS:**

SECTION 1. Findings Adopted. The City Council adopts all of the ‘WHEREAS’ sections of this Ordinance as findings in support of this ordinance.

SECTION 2. KMC Section 17.15.020 Amended. Kelso Municipal Code Section 17.15.020 is hereby amended as set forth in Exhibit A, attached hereto and incorporated fully by this reference.

SECTION 3. KMC Section 17.15.040 Amended. Kelso Municipal Code Section 17.15.040 is hereby amended as set forth in Exhibit B, attached hereto and incorporated fully by this reference.

SECTION 4. Corrections. Upon approval of the City Attorney, the City Clerk and code reviser are authorized to make necessary corrections to this ordinance, including without limitation the correction of clerical errors, references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

SECTION 5. Severability. The provisions of this Ordinance are declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

SECTION 6. Effective Date. This Ordinance shall be in full force and effect 5 days after its passage and publication of summary as required by law.

ADOPTED by the City Council and **SIGNED** by the Mayor this ____ day of _____, 2015.

MAYOR DAVID FUTCHER

ATTEST/AUTHENTICATION:

APPROVED AS TO FORM

CITY CLERK

CITY ATTORNEY

PUBLISHED:_____

Exhibit A

Kelso Municipal Code 17.15.020

17.15.020 Land use table.

The following Table 17.15 indicates those uses which may be permitted through Type I, II or III review in the various zoning districts defined in this title. In addition to Table 17.15, reference to the individual zoning districts and, where indicated, the regulatory notes of Section 17.15.030 (Footnotes) and definitions of Chapter 17.08, is necessary in order to determine if any specific requirements apply to the listed use.

A. If no symbol appears in the box at the intersection of the column and row, the land use is not allowed in that district.

B. Use classifications are listed on the vertical axis and city of Kelso zoning districts are shown on the horizontal axis.

C. If a number appears next to the review classification symbol at the intersection of the column and row then that use is subject to special standards listed as footnotes following Table 17.15 in Section 17.15.030.

D. If a letter appears adjacent to the use classification that land use is subject to performance standards listed in Section 17.15.040. These standards are in addition to other applicable standards of the Kelso Municipal Code.

Exhibit A

Table 17.15

Table 17.15 Allowable Land Uses	Residential Single- Family	Residential Multifa- mily	Open Space	Commercial—Town Center	Commercial—West Kelso	Commercial Neighborhood Service Center	Commercial Specialty Retail and Services	Commercial—Major Retail	Industrial Light Manufactu- ring	Industrial General Manufactu- ring
	RSF	RMF	OP N	CTC	CWK	CNH	CSR	CMR	ILM	IGM
RESIDENTIAL										
Single-family residence (A, L)	I	I ₁		I ₁	I ₁	I ₁	I ₁	I ₁		
Duplex (L)	I ₂	I ₃		I	I					
Multiple-family dwellings, including rooming and boarding houses, triplexes, fourplexes, condominiums, apartment houses and apartment courts		I		I ₄	I ₄	I ₄	I ₄	I ₄		
Day care family home* (D)	I	I								
Day care mini- center* (D)		I								
Day care—adult* (D)	II	II								
Adult family home	II	II		I ₁	I ₁	I ₁	I ₁	I ₁		
Expansion and/or reconstruction of a residence	I	I	III							
Mobile home parks and subdivisions (B)		II								
Livestock* (R)	I ₁₆									
Accessory apartment* (T)	II									
Temporary manufactured home for aged relative (U)	II									
AMUSEMENT AND RECREATION										
Recreation facilities, active*	II	II	III ₁₈	I ₅	I	I	I	I	II	II
Recreation facilities, passive*	I	I	I							
Participant sports and recreation— indoor				III ₅	I	I/II ₇	I	I	II	
Participant sports and recreation—			III ₁₈		II		II	I		

Exhibit A
Kelso Municipal Code 17.15.020

Table 17.15 Allowable Land Uses	Resident ial Single- Family	Residenti al Multifa mily	Ope n Spa ce	Commerci al—Town Center	Commerci al—West Kelso	Commerci al Neighborh ood Service Center	Commer cial Specialty Retail and Services	Commerci al—Major Retail	Industrial Light Manufactu ring	Industrial General Manufactu ring
	RSF	RMF	OP N	CTC	CWK	CNH	CSR	CMR	ILM	IGM
outdoor										
Trails			I							
Wildlife and nature preserves			I							
COMMUNITY SERVICES										
Art galleries, noncommercial	II	II								
Auditoriums, clubhouses, meeting halls				II ₅	I		I	I		
Community centers	II	II		II ₅	I	I	I	I	I	I
Educational, cultural, or governmental	II	II		II	I	III	I	I	II	I
Health care facilities*	III	III		II	I	I ₇	I	I		
Clinics—walk in*				II	II	I	I	I		
Hospital	III	III				III				
Marinas, boardwalks, public piers				I	I		I	I		
Museums	III	III		II	II					
Assisted living home*	II	II				II				
Post office				I						
Religious facilities	II	II		II ₅	II	II ₇	II	II	II	II
Social and fraternal clubs and lodges		II ₆		II	II					
Group home* (D)	II	II								
Halfway house* (D)	II	II		II ₅						
Day care center* (D)	II	II		I ₅	II	II	II	II	II	
Temporary Encampment for the Homeless (W)	III	III		III	III	III	III	III	III	III
Transitional housing*— Facilities serving less than 10 clients (C)	II	II		II ₅						
Transitional		III		III	III		III			

Exhibit A
Kelso Municipal Code 17.15.020

Table 17.15 Allowable Land Uses	Resident ial Single- Family	Residenti al Multifa mily	Ope n Spa ce	Commerci al—Town Center	Commerci al—West Kelso	Commerci al Neighborb ood Service Center	Commer cial Specialty Retail and Services	Commerci al—Major Retail	Industrial Light Manufactu ring	Industrial General Manufactu ring
	RSF	RMF	OP N	CTC	CWK	CNH	CSR	CMR	ILM	IGM
housing*— Facilities serving 10 or more clients(C)										
Emergency shelter*(C)				III	III					
Urban rest stop*(C)				III	III					
MANUFACTURING										
Agriculture* including agricultural processing									II	I
Fabrication, manufacture, assembly, processing, packaging, repair, servicing of goods									I ₉	I ₉
Any principally permitted use whose operations are predominantly out-of-doors rather than completely enclosed within a building									II	I
Aquaculture			II							
Commercial indoor storage									I	I
Commercial moving and freight terminals									II	I
Computer and electronic equipment and products									I	I
Food products									I	I
Furniture and fixtures									I	I
Junk or salvage yards										I
Laboratories for scientific research, testing and experimental development that can be performed with minimal adverse impact on, and pose no special									I	I

Exhibit A
Kelso Municipal Code 17.15.020

Table 17.15 Allowable Land Uses	Resident ial Single- Family	Residenti al Multifa mily	Ope n Spa ce	Commerci al—Town Center	Commerci al—West Kelso	Commerci al Neighborh ood Service Center	Commer cial Specialty Retail and Services	Commerci al—Major Retail	Industrial Light Manufactu ring	Industrial General Manufactu ring
	RSF	RMF	OP N	CTC	CWK	CNH	CSR	CMR	ILM	IGM
hazard to, the environment and the community										
Marijuana producer, processor									I ₂₀	I ₂₀
Mechanical, automotive, trucking, agricultural/forestry and contractors' or builders' equipment and supplies									I	I
Marine-oriented commercial and industrial activities									II ₁₀	II ₁₀
Microbrewery*				II _{5, 7}			II	II	II	II
Printing and publishing									I	I
Recycling centers						II	II		I	I
Sales of items manufactured on site									II	II
Skating rink— indoor								II	III	III
Vehicle towing and storage services									II	II
Vocational schools									I	I
Winery/brewery									I	I
Wood products									I	I
RETAIL TRADE AND SERVICE										
Automobile sales— new or used					I		I	I	II	
Bed and breakfast*	II	II		II ₁	I	I	I	I		
Brewpub				I	I	I	I	I		
Cart vendors				I	II	II	II	I	I	II
Cemeteries, mausoleums and columbaria	III	III								
Convenience stores including gasoline sales and/or a car wash facility					II	II	I			
Crematorium	III	III								

Exhibit A
Kelso Municipal Code 17.15.020

Table 17.15 Allowable Land Uses	Resident ial Single- Family	Residenti al Multifa mily	Ope n Spa ce	Commerci al—Town Center	Commerci al—West Kelso	Commerci al Neighborh ood Service Center	Commer cial Specialty Retail and Services	Commerci al—Major Retail	Industrial Light Manufactu ring	Industrial General Manufactu ring
	RSF	RMF	OP N	CTC	CWK	CNH	CSR	CMR	ILM	IGM
Entertainment (e.g., theaters, video game arcades, etc., except adult motion picture theaters and other uses as described in Section 17.30.040, Adult oriented business (AOB) overlay zone)				I ₇	I	II	I	I		
Farmer's market				I ₁₇	I ₁₇	I ₁₇	I ₁₇	I ₁₇		
Fitness center/sports club				II	II	II	I	I	II	
Formula take-out food restaurant with drive-through					I		I	I		
Formula take-out food restaurant without drive-through				I ₇	I		I	I		
Hotels, motels, inns*				I ₇	I		I	I		
Home occupation, major* (G, H)	II	II								
Home occupation, minor* (F, H)	I	I								
Kennels* (V)					II		II	II	II	
Minor vessel repair shop						I	I		I	I
Mixed commercial/residential		III		I _{4,7}	I ₄	I ₄	I ₄	I ₄		
Mortuaries, funeral homes and funeral chapels	III	III		II _{5,7}	II		II			
Personal services*				I _{5,7}	I	I	I	I		
Pet shop*				I	I	I	I	I		
Professional offices		III		I ₇	I	I	I	I	II ₈	I ₈
Restaurants				I ₇	I		I	I	II ₁₁	II ₁₁
Retail sales marijuana									I ₂₀	I ₂₀
Retail sales and services with drive-through businesses* (I)					I		I	I	II	

Exhibit A
Kelso Municipal Code 17.15.020

Table 17.15 Allowable Land Uses	Resident ial Single- Family	Residenti al Multifa mily	Ope n Spa ce	Commerci al—Town Center	Commerci al—West Kelso	Commerci al Neighborh ood Service Center	Commer cial Specialty Retail and Services	Commerci al—Major Retail	Industrial Light Manufactu ring	Industrial General Manufactu ring
	RSF	RMF	OP N	CTC	CWK	CNH	CSR	CMR	ILM	IGM
Retail sales and services without drive-through businesses				I _{7, 12}	I	I ₇	I	I		
Retail sales and services with screened outdoor storage				II _{5, 7}	II		II	II	I	I
Roadside stands				I ₁₇	I ₁₇	I ₁₇	I ₁₇	I ₁₇		
RV sales, storage and repair									I	I
Secondhand/consignment stores				I _{7, 12}	I	I ₇	I	I		
Sexually oriented business* (E)										
Small engine repair						I	I		I	
Taverns				I ₇	I		I	I		
Uses which service the automobile (e.g., gasoline service station, car wash, minor/major vehicle repair shops)					II	I ₁₃	I	I	I	
Veterinarian clinics* (V)						I ₇	II	II		
Caretaker residence (K)									I	I
Temporary uses (S)	I ₁₇	I ₁₇	I ₁₇	I ₁₇	I ₁₇	I ₁₇	I ₁₇	I ₁₇	I ₁₇	I ₁₇
Wholesale sales with limited retail sales							II	II	II	
TRANSPORTATION										
Park and ride lots*					II	II	I	II		
Park and ride lots, shared use*	II	II							II	I
Parking as principal use				II	I		I	I	II	I
Transit facilities				I ₁₄						
UTILITIES										
Public and private utility buildings and structures (E) (J)	II	II	II	II	II	II	II	II	II	II
Communication	I	I	I	I	I	I	I	I	I	I

Exhibit A
Kelso Municipal Code 17.15.020

Table 17.15 Allowable Land Uses	Resident ial Single- Family	Residenti al Multifa mily	Ope n Spa ce	Commerci al—Town Center	Commerci al—West Kelso	Commerci al Neighborb ood Service Center	Commer cial Specialty Retail and Services	Commerci al—Major Retail	Industrial Light Manufactu ring	Industrial General Manufactu ring
	RSF	RMF	OP N	CTC	CWK	CNH	CSR	CMR	ILM	IGM
antennas, category 1 (N)(X)										
Communication antennas, category 2 (O)(X)	II		II	I	I	I	I	I	I	I
Communication antennas, category 3 (P)(X)			II		II		II	II	I	I
Communication towers and monopoles (Q)(X)			II ₁₉		II ₁₉		II ₁₉	II ₁₉	II ₁₉	II ₁₉
WHOLESALE TRADE—STORAGE										
Self-service storage facilities; provided, that no outside storage is visible from adjoining properties and public rights-of- way						III			I	
Warehousing (wholesale, bulk retail and trade)								III		

I = Type I Permitted Use

II = Type II Administrative Use

III = Type III Conditional Use

* = Defined Term

Letters and numbers refer to footnotes and regulatory notes within Sections 17.15.030 and 17.15.040.

(Ord. 3828 § 4 (Exh. B), 2014; Ord. 3821 § 4 (Exh. B), 2014; Ord. 3799 § 1 (Att. B), 2013; Ord. 3771 § 1 (Exh. A), 2012; Ord. 3745 § 1 (Att. B), 2011; Ord. 3699 § 1 (Att. B), 2009)

Exhibit B

Kelso Municipal Code 17.15.040

17.15.040 Regulatory notes.

The following regulatory notes apply to the corresponding uses listed in Table 17.15:

A. Single-family dwellings shall be constructed consistent with the following standards:

1. Only one dwelling unit allowed per legal parcel, unless otherwise noted.
2. Shall have a width of not less than 14 feet at the narrowest point of the first story (excluding architecturally designed entrance ways).
3. Attached garages shall be placed in the rear of the lot if at all possible.
4. ~~Trailers, recreational vehicles or tents~~ may not be used for human habitation or dwelling purposes.
5. Recreational vehicles may be used for human habitation in approved RV parks and in manufactured/mobile home communities in accordance with the provisions of state law, including RCW 35A.21.312, provided that:
 - a. Each RV must contain at least one internal toilet and one internal shower, or the RV park or manufactured/mobile home community must provide toilet and showers; and
 - b. Utility hookups must comply with all federal, state, and local standards.
6. Mobile homes may be used for human habitation in manufactured/mobile home communities legally in existence prior to June 12, 2008 in accordance with the provisions of state law, including RCW 35A.21.312.
7. New manufactured housing conforming to the standards of 42 U.S.C. Sec. 5401-5403, as amended, shall be permitted in all zones where single family residences are permitted, provided that:
 - a. Homes shall be set upon a permanent foundation, as specified by the manufacturer, and that the space from the bottom of the home to the ground shall be enclosed by concrete or an approved concrete product which can be either load bearing or decorative;
 - b. The new manufactured home shall comply with all local design standards applicable to all other homes in the neighborhood;
 - c. The new manufactured home shall be thermally equivalent to the state energy code; and
 - d. The new manufactured home meets all other requirements for a manufactured home as defined in RCW 35.63.160.

B. Mobile home parks and subdivisions are subject to the following standards:

1. The minimum site requirements for expansion of existing and proposed mobile home subdivisions are as follows:
 - a. Minimum zoning area: three acres;
 - b. Density: as determined by the underlying zoning density requirement.
2. No building or structure in a mobile home park or subdivision shall exceed the building height restrictions set forth for single-family residential dwelling units.
3. Every mobile home park and subdivision locating within the city shall be connected to city sanitary sewers. This standard applies to any expansion of existing parks or subdivisions and to all proposed mobile home parks and subdivisions.

4. Every mobile home park and subdivision, and/or expansion of the same, locating within the city shall be connected to the city water supply system.
5. Every mobile home park and subdivision, and/or expansion of the same, locating within the city shall supply the necessary public power utilities to each and every unit proposed therein. Such utilities shall be placed underground except in those situations where this could be proven to be dangerous to humans and animals.
6. All mobile home parks and subdivisions, and/or expansion of the same, shall submit, along with accompanying site development plans, proof of compliance with provisions for flood hazard protection as set forth in Sections 18.12.210 through 18.12.310.
7. Not less than ten percent of the total gross buildable area of the park or subdivision shall be designed and maintained as a recreational area for the occupants of the park or subdivision. The location of the recreation area will be in a safe and secure area of the park or subdivision and separated from passing automobile traffic by a cyclone fence not less than four feet in height as measured from ground level.
8. Setbacks in all mobile home parks and subdivisions shall be as follows:
 - a. Mobile Home Parks.
 - i. Front setback: ten feet from front property line;
 - ii. Side setback: five feet, including carports, garages and accessory buildings;
 - iii. Rear setback: ten feet from rear property line.
 - b. Mobile Home Subdivisions.
 - i. Front setback: twenty-five feet from front property line or fifty-five feet from street centerline, whichever is greater;
 - ii. Side setback: five feet from each side property line;
 - iii. Rear setback: fifteen feet from rear property line.
 - c. All setbacks shall be measured from the nearest corner or wall to the appropriate property or site line.
9. Permanent structures located within any mobile home space shall be used for storage only, have a maximum area of thirty-five square feet, and shall be located not less than six feet from any mobile home.
10. All mobile home park and subdivision streets and rights-of-way shall conform to the standards set forth in Title 16.
11. Access driveways shall be provided to each mobile home space and shall have a minimum width established by the city engineer:
 - a. No access driveway or curb cut providing ingress or egress to a mobile home park or subdivision shall be located closer than fifty feet from any public street intersection, as measured from the street right-of-way lines at the nearest side of the intersection;
 - b. Access drives and walkways within the park or subdivision shall be hard surfaced according to the specifications established by the city engineer.

C. Halfway houses, group homes, transitional housing, emergency shelters, and urban rest stops are subject to the following standards:

1. One off-street parking space is required for each on-shift, nonresidential employee in addition to the residential parking requirements. Residential driveways are acceptable access ways.
2. Access streets, parking and/or loading areas shall be sufficient to safely accommodate the number of estimated vehicle trips generated by the use.
3. No structured area for active play or play structures may be located in the front yard. In the event of double frontage or similar situations, the director or designee shall determine which yard would have the least visual impact to the neighborhood.
4. The site shall conform to the lot size, building size, setback and lot coverage requirements of the zoning district.
5. Provide an off-street drop-off/pick-up area.
6. Comply with all business licensing requirements.
7. No structural or decorative alteration is permitted in a residential zone if that alteration changes the residential character of an existing residential structure or is incompatible with surrounding residences.
8. An on-site vehicle turnaround, or separate entrance and exit points, and passenger loading area must be developed for review and approval by the city engineer.
9. The site must be landscaped in a manner compatible with adjacent residences in residential zones according to a plan approved by the community development department.
10. The following additional criteria shall govern the review and approval of a conditional use permit for transitional housing, emergency shelters and urban rest stops:
 - a. Site Plan. A detailed site plan shall be submitted with the application. The examiner may increase the development standards of the Kelso Municipal Code as necessary to ensure compatibility of the use with surrounding uses. The examiner shall take into consideration the neighborhood character and any adopted neighborhood plans.
 - b. Compliance with Building Code. Facilities must comply with all applicable standards, including International Building Code (IBC) standards for the number of residents or clients served. Adequate kitchens, bathrooms, lighting, safety features, and site access for emergency vehicles are required.
 - c. Separation. Facilities must be at least one-half mile from the same uses.
 - d. Drugs and Alcohol. Use of alcohol and controlled substances, except by prescription, is strictly prohibited at the premises.
 - e. Operations. Applicant must provide staffing and operating procedures adequate to the type of facility and adequate to address the secondary impacts of the facility.

D. Day care centers (all types) shall meet the following standards:

1. Within residential districts a sight-obscuring fence of at least four feet in height as approved by the review authority shall be provided to separate any outdoor play area from adjoining lots.
2. Structure(s) shall meet building, sanitation, health, traffic safety and fire code requirements.
3. A minimum of one off-street parking space shall be provided for each on-shift employee plus one space per twelve persons served.

4. An on-site vehicle turnaround, or separate entrance and exit points, and passenger loading area must be provided. The city shall specifically consider the location and appearance of the proposed turnaround or access in determining compatibility with surrounding uses.

5. A day care center shall not be located within three hundred feet of another day care center, except for any day care center that is an accessory use in a community service facility, as described in subsection D7 of this section.

6. No day care center shall be located in a private family residence unless the portion of the residence where the children have access is used exclusively for the children during the hours the center is in operation, or is separate from the usual living quarters of the family.

7. A day care center, if sited on the premises of an operating community service facility, such as a private or public school, place of worship, community center or library, and associated with that activity, shall be considered accessory to the principal use of the property concerned.

E. Sexually oriented businesses are only permitted in accordance with the provisions of Section 17.30.040.

F. Minor home occupations shall meet all of the following criteria:

1. Minor home occupations are limited to those of a service character, but may include limited retail sales directly related to the home occupation.

2. Minor home occupations shall be conducted within the dwelling unit and/or attached garage by members of the family residing in the dwelling only.

3. There shall be no outside storage of materials, supplies, or display of goods or equipment of any kind related to the minor home occupation, except for one commercial vehicle as it pertains to the home occupation.

4. Any need for any customer parking created by the home occupation shall be provided off street, in a location other than the required front yard setback.

5. No on-street parking of commercial vehicles is allowed and adequate driveway parking space or abutting on-street parking shall be required to accommodate peak traffic expectancy.

6. With the exception of existing driveways, no parking shall be allowed in setbacks or buffers.

7. Hours of operation shall occur between 7:00 a.m. and 10:00 p.m.

8. There shall be no exterior evidence of the home occupation, other than a permitted sign, that would cause the premises to differ from its residential character (e.g., outward physical appearance; lighting; the generation/emission of noise, fumes, or vibrations as determined by the administrative official using normal senses and from any lot line; create visible or audible interference in radio or television reception or cause fluctuations in line voltage outside the home occupation; or on average increase vehicular traffic by more than two additional vehicles at any given time).

G. Major home occupations shall meet the following requirements:

1. Major home occupations may include services, small-scale retail sales of products, mail order businesses and storage of materials associated therewith.

2. Major home occupations shall be conducted by members of a family residing in the dwelling, except the administrative official may authorize the family to employ a limited number of nonresident individuals to assist with the home occupation on a case-by-case basis.

3. A major home occupation may be conducted within the dwelling unit, attached garage, or a detached garage only. The outward appearance shall be secondary and subordinate to the primary use of the property and the

purpose of the zoning district. There shall be no exterior evidence of the home occupation, other than a permitted sign, that would cause the premises to differ from its residential character: (e.g., lighting; the generation/emission of noise, fumes, or vibrations as determined by the administrative official using normal senses and from any lot line; create visible or audible interference in radio or television reception or cause fluctuations in line voltage outside the home occupation; or on average increase vehicular traffic by more than two additional vehicles at any given time).

4. There shall be no outside storage of materials or supplies, or display of goods or equipment of any kind related to the home occupation, except one commercial vehicle as it pertains to the home occupation and employee parking.
5. Any need for customer or employee parking created by the home occupation shall be provided off street, in a location other than the required front yard setback.
6. No on-street parking of commercial vehicles is allowed and adequate driveway parking space or abutting on-street parking shall be required to accommodate peak traffic expectancy.
7. With the exception of existing driveways, no parking shall be allowed in setbacks or buffers.
8. Hours of operation shall occur between 7:00 a.m. and 10:00 p.m.

H. Uses Not Permitted as Home Occupations. The following uses, by the nature of their operation or investment, have a pronounced tendency, once started, to increase beyond the limits permitted for home occupations, interfere with or impair the use and value of adjoining properties, or violate the restriction of no exterior evidence (e.g., outward physical appearance; outside storage of materials, supplies or vehicles; generation of noise, dust, fumes, odors, electrical interference, vibrations, excessive traffic, etc.). Therefore, the uses listed below shall not be permitted as home occupations:

1. Beauty salons and barber shops with more than one chair;
2. Gift, craft, secondhand stores;
3. Kennel;
4. Large item repair, including stoves, refrigerators, washers and dryers, etc.;
5. Towing services;
6. Trucking businesses or storage, except for the parking or storage of one commercial vehicle used solely by the owner/operator residing on the premises;
7. Veterinarian clinic;
8. Cabinet making, woodworking or carpentry shops;
9. Antique shops;
10. Health salons, spas, gymnasiums, martial arts schools, dance studios, aerobic exercise studios;
11. Machine and sheet metal shops;
12. Motor vehicle, trailer or boat maintenance, repair, detailing, paint, and body shops;
13. Taxidermist;
14. Upholstering;
15. Taxi services.

I. Drive-in businesses require a minimum number of off-street queuing spaces to minimize traffic hazards, pedestrian-vehicle conflicts, and the disruption of the commercial area street front.

1. Drive-in businesses shall provide queuing spaces according to the following requirements:

a. Banks with drive-in facilities shall provide a minimum of five queuing spaces per lane when the number of lanes does not exceed two.

b. Banks with three or more drive-in lanes shall provide a minimum of three queuing spaces per lane.

c. Car washes shall provide a minimum of six queuing spaces.

2. If the drive-in bank or car wash is located along either a principal arterial, a minor arterial or along a street with only one lane for moving traffic in each direction, the city engineer shall determine whether additional queuing spaces are necessary or whether access should be restricted.

3. The city engineer shall establish the minimum number of queuing spaces needed for similar uses that are not listed above, using the quantities of subsection I1 of this section as a guide.

J. Public utility buildings, sewage pumping stations, electrical distribution substations and similar developments necessary for the operation of utilities shall comply with the following requirements:

1. If the installation is housed in a building, the building shall conform architecturally with surrounding buildings or the type of buildings that are likely to develop in the use district;

2. Any unhoused installation on the ground, or housed installation that does not conform to the architectural requirements of subsection J1 of this section, shall be surrounded by sight-obscuring plantings;

3. An unhoused installation of a dangerous nature, such as an electrical distribution substation, shall be enclosed by a cyclone security fence at least six feet in height;

4. All buildings, installations and fences shall observe the yard requirements for buildings in the district in which they are located, except that in residential use districts, the side yards shall each be not less than twenty-five feet in width.

K. Caretakers' and/or owners', operators' residences are limited to one per parcel and are only permitted where there is a principal use on the subject parcel.

L. Accessory buildings and structures shall not occupy any lot independent of the main building or structure. No permits will be issued for detached accessory buildings or structures unless a permit is also issued at the same time for the main building on the lot. No manufactured home, mobile home, trailer, bus, shipping container or railroad car may be stored, or converted to or used as a storage building, accessory building or for any other nonresidential use. No detached accessory building or structure may occupy the front of any lot.

M. Social Card Rooms. The location of any licensed gambling activity authorized by RCW 9.46.0282 as it now exists or is hereafter amended is prohibited within three thousand five hundred feet of the location of any other such gambling activity. Likewise, no such gambling activity shall be located on the same arterial street as any other such gambling activity. In addition to the foregoing, any establishment where such gambling activity is to be engaged in shall be subject to the issuance of a conditional use permit in accordance with established procedures.

N. Wireless communication facility category 1 is subject to the following standards:

1. The use shall be located on buildings or other structures. The facility category 1 may be located on buildings and structures that contain mixed uses.

2. Antennas equal to or less than four feet in height and with an area of not more than five hundred eighty square inches in the aggregate (e.g., fourteen-inch diameter parabola or 2.6-foot by 1.5-foot panel) are exempt

from the height limitation of the zone in which they are located. (For example, in some zones the maximum height of a building is thirty-five feet. A facility 1 can go up to thirty-nine feet and still be within the height limit.) Placement of a facility category 1 antenna or related components on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.

3. The shelter or cabinet used to house radio electronics equipment must be concealed from view and/or camouflaged. This can be accomplished through landscaping or other screening and through the use of compatible building materials.

4. In single-family residential areas, a facility 1 shall be separated from any other facility 1 by a distance equal to or greater than five hundred linear feet.

5. The facility category 1 antenna and components shall be the same color as the existing building, pole or support structure on which they are to be located.

6. A building permit shall be required to construct a facility 1.

7. Roof-mounted facilities must be set back a minimum of ten feet from the edge of the roof.

O. Wireless communication facility category 2 is subject to the following standards:

1. The facility category 2 antenna may be located on buildings and other structures.

2. The shelter or cabinet used to house radio electronics equipment must be concealed from view and/or camouflaged. This can be accomplished through landscaping, fencing or other architectural screening by using compatible building materials.

3. A facility category 2 antenna shall comply with the height limitation specified for all zones, except omnidirectional antennas may exceed the height limitation by twelve feet. The permitted antenna height includes the wireless communication support structure. Placement of a facility 2 antenna or related components on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.

4. The facility category 2 antenna and components shall be the same color as the existing building, pole or support structure on which they are to be located.

5. A building permit shall be required to construct a facility 2.

6. Roof-mounted facilities must be set back a minimum of ten feet from the edge of the roof.

7. Category 2 facilities may be allowed in residential zones through Type II review on buildings on lots used for nonresidential purposes.

P. Wireless communication facility category 3 is subject to the following standards:

1. The shelter or cabinet used to house radio electronics equipment must be concealed and/or camouflaged.

2. Facility category 3 shall comply with the height limitation specified for all zones, except as follows: Omnidirectional antennas may exceed the height limitation by fifteen feet. Placement of a facility 3 antenna or related components on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure.

3. The facility category 3 antenna and components shall be the same color as the existing building, pole or support structure on which they are to be located.

4. A building permit shall be required to construct a facility category 3.

5. Roof-mounted facilities must be set back a minimum of ten feet from the edge of the roof.

Q. Wireless communication facility monopoles and lattice towers shall comply with the following performance standards:

1. The maximum height of a monopole or lattice tower is sixty feet for one carrier or one hundred twenty feet if two or more carriers are located on the monopole or lattice tower. A permitted co-location monopole or lattice tower that does not have two or more carriers located on it for a period of one year or more shall be modified to conform to the single carrier height of sixty feet.
2. The lot on which the monopole or lattice tower is to be constructed must be legally conforming.
3. The facility must be screened in accordance with Chapter 17.40.
4. Monopoles and lattice towers located in the light manufacturing (ILM) zone must be set back a minimum of one hundred feet from any residentially zoned property. The minimum setback along I-5 and/or SR 432 is one hundred feet.
5. Antennas that extend above the wireless communication support structure shall not be calculated as part of the height of a monopole or lattice tower.
6. Colocation on an existing support structure is to be permitted. A facility 3 is the largest wireless communication facility allowed on a monopole or lattice tower.
7. The shelter or cabinet used to house radio electronics equipment and the associated cabling connecting the equipment shelter or cabinet to the monopole or lattice tower must be concealed and/or camouflaged through landscaping, fencing, or other screening using compatible building materials and colors.
8. A building permit shall be required to construct a monopole or lattice tower.
9. Antennas may not extend more than fifteen feet above their supporting structure, monopole, lattice tower, building or other structure. Site location and development shall preserve the preexisting character of the site as much as possible. Wireless communication towers and accessory equipment (equipment shelters and cabinets) shall be integrated through location, design, and color to blend in with the existing site characteristics to the extent practical. Existing vegetation around the facility shall be preserved or improved upon to provide vegetative screening. In the RSF-E zone, a minimum of two-thirds of the height of the monopole or lattice tower must be screened by existing vegetation when possible. Additional screening may be required by the community development director to mitigate visual impacts to adjacent properties or public rights-of-way as determined by site-specific conditions.
10. No equipment shall be operated above forty-five dBA as measured from the nearest property line on which the attached wireless communication facility is located.

R. Livestock are allowed within the RSF-15 zone subject to the following densities and standards:

1. Horses: One per eighty-seven thousand one hundred twenty square feet of lot area to a maximum of two horses per lot; or
2. Cows: One per eighty-seven thousand one hundred twenty square feet of lot area to a maximum of two cows per lot; or
3. Llamas: Two per eighty-seven thousand one hundred twenty square feet of lot area to a maximum of four llamas per lot; or
4. Sheep: Four per eighty-seven thousand one hundred twenty square feet of lot area to a maximum of eight sheep per lot; or
5. Goats: Four per eighty-seven thousand one hundred twenty square feet of lot area to a maximum of eight goats per lot; or

6. Chickens: One rooster/six hens per eighty-seven thousand one hundred twenty square feet of lot area to a maximum of one rooster/six hens per lot; or
7. Pigeons: Twelve pigeons per twenty-one thousand seven hundred eighty square feet of lot area to a maximum of twenty-four pigeons per lot;
8. There must be a minimum distance of not less than forty feet between a building for human habitation and a structure housing livestock or poultry;
9. Livestock and poultry shall not be located any closer than one hundred feet from any residential building on an adjacent lot and no less than fifty feet from the property line of an adjacent vacant parcel capable of development. Confined feeding areas or structures to house livestock or poultry shall not be located closer than two hundred feet to any preexisting residence on adjacent properties.

S. Temporary Uses.

1. There are two types of temporary uses, seasonal and emergencies:
 - a. Seasonal uses are directed towards a special event or holiday such as:
 - i. Carnivals;
 - ii. Christmas tree sales;
 - iii. Farmer's markets;
 - iv. Festival or street fairs;
 - v. Parking lot/outdoor sales events;
 - vi. Seasonal sale of agricultural products grown off premises;
 - vii. A temporary sales office or mobile home in conjunction with a construction project; and
 - viii. Temporary fund-raising and other civic activities in commercial zoning districts.
 - b. Emergency uses are occasioned by an unforeseen event, such as fire, windstorm or flood, including:
 - i. A mobile home, recreational vehicle or other temporary structure for a residential purpose in a residential zone; or
 - ii. A mobile office or other temporary structure for a business purpose in a commercial or industrial zone.
2. Nothing within this section is intended to circumvent the strict application of those permitted uses within the underlying zoning districts. Time limits shall be strictly enforced.
3. All temporary uses addressed in this section shall be located on private property and not in the public rights-of-way.
4. Approval Criteria.
 - a. Seasonal and Special Events. The administrative official shall approve, approve with conditions or deny a request for approval of a special event subject to compliance with all of the following criteria:
 - i. The event occurs for no longer than forty-five days in a calendar year on the approved event site;
 - ii. The event is permitted in the underlying zoning district or within the approved event site;

- iii. The applicant has proof of the property owner's permission to place the event on his/her property;
 - iv. There will be no parking utilized by the customers and employees of the temporary event which is needed by the property owner to meet his/her minimum parking requirements;
 - v. The event does not interfere with adequate vision clearance, and shall not obstruct pedestrian access on public rights-of-way;
 - vi. Conditions as may be required by the building official and/or fire marshal to determine compliance with minimum building, fire and life safety codes; and
 - vii. Adequate provisions for trash disposal and sanitary facilities shall be provided.
- b. Unforeseen Emergencies. The administrative official shall approve, approve with conditions or deny a request of an unforeseen/emergency situation(s) subject to compliance with all of the following criteria:
- i. The need for the use is the direct result of a casualty loss such as fire, windstorm, flood or other severe damage by the elements of a preexisting structure or facility previously occupied by the applicant on the premises for which the permit is sought;
 - ii. There exists adequate and safe vehicular ingress and egress when combined with the other uses of the property;
 - iii. There exists adequate parking for the temporary use;
 - iv. The use will pose no hazard to pedestrians in the area of the use;
 - v. The use will not create adverse off-site impacts including noise, odors, vibrations, glare or lights which will affect adjoining uses;
 - vi. The use can be adequately served by sewer or septic system and water, if applicable; and
 - vii. The length of time that the temporary building will be used is the maximum needed to address the hardship, but no longer than one year, with the exception that a temporary use approval may be renewed once by the administrative official for a period not to exceed one year.
5. The regulations in this section shall not apply to:
- a. Garage/estate sales conducted on private residential properties subject to the following criteria:
 - i. Sales last no longer than three consecutive days; and
 - ii. Sales are held no more than four times in a calendar year; and
 - iii. Sales are conducted on the owner's property. Multiple-family sales are permitted if they are held on the property of one of the participants.
 - iv. No garage sale signage is allowed within the public right-of-way. Signs on private property must have the written permission of the property owner.
 - b. On-site construction office during the period of construction, but no longer than six months. A single six-month extension may be granted upon written request, provided the applicant shows good cause for granting the extension. The approved extension shall be the minimum necessary to achieve completion of the project.

T. Not more than one accessory apartment, as defined, may be allowed on a parcel. The following criteria shall apply:

1. The accessory apartment shall be located within an owner-occupied, site-built single-family dwelling or its accessory garage within fifty feet of the primary residence.
2. The accessory apartment shall not exceed eight hundred square feet and shall be reviewed to ensure compatibility with surrounding uses.
3. One additional paved, off-street parking space is required.
4. The accessory apartment shall share access with the primary dwelling.
5. Adequate utility service shall be confirmed.
6. A restrictive covenant shall be recorded on the property to preclude the separate sale or division of the accessory apartment from the single-family dwelling.

U. The following criteria shall govern the review and approval of a temporary manufactured home, or park model (defined in Section 17.08.020), for occupancy by an aged, infirm or incapacitated relative or by one or more relatives (by blood or marriage) engaged in care giving for the aged, infirm or incapacitated person:

1. Such temporary home shall only be considered on residential properties of two acres or greater;
2. Such home shall be for temporary placement for a period of one year, subject to review prior to renewal by the administrative official;
3. The aged, infirm or incapacitated person must be related by blood or marriage to the caregiver;
4. The property must be owned by either the caregiver or the aged, infirm or incapacitated relative;
5. Such temporary permit shall be issued only for the purpose of providing one temporary housing unit on the same lot as the existing residence, in reasonably close proximity to each other, with the intent of sharing utility systems and to minimize negative effects on adjacent uses;
6. If more than one residence already exists on the property, the reviewing official shall not issue a permit for a temporary unit under this section;
7. Seventy-five years of age is considered aged for purposes of this section. Individuals less than seventy-five years of age shall be required to furnish a written statement by a licensed medical doctor or osteopath, indicating that the patient is not physically or mentally capable of independent living and is dependent on a relative being close by for personal physical care assistance;
8. The caregiver shall be physically capable of providing the needed personal physical care;
9. Financial hardships, taking care of the property and other convenience arrangements not relating to age or infirmity shall not be considered grounds for which a permit can be issued;
10. Sewage disposal shall be by connection to the existing sanitary sewer outlet located on the property. No additional side-sewer connections to the collector line shall be permitted, unless required otherwise by the city engineer;
11. The temporary unit shall conform to setback requirements of the Kelso Municipal Code, and shall not be permitted within the one-hundred-year floodplain or other critical area;
12. Temporary manufactured homes shall meet the following siting requirements:
 - a. Have permanent steps or inclined planes affixed to all entrances;
 - b. Maintain a minimum eighteen-inch crawl space under the entire unit;

c. Have permanent skirting or sidewalls installed to enclose all areas between the lower edge of the outside walls and the ground;

d. Be placed and anchored per the manufacturer's installation instructions or per the design of a professional engineer or architect licensed in Washington (WAC 296-150M-610(1)(C));

13. If the placement of the temporary home would violate the provisions of any deed restriction or subdivision covenant for the property, the application shall be returned or denied without prejudice until the covenant issue is resolved;

14. No additional road approaches, access roads or accessory structures to serve the temporary residence shall be permitted, unless determined to be acceptable by the city engineer, as appropriate. The temporary unit shall be located within one hundred feet of the existing residence on the property unless this would conflict with subsection U11 of this section, or if other bona fide physical site constraints would prohibit compliance;

15. A covenant, to which the city is a party, shall be recorded with the county auditor stating that the temporary dwelling and any related improvements do not vest the property with any right to subdivide or convert the temporary dwelling to a permanent dwelling, except in conformance with the Kelso Municipal Code;

16. The temporary unit shall be removed within ninety days if the temporary unit is no longer occupied by the person(s) for which the permit was issued, or the permit has expired and was not renewed.

V. All kennels (as described in Section 17.08.020) and veterinarian clinics (as described in Section 17.08.020) shall be provided with indoor sleeping areas, in order to minimize nighttime noise impacts to neighboring properties. (Ord. 3828 § 5 (Exh. C), 2014; Ord. 3799 § 1 (Att. B), 2013; Ord. 3745 § 1 (Att. B), 2011; Ord. 3699 § 1 (Att. B), 2009)

W. Religious organizations may be permitted to host encampments for the homeless on a temporary basis in accordance with the provisions of RCW 36.01.290, provided that:

1. The City may impose conditions of approval necessary to protect the public health and safety;

2. Prospective applicants shall submit for City review and approval, plans that at a minimum address:

a. The maximum number of occupants to be allowed in the encampment;

b. Provisions for toilets, running water, and garbage collection that meet local health standards;

c. Provisions for cooking facilities including food storage and dish washing;

d. Provisions for tents or similar sleeping shelters; and

e. Plans for the location of first aid equipment, fire extinguishers, designated smoking areas (if any), maintenance of necessary access, plans for keeping the site free of litter or garbage, and plans for prohibiting open flames.

3. Encampments shall be open for inspection by the City Manager and his/her designees at all times, without prior notice, to determine compliance with the conditions of approval. This shall include, but is not limited to the Health Department, Fire Department, Police Department, and the Department of Community Development.



P.O. Box 88030
Tukwila, WA 98138
Phone: 206-575-6046
Fax: 206-575-7426

July 16, 2014

Steve Taylor
City Manager
City of Kelso
PO BOX 819
Kelso, WA 98626-0078

RE: 2014 Annual Review & Audit

Dear Steve:

This letter is a follow-up to the visit I made last month to perform the 2014 Annual Review and Audit. Following the terms of the WCIA Membership COMPACT, I visited to conduct a review of your Land Use Liability practices as well as to provide you with other information as part of the Annual Review. I'd like to thank you, Brian, Janean, Mike, Randy and Amy for setting aside a portion of the day to meet with me.

2013 AUDIT RESULTS

I was happy to verify that the City had complied with the mandatory requirements generated from the 2013 Cyber Liability Audit. Therefore the City is considered to be in compliance with the terms of the WCIA COMPACT.

2014 AUDIT RESULTS

As you know, this year's audit focused on Land Use. The Audit resulted in four mandatory requirements being generated, which will be monitored for compliance in 2015. Please be aware that failure to comply with the mandatory requirements may result in a financial penalty.

MANDATORY REQUIREMENTS:

Q1.19 Do your code and practices comply with the current legislative enactments governing accessory dwelling units?

Q1.20 Do your code and practices comply with the current legislative enactments governing manufactured housing/recreational vehicles?

Q1.22 Do your code and practices comply with current legislative enactments governing temporary encampments for the homeless?

Q1.24 Do your code and practices comply with the current legislative enactments governing wireless facilities?

Both a municipality's code provisions and its practices should be in conformity with the various grants of authority and limitations found in constitutional and statutory provisions as well as numerous court and growth management board decisions. It is crucial that all administrative land use decisions are backed by appropriate documentation that supports an analysis of the criteria identified in a municipality's development code.

AUTO PHYSICAL DAMAGE AND PROPERTY PROGRAMS

I provided current copies of your auto and property schedules for review. Please let WCIA know if there are changes you wish to make, or the changes can be made "on line" at the WCIA Web Site

COMPACT STATUS & TRAINING REQUIREMENTS

To date you have complied with all portions of the COMPACT Requirements. Congratulations!

Member Services Coordinator, Maria Orozco will be periodically sending out announcements regarding the various trainings that will be scheduled throughout the year. Please feel free to call her if you have any questions or wish to schedule additional training.

SUMMARY

This completes the summary of my recent visit. It was great to see you again and I encourage you to contact me with any risk management concerns you may have.

Page 3
City of Kelso
July 16, 2014

Sincerely,

Debbi Sellers

Debbi Sellers, RPLU
Senior Risk Management Representative
Washington Cities Insurance Authority
debbis@wciapool.org

AGENDA SUMMARY SHEET

Business of the City Council City of Kelso, Washington

SUBJECT TITLE: AN ORDINANCE OF THE CITY OF KELSO, WASHINGTON, RELATING TO COLLOCATION, REMOVAL AND REPLACEMENT OF WIRELESS FACILITIES

Agenda Item: _____

Dept. of Origin: Community Development

For Agenda of: December 1, 2015

Originator: Steve Taylor

City Attorney: **Janean Parker**

City Manager: **Steve Taylor**

PRESENTED BY:

Janean Parker

Agenda Item Attachments:

Proposed Ordinance

Exhibit A – Revised KMC 17.15.040

SUMMARY STATEMENT:

In 2014 the City's insurance provider conducted an audit of the City of Kelso's Land Use Liability practices. As a result of that audit WCIA identified four areas for the City to review for consistency with recent state legislative enactments; accessory dwelling units, manufactured housing/recreational vehicles, temporary encampments for the homeless, and wireless facilities.

Correspondence between the City's planning consultant, City staff and WCIA confirmed that our current regulations addressing accessory dwelling units are consistent with the state law and no changes are needed. Accessory dwelling units, manufactured housing/recreational vehicles and temporary encampments for the homeless will be discussed together under a different agenda item and ordinance.

The proposed changes will bring the City's wireless facilities code into compliance with federal law and address modifications to wireless communication facilities that do not constitute a significant change. Although staff is in the process of updating all of our development regulations they will not be ready for consideration and adoption by Council until 2016 so interim amendments have been prepared to satisfy the WCIA requirements before the end of 2015. These revisions will be incorporated into the 2016 draft regulations and will remain in effect when the new regulations are adopted. The regulations proposed in 2016 will also include new language addressing modifications to wireless communication facilities that do constitute a significant change.

The Planning Commission heard a presentation on the proposed changes at their October 13th meeting. A public hearing was held at the November 10th Planning Commission meeting where the Commissioners recommended the City Council adopt the proposed changes. No public comments were received.

RECOMMENDED ACTION:

Move to approve on second reading an ordinance amending Chapter 17.15 Permitted, Administrative and Conditional Uses to the Kelso Municipal Code.

CITY OF KELSO, WASHINGTON
ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF KELSO, WASHINGTON, RELATING TO COLLOCATION, REMOVAL AND REPLACEMENT OF WIRELESS FACILITIES; ADDING A NEW REGULATORY NOTE TO KELSO MUNICIPAL CODE CHAPTER 17.15.040; ESTABLISHING DEVELOPMENT REGULATIONS FOR COLLOCATION, REMOVAL AND REPLACEMENT OF WIRELESS TRANSMISSION FACILITIES TO CONFORM TO FEDERAL LAW AND REGULATIONS; ESTABLISHING AN APPLICATION SUBMITTAL AND APPROVAL PROCESS; PROVIDING FOR TERMINATION OF NON-CONFORMING STRUCTURES; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, in 1934, Congress enacted the Communications Act of 1934, creating the FCC and granting it authority over common carriers engaged in the provision of interstate or foreign communications services; and

WHEREAS, in 1996 Congress enacted Pub. L. No. 104-104, 110 Stat. 70 (the “**1996 Act**”), amending the Communications Act of 1934 and implementing regulations applicable to both wireless and wireline communications facilities for the purpose of removal of barriers to entry into the telecommunications market while preserving local government zoning authority except where specifically limited under the 1996 Act; and

WHEREAS, in the 1996 Act, Congress imposed substantive and procedural limitations on the traditional authority of state and local governments to regulate the location, construction, and modification of wireless facilities and incorporated those limitations into the Communications Act of 1934; and

WHEREAS, the City has adopted regulations that have been codified as part of the Kelso Municipal Code establishing local requirements for the location, construction, and modification of wireless facilities; and

WHEREAS, in 2012 Congress passed the “Middle Class Tax Relief and Job Creation Act of 2012” (the “**Spectrum Act**”) (PL-112-96; codified at 47 U.S.C. § 1455(a)); and

WHEREAS, Section 6409 (hereafter “**Section 6409**”) of the Spectrum Act implements additional substantive and procedural limitations upon state and local government authority to regulate modification of existing wireless antenna support structures and base stations; and

WHEREAS, Congress through its enactment of Section 6409 of the Spectrum Act, has mandated that local governments approve, and cannot deny, an application requesting modification of an existing tower or base station if such modification does not substantially change the physical dimensions of such tower or base station; and

WHEREAS, the 1996 Act empowers the Federal Communications Commission (the “**FCC**”) to prescribe such rules and regulations as may be necessary in the public interest to

carry out the provisions of the 1996 Act, and subsequently added portions of the 1996 Act such as Section 6409; and

WHEREAS, the FCC, pursuant to its rule making authority, adopted and released a Notice of Proposed Rulemaking in September of 2013 (*In re Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59; FCC 13-122) which focused in part upon whether or not the FCC should adopt rules regarding implementation of Section 6409; and

WHEREAS, on October 21, 2014, the FCC issued its report and order, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59; FCC 14-153, in the above described proceeding (the “**Report and Order**” or “**Order**”) clarifying and implementing statutory requirements related to state and local government review of infrastructure siting, including Section 6409, with the intent of facilitating and expediting the deployment of equipment and infrastructure to meet the demand for wireless capacity; and

WHEREAS, the rules adopted by the FCC in its Report and Order implementing Section 6409 are intended by the FCC to spur wireless broadband deployment, in part, by facilitating the sharing of infrastructure that supports wireless communications through incentives to collocate on structures that already support wireless facilities; and

WHEREAS, the Report and Order also adopts measures that update the FCC’s review processes under the National Environmental Policy Act of 1969 (“**NEPA**”) and section 106 of the National Historic Preservation Act of 1966 (“**NHPA**”), with a particular emphasis on accommodating new wireless technologies that use smaller antennas and compact radio equipment to provide mobile voice and broadband service; and

WHEREAS, on January 5, 2015, the FCC released an Erratum to the Report and Order making certain amendments to the provisions of the Report and Order related to NEPA and Section 106 of the NHPA; and

WHEREAS, that part of the Report and Order related to implementation of Section 6409, amends 47 C.F.R. Part 1 (PART 1 – PRACTICE AND PROCEDURE) by adding new Subpart CC § 1.40001 and establishing both substantive and procedural limitations upon local government application and development requirements applicable to proposals for modification to an existing antenna support structure or an existing base station (“**Eligible Facility Request Rules**”); and

WHEREAS, the Order, among other things, defines key terms utilized in Section 6409, establishes application requirements limiting the information that can be required from an applicant, implements a 60 shot clock and tolling provisions, establishes a deemed approved remedy for applications not timely responded to, requires cities to approve a project permit application requesting modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, and establishes development standards that govern such proposed modifications; and

WHEREAS, the Report and Order provides that the Eligible Facility Request Rules will be effective 90 days following publication in the Federal Register; and

WHEREAS, the Order was published in the Federal Register on Thursday, January 8, 2015, Federal Register; Vol. 80; No. 5, resulting in the Eligible Facility Request Rules becoming effective on April 8, 2015; and

WHEREAS, the Order is subject to appeal, however, even if an appeal is filed, the appeal will not automatically result in delay of implementation of the Eligible Facility Request Rules; and

WHEREAS, the City Council finds that it is required under Section 6409 of the Spectrum Act and the Eligible Facility Request Rules established in the Order, to adopt and implement local development and zoning regulations that are consistent with Section 6409 and the Order; and

WHEREAS, an Environmental Checklist for a non-project action was prepared under the State Environmental Policy Act (RCW Chapter 43.21.C), pursuant to Washington Administrative Code Chapter 197-11, and a determination of Non-Significance (“**DNS**”) was issued on the 23rd day of October, 2015; and

WHEREAS, on the 10th day of November, 2015 the Planning Commission held a duly noticed public meeting related to the proposed amendments to the development regulations set forth in the proposed ordinance; and

WHEREAS, the City Council considered the proposed amendments to the development regulations on the 17th day of November, 2015; and

WHEREAS, the City Council finds that the proposed amendments are reasonable and necessary in order bring the City’s development regulations into compliance with the mandate imposed upon the City by Congress pursuant to Section 6409 and the regulations imposed upon the City by the FCC pursuant to its Report and Order, and are therefore in the public interest;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KELSO DO ORDAIN AS FOLLOWS:

SECTION 1. Findings Adopted. The City Council adopts all of the ‘WHEREAS’ sections of this Ordinance as findings in support of this ordinance.

SECTION 2. KMC Section 17.15.040 Amended. Kelso Municipal Code Section 17.15.040 is hereby amended as set forth in Exhibit A, attached hereto and incorporated fully by this reference.

SECTION 3. Corrections. Upon approval of the City Attorney, the City Clerk and code reviser are authorized to make necessary corrections to this ordinance, including without

limitation the correction of clerical errors, references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

SECTION 4. Severability. The provisions of this Ordinance are declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

SECTION 5. Effective Date. This Ordinance shall be in full force and effect 5 days after its passage and publication of summary as required by law.

ADOPTED by the City Council and **SIGNED** by the Mayor this ____ day of _____, 2015.

MAYOR DAVID FUTCHER

ATTEST/AUTHENTICATION:

APPROVED AS TO FORM

CITY CLERK

CITY ATTORNEY

PUBLISHED:_____

Exhibit A

KMC 17.15.040 is hereby amended to add a new regulatory note X to be known and referred to as 17.15.040 X Eligible Wireless Communication Facilities Modifications, and reading as follows:

17.15.40 X Eligible Wireless Communication Facilities Modifications

1. Definitions. The following definitions shall apply in the interpretation and enforcement of this section, unless the context clearly requires otherwise. Any term or phrase not defined herein shall have the meaning that is given to that term or phrase in Kelso Municipal Code 17.08 Definitions. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word “shall” is always mandatory and not merely directory and the word “may” is always discretionary. References to governmental entities (whether persons or entities) refer to those entities or their successors in authority. If specific provisions of law, regulation or rule referred to herein be renumbered or amended, then the reference shall be read to refer to the renumbered or amended provision.
 - a. “Approval authority” is the City Manager or his/her designee, who has authority to administratively issue project permit approvals.
 - b. “Applicant” shall mean and refer to the person, and such person’s successor in interest, owning and/or operating the transmission equipment proposed in an eligible facilities modification application to be collocated, removed or replaced.
 - c. “Authorized person” is the person, employees, agents, consultants, and contractors, authorized in writing by applicant to complete and submit an eligible facilities modification application on behalf of applicant and who is authorized to receive any notices on behalf of applicant of any action taken by the City regarding the application.
 - d. “Base station” shall mean and refer to the structure or equipment at a fixed location that enables wireless communications licensed or authorized by the FCC, between user equipment and a communications network. The term does not encompass a tower as defined in this section or any equipment associated with a tower.
 - (i) The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
 - (ii) The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable

equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).

- (iii) The term includes any structure other than a tower that, at the time an eligible facilities modification application is filed with the City under this Section, supports or houses equipment described in paragraphs (i) - (ii) above, and that has been reviewed and approved under the applicable zoning or siting process, or under another State, county or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.
- (iv) The term does not include any structure that, at the time a completed eligible facilities modification application is filed with the City under this section, does not support or house equipment described in paragraphs (i) - (ii) above.
- e. “Collocation” shall mean and refer to the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.
- f. “Conceal” or “Concealment” shall mean and refer to eligible support structures and transmission facilities designed to look like some feature other than a wireless tower or base station.
- g. “Deemed approved” shall mean and refer to an eligible facilities modification application that has been deemed approved upon the City’s failure to act, and has become effective, as provided pursuant the FCC Eligible Facilities Request Rules.
- h. “Eligible facilities modification application” or “application” shall, unless the context clearly requires otherwise, mean and refer to a written document submitted to the City pursuant to this section for review and approval of a proposed facilities modification.
- i. “Eligible facilities modification” shall mean and refer to any proposed facilities modification that has been determined pursuant to the provisions of this section to be subject to this section and which does not result in a substantial change in the physical dimensions of an eligible support structure.
- j. “Eligible facilities modification permit” or “permit” shall, unless the context clearly requires otherwise, mean and refer to a written document issued by the approval authority pursuant to this section approving an eligible facilities modification application.
- k. “Eligible support structure” shall mean and refer to any existing tower or base station as defined in this section, provided that it is in existence at the time the eligible facilities modification application is filed with the City under this section.

- l. “Existing” shall, for purpose of this section and as applied to a tower or base station, mean and refer to a constructed tower or base station that has been reviewed and approved under the applicable zoning or siting process of the City, or under another State, county or local regulatory review process; provided that, a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.
- m. “Proposed facilities modification” shall mean and refer to a proposal submitted by an applicant to modify an eligible support structure which the applicant asserts is subject to review under Section 6409 of the Spectrum Act, and involving:
 - (i) collocation of new transmission equipment;
 - (ii) removal of transmission equipment; or
 - (iii) replacement of transmission equipment.
- n. “FCC” shall mean and refer to the Federal Communications Commission or its successor.
- o. “FCC Eligible Facilities Request Rules” shall mean and refer to 47 C.F.R. Part 1 (PART 1 – PRACTICE AND PROCEDURE), Subpart CC § 1.40001 as established pursuant to its Report and Order in, *In re Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59; FCC 14-153, or as may be thereafter amended.
- p. “Site” shall, for towers other than towers in the public rights-of-way, mean and refer to the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, shall mean and be further restricted to, that area in proximity to the structure and to other transmission equipment already deployed on the ground.
- q. “Small cell facility” shall mean and refer to a personal wireless services facility that meets both of the following qualifications:
 - (i) Each antenna is located inside an antenna enclosure of no more than three cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and
 - (ii) Primary equipment enclosures are no larger than seventeen cubic feet in volume. The following associated equipment may be located outside the primary equipment enclosure and if so located, are not included in the

calculation of equipment volume: electric meter, concealment, telecomm demarcation box, ground-based enclosures, battery back-up power systems, grounding equipment, power transfer switch, and cut-off switch.

- r. “Small cell network” shall mean and refer to a collection of interrelated small cell facilities designed to deliver personal wireless services.
 - s. “Spectrum Act” shall mean and refer to the “Middle Class Tax Relief and Job Creation Act of 2012” (Public Law 112-96; codified at 47 U.S.C. § 1455(a)).
 - t. “Substantial change criteria” shall mean and refer to the criteria set forth in this Section.
 - u. “Transmission Equipment” shall mean and refer to equipment that facilitates transmission for any wireless communication service licensed or authorized by the FCC, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
 - v. “Tower” shall mean and refer to any structure built for the sole or primary purpose of supporting any antennas and their associated facilities, licensed or authorized by the FCC, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.
3. Applicability - Relationship to other Rules and Regulations.
- a. Sole and Exclusive Procedure. Except as may be otherwise provided in this chapter, and notwithstanding any other provisions in the City Code, the provisions of this section shall be the sole and exclusive procedure for review and approval of a proposed facilities modification which the applicant asserts is subject to review under Section 6409 of the Spectrum Act. To the extent that other provisions of the City Code establish a parallel process for review and approval of a project permit application for a proposed facilities modification, the provisions of this section shall control. In the event that any part of an application for project permit approval includes a proposed facilities modification, the proposed facilities modification portion of the application shall be reviewed under the provisions of this section. In the event that an application for project permit approval includes a proposal to modify an eligible support structure, and the applicant does not assert in the application that the proposal is subject to review under Section 6409 of the Spectrum Act, such proposal shall not be subject to review under this section and may be subject to review under other applicable provisions of the City Code.

- b. Non-conforming Structures. This section shall not apply to a proposed facility modification to an eligible support structure that is not a legal conforming, or legal non-conforming, structure at the time a completed eligible facilities modification application is filed with the City. To the extent that the non-conforming structures and use provisions of the City code would operate to prohibit or condition approval of a proposed facilities modification application otherwise allowed under this chapter, such provisions are superseded by the provisions of this section and shall not apply.
- c. Replacement of Eligible Support Structure. This section shall not apply to a proposed facility modification to an eligible support structure that will involve replacement of the tower or base station.
- d. First Deployment; Base Station. This section shall not apply to a proposed facility modification to a structure, other than a tower, that does not, at the time of submittal of the application, already house or support transmission equipment lawfully installed within or upon, or attached to, the structure.
- e. Interpretation. Interpretations of this Section shall be guided by Section 6409 of the Spectrum Act; the FCC Eligible Facilities Request Rules, the FCC's Report and Order in, *In re Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59; FCC 14-153.
- f. SEPA Review. Unless otherwise provided by law or regulation, decisions pertaining to an eligible facilities modification application are not subject to, and are exempt from, the requirements of RCW 43.21C.030(2)(c), if
 - (i) The proposed facilities modification would not increase the height of the eligible support structure by more than ten percent, or twenty feet, whichever is greater; or
 - (ii) The mounting of equipment that would involve adding an appurtenance to the body of the eligible support structure would not protrude from the edge of the structure more than twenty feet, or more than the width of the structure at the level of the appurtenance, whichever is greater; or
 - (iii) The authority to condition or deny an application pursuant to Chapter 43.21 RCW is preempted, or otherwise supplanted, by Section 6409 of the Spectrum Act.
- g. Reservation of Authority. Nothing herein is intended or shall operate to waive or limit the City's right to enforce, or condition approval on, compliance with generally applicable building, structural, electrical, and safety codes and with other laws codifying objective standards reasonably related to health and safety.

4. Permit Classification. An eligible facilities modification permit shall be classified as an administrative permit subject to review and approval or denial by the approval authority.
5. Application Submittal Requirements; Determination of Completeness.
 - a. Purpose. This section sets forth the submittal requirements for an eligible facilities modification application. The purpose of the submittal requirements is to ensure that the City has all information and documentation that is reasonable necessary to determine if the applicant's proposed facilities modification will substantially change the physical dimensions of an eligible support structure. The submittal requirements are not intended to require the applicant to establish the need for the proposed modifications or to justify the business decision to propose such modifications.
 - b. Submittal Requirements. No eligible facilities modification application shall be deemed complete unless it is, in writing, accompanied by the applicable application and review fee, includes the required submittals, and is attested to by the authorized person submitting the application on behalf of the applicant, certifying the truth and accuracy of the information provided in the application. The application shall include the following submittals, unless waived by the approval authority:
 - (i) The following contact information for the Authorized Person:
 - (1) Name;
 - (2) Title;
 - (3) Mailing Address;
 - (4) Phone Number; and
 - (5) Electronic Mail Address (Optional).
 - (ii) The legal and dba names, mailing address, Washington tax number, and contact phone number(s) of Applicant.
 - (iii) If a corporation, the name and address of the registered agent of Applicant in the Washington State, and the state of incorporation of Applicant.
 - (iv) If Applicant is an entity, other than a corporation, such as a partnership or limited liability company, the names and business addresses of the principals.
 - (v) An assertion that the proposed facilities modification is subject to review under Section 6409 of the Spectrum Act.
 - (vi) If the applicant is not the owner or person in control of the eligible support structure an attestation that the owner or person in control of the eligible

support structure and/or site has consented to the proposed facilities modification shall be required. If the eligible support structure is located in a public right of way, the applicant must also attest that applicant has authorization to install, maintain and operate transmission equipment in, under and above the public right of way.

- (vii) If the applicant proposes a modification involving collocation of transmission equipment or the replacement of transmission equipment, complete copies of the underlying land use approvals for siting of the tower or base station proposed to be modified, establishing that, at the time of submittal of the application, such tower or base station constituted an eligible support structure shall be required.
- (viii) If the applicant proposes a modification that will result in an increase in height of the eligible support structure, record drawings, as-built plans, or the equivalent, showing the height of the eligible support structure, (a) as originally constructed and granted approval by the City or other applicable local zoning or similar regulatory authority, or (b) as of the most recent modification that received city, or other local zoning or regulatory approval, prior to the passage of the Spectrum Act, whichever height is greater, shall be required.
- (ix) If the applicant proposes a modification to an eligible support structure, which structure, or proposed modification of the same, is subject to pre-existing restrictions or requirements imposed by a reviewing official or decision-making body pursuant to authority granted under the City Code, or an ordinance or a municipal code of another local government authority, a copy of the document (e.g., *CUP or SUP*) setting forth such pre-existing restrictions or requirements together with a certification that the proposed facilities modification conforms to such restrictions or requirements; provided that, such certification shall have no application to the extent the proposed facilities modification relates solely to an increase in height, increase in width, addition of cabinets, or new excavation, that does not result in a substantial change in the physical dimensions of the eligible support structure, shall be required.
- (x) If the applicant proposes a modification to an eligible support structure, which structure, or proposed modification of the same, is subject to pre-existing concealment restrictions or requirements, or was constructed with concealment elements, the applicant shall set forth the facts and circumstances demonstrating that the proposed modification would not defeat the existing concealment elements of the eligible support structure. If the proposed modification will alter the exterior dimensions or appearance of the eligible support structure, applicant shall include a detailed visual simulation depicting how the eligible support structure will appear after the proposed modification is complete. The visual simulation shall depict to scale the eligible support

structure in relation to the trees, landscaping and other structures adjacent to, or in the immediate vicinity of, the eligible support structure.

- (xi) If the applicant proposes a modification that will protrude from the edge of a non-tower eligible support structure, record drawings, as-built plans, or the equivalent, showing at a minimum the edge of the eligible support structure at the location of the proposed modification, shall be required. .
- (xii) If the applicant proposes a modification to an eligible support structure that will (a) include any excavation, (b) would result in a protrusion from the edge of a tower that exceeds an existing protrusion of any transmission equipment attached to a tower, or (c) would protrude from the edge of a non-tower eligible support structure, a description of the boundaries of the site together with a scale drawing based on an accurate traverse, with angular and lineal dimensions, depicting the boundaries of the site in relation to the tower or base station proposed to be modified and depicting the proposed location, elevation and dimensions of the new or replacement transmission equipment, shall be required. The city may require a survey by a land surveyor licensed in the state of Washington when, in the judgment of the approval authority, a survey is reasonably necessary to verify the boundaries of the site to determine if the proposed facilities modification would result in a substantial change in the physical dimensions of the eligible support structure.
- (xiii) If the applicant proposes a modification to the eligible support structure that includes hardening through structural enhancement, a technical report by a qualified engineer accredited by the state of Washington, demonstrating that the structural enhancement is performed in connection with and is necessary to support the proposed collocation, removal, or replacement of transmission equipment and conforms to applicable code requirements shall be required. The City may retain the services of an independent technical expert to review, evaluate, and provide an opinion regarding the applicant's demonstration of necessity.
- (xiv) If the applicant proposes a modification to a tower a stamped report by a state of Washington registered professional engineer shall be required demonstrating that the tower with the proposed modifications will comply with applicable structural, electrical and safety codes, including by way of example, and not limitation, EIA/TIA-222-Revision G, published by the American National Standards Institute (as amended), allowable wind speed for the applicable zone in which the tower is located, and describing the general structural capacity of the tower with the proposed modifications, including:
 - (1) The number and type of antennas that can be accommodated;
 - (2) The basis for the calculation of capacity; and

- (3) A written statement that the proposal complies with all federal guidelines regarding interference and ANSI standards as adopted by the FCC, including but not limited to nonionizing electromagnetic radiation (NIER) standards.

The City may retain the services of an independent technical expert to review, evaluate, and provide an opinion regarding the applicant's demonstration of compliance.

- (xv) If the applicant proposes a modification to a base station a stamped report by a state of Washington registered professional engineer demonstrating that the base station, with the proposed modifications, will comply with applicable structural, electrical and safety codes shall be required.
 - (xvi) If the applicant proposes a modification requiring, alteration to the eligible support structure, excavation, installation of new equipment cabinets, or any other activities impacting or altering the land, existing structures, fencing, or landscaping on the site, a detailed site plan and drawings, shall be required showing the true north point, a graphic scale and, drawn to an appropriate decimal scale, indicating and depicting, (a) the location, elevation and dimensions of the existing eligible support structure, (b) the location, elevation and dimensions of the existing transmission equipment, (c) the location, elevation and dimensions of the transmission equipment, if any, proposed to be collocated or that will replace existing transmission equipment, (d) the location, elevation and dimensions of any proposed new equipment cabinets and the intended use of each, (e) any proposed modification to the eligible support structure, (f) the location of existing structures on the site, including fencing, screening, trees, and other significant site features, and (g) the location of any areas where excavation is proposed showing the elevations, depths, and width of the proposed excavation and materials and dimensions of the equipment to be placed in the area excavated.
 - (xvii) Copies of any environmental documents required by any federal agency. These shall include the environmental assessment required by 47 C.F.R. Part 1 (PART 1 – PRACTICE AND PROCEDURE), Section 1.1307, as amended, or, in the event than an FCC environmental assessment is not required, a statement that described the specific factors that obviate the requirement for an environmental assessment.
- c. Waiver of Submittal Requirement. The approval authority may waive any submittal requirement upon determination that the required submittal, or part thereof, is not reasonably related to the substantial change criteria. A wavier, to be effective, must be in writing and signed by the approval authority.

- d. **When Received.** An eligible facilities modification application, and any supplemental submittals, shall be deemed received by the City upon the date such application, or supplemental submittal, is filed with the Department of Community Development.. An application, and any supplemental submittals, must be filed in person during regular business hours of the City and must be accompanied by the applicable permit review fee(s). Any application received by the City without contemporaneous payment, or deposit, of the applicable permit review fees will be rejected.

- e. **Completed Application; Determination; Tolling.**
 - (i) **Determination of Completeness.** The approval authority shall, within thirty (30) days of receipt of the application, review the application for completeness. An application is complete if it includes the applicable permit review fee(s) and contains all of the applicable submittal requirements set forth in this section, unless waived by the approval authority pursuant. The determination of completeness shall not preclude the approval authority from requesting additional information or studies either at the time of the determination of completeness or subsequently if new or additional information is required, or substantial changes in the proposed action occur, or the proposed facilities modification is modified by applicant, as determined by the approval authority.

 - (ii) **Incomplete Application.** The approval authority shall notify the applicant within thirty (30) days of receipt of the application that the application is incomplete. Such notice shall clearly and specifically delineate all missing documents or information.

 - (iii) **Tolling Timeframe for Review.** The application review period begins to run when the application is received, and may be tolled when the approval authority determines that the application is incomplete and provides notice as set forth below. The application review period may also be tolled by mutual agreement of the approval authority and applicant. The timeframe for review is not tolled by a moratorium on the review of eligible facility modification applications.
 - (1) To toll the timeframe for review for incompleteness, the approval authority must provide written notice to the applicant within thirty (30) days of the date of receipt of the application, clearly and specifically delineating all missing documents or information. Such delineated information is limited to submittals set forth in this Section and any supplemental information requested by the approval authority that is reasonably related to determining whether the proposed facilities modification will substantially change the physical dimension of an eligible support structure.

- (2) The timeframe for review begins running again when the City is in receipt of applicant's supplemental submission in response to the approval authority's notice of incompleteness.
- (3) Following a supplemental submission, the approval authority shall have ten (10) days to notify the applicant that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this paragraph (3)(c). Except as may be otherwise agreed to by the applicant and the approval authority, second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.
- (4) A notice of incompleteness from the City will be deemed received by the Applicant upon the earlier of, personal service upon the authorized person, delivery by electronic mail to the authorized person (if such delivery is authorized for receipt of notice by the authorized person), or three (3) days from deposit of the notice in the United States Mail, postage prepaid, and in an envelope properly addressed to the authorized person using the address set forth in the application.

(iv) Modification of Application. In the event that after submittal of the application, or as a result of any subsequent submittals, applicant modifies the proposed facilities modification described in the initial application, the application as modified will be considered a new application subject to commencement of a new application review period; provided that, applicant and the approval authority may, in the alternative, enter into a mutually agreeable tolling agreement allowing the City to request additional submittals and additional time that may be reasonably necessary for review of the modified application.

6. Review of Application; Approval.

- a. Review of Application. The approval authority shall review an eligible facilities modification application to determine if the proposed facilities modification is subject to this section, and if so, if the proposed facilities modification will result in a substantial change to the physical dimensions of an eligible support structure.
- b. Timeframe for Review. Within sixty 60 days of the date on which the City receives an eligible facilities modification application, less any time period that may be excluded under the tolling provisions of this section or a tolling agreement between the applicant and the approval authority, the approval authority shall approve the application and contemporaneously issue an eligible facilities modification permit unless the approval authority determines that the application

is not subject to this section, or the proposed facilities modification will substantially change the physical dimension of an eligible support structure.

- c. **Approval; Denial.** An eligible facilities application shall be approved, and an eligible facilities permit issued, upon determination by the approval authority that the proposed facilities modification is subject to this section and that it does not substantially change the physical dimensions of an eligible support structure. An eligible facilities application shall be denied upon determination by the approval authority that the proposed facilities modification is not subject to this section or will substantially change the physical dimensions of an eligible support structure. A proposed facilities modification will substantially change the physical dimensions of an eligible support structure if it meets any of the substantial change criteria.
- d. **Deemed Approved Application.** An application that has been deemed approved shall be and constitute the equivalent of an eligible facilities modification permit, except as may be otherwise determined by a court of competent jurisdiction, and shall be subject to generally applicable enforcement and compliance requirements in the same manner as an eligible facilities modification permit issued pursuant to this section.
- e. **Denial of Application.** A denial of an eligible facilities modification application shall set forth in writing the reasons for the denial and shall be provided to the applicant.
- f. **Code Requirements.** Any eligible facilities modification permit issued pursuant to this section, and any application that has been deemed approved, shall be and is conditioned upon compliance with any generally applicable building, structural, electrical, and safety codes and other laws codifying objective standards reasonably related to health and safety. Violation of any such applicable code or standard shall be deemed to be a violation of the eligible facilities modification or deemed approved application.
- g. **Term of Eligible Facilities Modification Permit.** An eligible facilities modification permit issued pursuant to this section, and any deemed approve application, shall be valid for a term of 180 days from the date of issuance, or the date the application is deemed approved.
- h. **Remedies.** Notwithstanding any other provisions in the City code, no administrative review is provided for review of a decision to condition, deny or approve an application. Applicant and the City retain any and all remedies that are available at law or in equity, including by way of example and not limitation, those remedies set forth in the FCC Eligible Facilities Request Rules and remedies available under the Land Use Petition Act. In the event no other time period is provided at law for bringing an action for a remedy, any action challenging a denial of an application or notice of a deemed approved remedy,

shall be brought within thirty (30) days following the date of denial or following the date of notification of the deemed approved remedy.

9. Substantial Change Criteria.

A proposed facilities modification will substantially change the physical dimensions of an eligible support structure if it meets any of the following criteria:

- a. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten (10) feet, whichever is greater;

Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act.

- b. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
- c. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
 - (i) it entails any excavation or deployment outside the current site;
 - (ii) it would defeat the concealment elements of the eligible support structure; or
 - (iii) it does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified in this section.

10. Non-Conforming Structure; Termination.

- a. **Application.** The provisions of this section shall apply to any facilities modification constructed, installed, placed or erected pursuant to an eligible facilities modification permit, or pursuant to a deemed approved remedy, which facilities modification did not conform to zoning and/or development regulations, exclusive of this section, in effect at the time the completed eligible facilities modification application was filed.
- b. **Non-Conforming Structure Determination.** A facilities modification to which this section applies is subject to termination as a non-conforming structure upon the following conditions:
 - (i) **Final, Non-Appealable Decision.** An appellate court, in a final and non-appealable decision, determines that § 6409(a)(1) of the Spectrum Act is unconstitutional or otherwise determined to be invalid or unenforceable; and
 - (ii) **Notice of Non-Conforming Structure Determination.** The City provides written notice to the applicant that the City has determined that the facilities modification did not conform to zoning and/or development regulations, exclusive of this section, in effect at the time the completed eligible facilities modification application was filed and that the facilities modification constitutes a non-conforming structure pursuant to the provisions hereof and must be made conforming or the facilities modification terminated.
- c. **Conformance; Termination.** Upon receipt of notice of the City's non-conforming structure determination, applicant shall abate the non-conformance by either, conforming the site to the zoning and development regulations in effect at the time the completed eligible facilities modification application was filed, or removing the facilities modification and returning the site to the condition that existed prior to the construction, installation, placement or erection of the facilities modification. The time period for conformance shall be one (1) year from the date of the City's notice of the non-conforming structure determination.
- d. **Health and Safety Codes.** Nothing in this section shall relieve the applicant from compliance with applicable building, structural, electrical, and safety codes and with other laws codifying objective standards reasonably related to health and safety.
- e. **Administrative Appeal.** The applicant, or its successors or assigns, may appeal the City's determination of non-conformance to the City Hearing Examiner by filing a notice of appeal within fourteen (14) calendar days of the date of the determination of non-conformance, excluding holidays.

11. Enforcement; Violation.

Compliance with the provisions of this Section is mandatory. Any violation hereof is subject to enforcement under the code enforcement provisions set forth in the Kelso Municipal Code.

12. Interpretations.

The City Manager or his or her designee is authorized to make such administrative interpretations as may be necessary in order to implement this Section in a timely and reasonable manner and to comply with the provisions of federal laws and rules.

- a. In the event of a conflict between the provisions of this Section and the provisions of other sections of the Kelso Municipal Code, including, but not limited to 17.15.040 N, O, P, and Q, the provisions of this Section shall apply.

AGENDA SUMMARY SHEET

Business of the City Council City of Kelso, Washington

SUBJECT TITLE: A Resolution of the City Council of the City of Kelso, Washington, amending the Master Fee Schedule

Agenda Item: _____

Dept. of Origin: _____ City Manager _____

For Agenda of: December 1, 2015

Originator: _____

PRESENTED BY:

Steve Taylor

City Attorney: Janean Parker

City Manager: Steve Taylor

Agenda Item Attachments:

Proposed Resolution

Exhibit A – Master Fee Schedule - Clean

Exhibit B – Master Fee Schedule - Redline

SUMMARY STATEMENT:

On October 21, 2014, the council adopted Resolution No. 14-2414 amending the City's Master Fee Schedule. The amendment included a small change to Schedule I – Engineering Fees as well as the addition of Schedule D – Building, Schedule E – Water and Sewer, and Schedule F – Planning.

The proposed resolution reflects an update to the animal licensing fees to ensure cost recovery; these fees have not been updated since 2008. The proposed changes also include updates to the hydrant use and bulk water fees as well as a clarification to the Engineering schedule.

RECOMMENDED ACTION:

Move to adopt the Resolution amending the City's Master Fee Schedule.

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KELSO,
WASHINGTON, AMENDING THE CITY'S MASTER FEE SCHEDULE.**

WHEREAS, it is the general policy of the City to establish fees that are reflective of the cost of services provided by the City; and

WHEREAS, the City has found it necessary to employ the use of a master fee schedule for the establishment of fees for City programs, permits and services, and periodically the fee schedule must be updated to incorporate new or modified services; and

WHEREAS, the City Council desires to update the existing master fee schedule to include updated animal licensing, fire hydrant use fees, and engineering fees.

NOW THEREFORE,

THE CITY COUNCIL OF THE CITY OF KELSO DO HEREBY RESOLVE AS
FOLLOWS:

SECTION 1. Master Fee Schedule Amended. The master fee schedule is amended as set forth in the schedules attached hereto as Exhibit A and incorporated by reference. Exhibit A hereby supersedes and replaces in its entirety Exhibit A as set forth in Resolution No. 14-1124.

SECTION 2. This resolution shall be effective immediately upon its adoption.

ADOPTED by the City Council and **SIGNED** by the Mayor this _____ day of _____, 2015.

MAYOR

ATTEST/AUTHENTICATION:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

CITY OF KELSO
MASTER FEE SCHEDULE

Table of Contents

Schedule A – Administrative	2
Schedule B – Other Fees	4
Schedule C – Police	7
Schedule D – Building.....	8
Schedule E – Water and Sewer	13
Schedule F – Planning	15
Schedule G – Park Facilities.....	17
Schedule H– Library	18
Schedule I – Engineering.....	20

Schedule A – Administrative

Reproduction of Public Records	
Public Records Inspection Request	There is no fee for inspecting public records
Public Records Request	There is no fee for a requestor to obtain up to ten (10) pages of standard 8.5 x 11 inch black and white photocopies
Standard 8.5 x 11 inch black and white photocopies exceeding ten (10) pages	\$.15 per page
Legal 8.5 x 14 inch or 11 x 17 inch black and white photocopies or color photocopies	\$.25 per page
Copies of audio tapes, video tapes, DVD, CD's or other storage devices	\$1.00 plus the hourly wage of the staff person for the time spent duplicating the storage device
Scan hard copy records into electronic format	\$.10 per page
E-mailing electronic records	No charge, except where another cost applies.
Envelopes and/or packaging	At Cost
Standard business envelopes	At Cost
Postage	At Cost
Maps of any size or other odd sized copies*	36" x 24" \$5.50 per page 25" x 18" \$5.00 per page
Public Records Request Deposit	10% of the estimated cost if request is estimated to exceed \$50.00
Non-Public Records Request reproduction	
Copies/Printing	Charge
8 ½ x 11" B & W	\$0.40 each
8 ½ x 11" Color	0.65 each
8 ½ x 14" B & W	0.45 each
8 ½ x 14" Color	0.75 each
11 x 17" B&W	0.65 each
11 x 17" Color	\$1.25 each
Construction/Engineering Plans	See "Maps" item under Pub. Rec. fees

CD Copies	See "Storage Device" item under Pub. Rec. fees
Business License list	\$0.40 per page
Certified Copies	\$6.13 for first five (5) pages; \$0.40 each add'l page
Microfiche copies	\$0.40 each
Tapes (Public furnishes tapes)	See "Storage Device" item under Pub. Rec. fees

*If the City determines, in its sole discretion, that the materials need to be copied by an outside vendor due to volume, current workload of City staff, size or nature of the record, or any other reason, the requestor will be charged the actual amount invoiced to the City by the copying vendor.

Payment may be made by cash, check, or money order payable to the City of Kelso.

Non-Sufficient Funds Check Return Fee \$35.00

Schedule B – Other Fees

Bus Pass - Rates are determined by River Cities Transit	
Adult	\$10.00
Student	\$6.00
Disabled/Senior	\$5.00

Business Licenses	
Certificate of Registration	\$50.00
Late Renewal	\$25.00

Additional/Misc.	
Pawn Broker/Secondhand Dealer - New	License \$120.00 + State Background and Fingerprints \$36.00
Pawn Broker/Secondhand Dealer - Renew	\$120.00
Solicitor	\$25.00
Merchant Patrols, Private Detectives and Private Security Operated by Single Individual	\$100.00/Year
Merchant Patrols, Private Detectives and Private Security Operators	\$25.00/year/Individual (Max Fee \$200.00)
Utility Contractor	\$25.00/Year
Sound Truck	\$25.00 for any calendar month or portion thereof.
Taxi Master - New	\$160.00 + \$10.00/Vehicle
Taxi Master– Renew	\$120.00 + \$10.00/Vehicle
Taxi Driver – New	\$50.00
Taxi Driver – Renew	\$35.00
Kennel License	\$100.00
Pet Shop License	\$100.00
Transfer kennel or pet shop license to new owner	\$15.00
Penalty fee if the license is not applied for within thirty days of commencement of operation or the license renewal date	50% of license fee
Public Market Master	\$120.00
Amusement Device – Between January 1 and Jun 30	\$56.00 per machine
Amusement Device - Between July 1 and December 31	\$30.00 per machine
Public Dance	\$25.00
Cabaret – Live Entertainment W/Alcohol	\$400.00/year (\$100.00 Qtrly)
Live Entertainment No Alcohol	\$250.00/year (\$62.50 Qtrly)

Mechanical Entertainment W/Alcohol	\$300.00/year (\$75.00 Qtrly)
Mechanical Entertainment No Alcohol	\$200.00/year (\$50.00 Qtrly)
Adult Cabaret	\$500.00/year
Adult Cabaret Manager and Entertainer Nonrefundable Processing Fee	\$25.00
Adult Cabaret Manager and Entertainer License	\$100.00/Year
Model and Escort Nonrefundable Processing Fee	\$25.00
Model and Escort License	\$100.00/Year
Other Sexually Oriented Business Nonrefundable Application Fee	\$100.00
Sexually Oriented Business License	\$125.00
Massage Business License	\$100.00/year
Massage Parlor Attendant – New	\$50.00
Massage Parlor Attendant – Renew	\$25.00

City Hall Meeting Rooms	
City Council Chambers	\$100.00/Use
Executive Session Room	\$50.00/Use
Large Conference Room Ste. #203	\$50.00/Use
Small Conference Room Ste. #219	\$25.00/Use
Small Conference Room Ste. #210	\$25.00/Use

Kelso Train Depot Meeting Rooms	
Lower Level Conference Room	\$50.00/Use

Special Event Permit	
Events held on City Property (Non-Park)	\$100.00
Events held in City Parks	\$25.00 (not including applicable park rental fees)

Fireworks Permit	
Nonrefundable Permit Fee	\$25.00
Refundable Deposit	\$100.00

Dog License Fees	
Spayed/Neutered Dogs	\$12.00/Year
Not Spayed/Neutered Dogs	\$30.00/Year
Dogs acquired, brought into the City, or becoming an adult after July 1st	Half the annual license fee
Potentially Dangerous Dog Registration	Before July 1 - \$100.00/Year
	After July 1 - \$50.00
Dangerous Dog Registration	Before July 1 - \$250.00
	After July 1 - \$150.00
Late Application/Renewal	\$15.00
Replacement License	\$3.00
Replacement Dangerous Dog Identification Collar	\$23.00

Guard Dog License Fees	
Guard Dog Trainer	\$50.00/Year
Guard Dog User - New	\$50.00/Year
Guard Dog User - Renew	\$25.00/Year
Guard Dog Purveyor	\$250.00/Year

Animal Redemption	
Impound Costs	
First in a twelve-month period	\$50.00
Second in a twelve-month period	\$100.00
Subsequent in a twelve-month period	\$150.00
Daily Care – For each twenty-four hour period, or portion thereof, from the time of impoundment	
Dog, Cat, or single litter of puppies or kittens	\$15.00
Any other animal	\$15.00
Veterinary Costs	
Actual costs incurred for necessary medical care and such other costs as may be set by resolution of the City Council.	
Transportation	
If provided at owner or custodian request or for livestock impounded off the property, actual costs incurred; ten dollars plus twenty cents per mile traveled to locate and transport the animal, or actual costs, whichever amount is greater.	
Maximum Redemption	fifty-four dollars exclusive of veterinary and transportation costs

Schedule C – Police

Concealed Pistol License	
New Application	\$52.50
Renewal	\$32.00
Late Renewal	\$42.00
Replacement	\$10.00

Other Fees	
Photo Copies	\$0.40 each
Fingerprints	\$10.00 for up to two cards; \$10.00 for each add'l card thereafter

Repeated False Alarm Response	
Third occurrence of a false alarm within any 6 month period	\$50.00
Fourth and all subsequent false alarms within the same six month period	\$100.00 each

Schedule D – Building

Building Permit Fees. The fee for each International Building Code, International Residential Code, Washington State Energy Code or Washington State Ventilation and Indoor Air Quality Code building permit shall be as set forth in Table 1-A.

Plan Review Fees. Kelso Municipal Code 15.03.180. When submitted documents are required by the administrative chapter of each code, a plan review fee shall be paid at the time of submitting the submittal documents for plan review. Said plan review fee for International Residential Code permits shall be sixty-five percent of the building permit fee and for International Building Code permits shall be seventy percent of the building permit fee as established by resolution of the city council. The plan review fees specified in this section are separate fees from the permit fees and in addition to permit fees.

Table 1-A Building Permit Fees

TOTAL VALUATION	FEE
\$1.00 to \$500.00	\$30.70
\$501.00 TO \$2,000.00	\$30.70 for the first \$500.00 plus \$4.15 for each additional \$100.00, or fraction thereof, to and including \$2,000.00
\$2,001.00 to \$25,000.00	\$96.50 for the first \$2,000.00 plus \$18.45 for each additional \$1,000.00, or fraction thereof, to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$512.80 for the first \$25,000.00 plus \$13.00 for each additional \$1,000.00, or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$832.10 for the first \$50,000.00 plus \$9.25 for each additional \$1,000.00, or fraction thereof, to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$1,284.40 for the first \$100,000.00 plus \$7.45 for each additional \$1,000.00, or fraction thereof, to and including \$500,000.00
\$500,001.00 to \$1,000,000.00	\$4,179.65 for the first \$500,000.00 plus \$6.20 for each additional \$1,000.00, or fraction thereof, to and including \$1,000,000.00
\$1,000,001.00 and up	\$7,249.00 for the first \$1,000,000.00 plus \$5.10 for each additional \$1,000.00, or fraction thereof
Other Inspections and Fees:	
1. Inspections outside of normal business hours	\$65.00 per hour ¹ (minimum charge – two hours)
2. Re-inspection fees assessed under provisions of Chapter 15.03.....	\$65.00 per hour ¹
3. Inspections for which no fee is specifically indicated	\$65.00 per hour ¹ (minimum charge – one hour)
4. Additional plan review required by changes, additions or revisions to plans	\$65.00 per hour ¹ (minimum charge – one hour)
5. For use of outside consultants for plan checking and inspections, or both	Actual Costs ²
6. Investigation fee for work commenced prior to obtaining a permit.....	Double permit fee
7. Building permit extension.....	50% of original permit fee
8. Manufactured housing installation inspection fee:	
a. Single-wide.....	\$129.00
b. Double-wide.....	\$162.00
c. Triple-wide.....	\$193.00
9. Wood stove (free standing) installation inspection fee.....	\$46.00

¹ Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.

² Actual costs include administrative and overhead costs.

Mechanical Permit Fees

The fee for each mechanical permit issued under provision of the International Mechanical Code, International Fuel Gas Code, NFPA 54 (National Fuel Gas Code), NFPA 58 (Liquefied Petroleum Gas Code), or the mechanical device provisions of the International Residential Code shall be as set forth in Table 2-A herein.

Table 2-A Mechanical Permit Fees	
Permit Issuance	
1. For the issuance of each mechanical permit	\$28.00
2. For issuing each supplemental permit for which the original permit has not expired, been canceled or finalized	\$14.00
Unit Fee Schedule <i>(Note: The following do not include permit-issuing fee.)</i>	
Equipment	
1. For the installation or relocation of each of the following piece of equipment:	\$20.00
<ul style="list-style-type: none"> • Furnace –forced air or gravity, (includes ducts and vents) • Boiler • Compressor and or Absorption System (includes heat pumps) • Evaporative Coolers • Air Handler (Not part of an HVAC system) • Ventilation system (Not part of an HVAC system) • Ventilation hood (includes associated ductwork) • Fireplace Insert, Gas fireplace • Incinerator • Fire damper, smoke damper or combination fire/smoke damper • Equipment regulated by the mechanical code but not specifically listed 	
2. Repairs or addition to each piece of equipment or system	\$18.00
Vents	
1. For the installation of the following:	\$10.00
<ul style="list-style-type: none"> • Appliance vent (for a piece of equipment not requiring mechanical permit) • Ventilation fan connected to single vent 	
Piping Systems	
1. For the installation of each of the following piping systems up to four outlets:	\$7.00
<ul style="list-style-type: none"> • Gas piping • Hazardous Process Piping • Non-Hazardous Process Piping 	
2. For the installation of each outlet exceeding four	\$3.00
Other Inspections and Fees	
1. For any of the following services:	\$65.00*
<ul style="list-style-type: none"> • Inspections outside of normal business hours, per hour • Re-inspection fees assessed under provisions of Chapter 15.03, per inspection • Inspections for which no fee is specifically indicated, per hour • Additional plan review required by changes, additions or revisions to plans or to plans for which an initial review has been completed (minimum charge – one hour) 	
2. Investigation fee for work commenced prior to obtaining a permit	Double permit fee
3. Mechanical permit extension	50% of original permit fee
<p><small>*Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.</small></p>	

Plumbing Permit Fees

The fee for each plumbing permit issued under the provisions of the Uniform Plumbing Code shall be as set forth in Table 3-A herein.

Table 3-A Plumbing Permit Fees	
Permit Issuance	
1. For issuing each permit	\$28.00
2. For issuing each supplemental permit	\$14.00
Unit Fee Schedule (in addition to items 1 and 2 above)	
Fixtures, devices and equipment	
1. For the installation or relocation of each of the following:	\$9.00
• Each fixture requiring a trap (includes piping and backflow protection for that fixture)	
• Water heater (includes vent)	
• Industrial waste interceptor	
• Grease trap	
• Water treatment equipment	
• Lawn sprinkler system (includes backflow protection)	
• Backflow Preventer	
Equipment regulated by the plumbing code but not specifically listed piping and backflow protection therefor)	
2. Repairs or addition to each fixture, piece of equipment or system	\$9.00
Building Sewer	
1. For the installation of each building sewer or trailer park sewer	\$20.00
Gas Piping System	
1. For the installation of each gas piping systems up to four outlets	\$7.00
2. For the installation of each outlet exceeding four	\$3.00
Other Systems	
1. Rainwater systems – Per drain (inside building)	\$9.00
2. Private sewage disposal system	\$32.00
3. Graywater system	\$32.00
4. Installation and testing of a reclaimed water system	\$38.00*
5. Annual testing of reclaimed water system	\$38.00*
6. For each medical gas piping system for a specific gas – up to five outlets or inlets	\$61.00
7. For each additional medical gas outlet over five outlets	\$7.00
Other Inspection and Fees	
1. For any of the following services:	\$65.00*
• Inspections outside of normal business hours, per hour	
• Re-inspection fees assessed under provisions of Chapter 15.03, per inspection	
• Inspections for which no fee is specifically indicated, per hour	
• Additional plan review required by changes, additions or revisions to plans or to plans for which an initial review has been completed (minimum charge – one hour)	
2. Investigation fee for work commenced prior to obtaining a permit	Double permit fee
3. Plumbing permit extension	50% of original permit fee
*Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.	

Residential Valuation Prices Per Square Foot*

Single Family – New House/Duplex	\$94 Per Square Foot
Tri-Plex/Multi-Family (4 units or less)	\$86 Per Square Foot
Addition	\$75 Per Square Foot
Garage	\$36 Per Square Foot
Carport/Patio Cover	\$15 Per Square Foot
Pole Building	\$24 Per Square Foot
Pole Building – Roof Only	\$19 per Square Foot
Flatwork - 4" Concrete Slab or Asphalt	\$2.50 Per Sq.ft./\$200 Per cy
Wood Deck	\$15 Per Square Foot
Wood Deck with Roof Cover	\$25 Per Square Foot
Fences (height over 7 ft.)	\$500 Minimum Value
Small Storage Sheds (Up to 200 sq.ft.)	\$10 Per Square Foot
Re-Roofs Residential (includes re-sheeting)	\$75 Per Square (100 sq.ft. of roof area=1 sq.)
Re-Roofs - > living units and commercial (includes re-sheeting)	Bid Price (pre-tax)
Demolition -Residential	\$500 Minimum Value

*Based on International Code Council's (ICC) most recent Building Safety Journal publication dated August 2007.

Washington State Building Code Surcharge.

For Each Building Permit: \$4.50

For Residential Multi-Unit Structures: \$4.50 for each permit issued PLUS \$2.00 per Dwelling Unit after the first.

Fire/Life Safety Permit Fees

The fee for each activity requiring a permit issued under the provisions of the International Fire Code shall be set forth in Table 1-A.

Plan Review Fees. Kelso Municipal Code 15.03.180. When submitted documents are required by the administrative chapter of each code, a plan review fee shall be paid at the time of submitting the submittal documents for plan review. Said plan review fee for International Residential Code permits shall be sixty-five percent of the building permit fee and for International Building Code permits shall be **seventy-percent** of the building permit fee as established by resolution of the city council. The plan review fees specified in this section are separate fees from the permit fees and in addition to permit fees.

Table 1-A

TOTAL VALUATION	FEE
\$1.00 to \$500.00	\$30.70
\$501.00 TO \$2,000.00	\$30.70 for the first \$500.00 plus \$4.15 for each additional \$100.00, or fraction thereof, to and including \$2,000.00
\$2,001.00 to \$25,000.00	\$96.50 for the first \$2,000.00 plus \$18.45 for each additional \$1,000.00, or fraction thereof, to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$512.80 for the first \$25,000.00 plus \$13.00 for each additional \$1,000.00, or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$832.10 for the first \$50,000.00 plus \$9.25 for each additional \$1,000.00, or fraction thereof, to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$1,284.40 for the first \$100,000.00 plus \$7.45 for each additional \$1,000.00, or fraction thereof, to and including \$500,000.00
\$500,001.00 to \$1,000,000.00	\$4,179.65 for the first \$500,000.00 plus \$6.20 for each additional \$1,000.00, or fraction thereof, to and including \$1,000,000.00
\$1,000,001.00 and up	\$7,249.00 for the first \$1,000,000.00 plus \$5.10 for each additional \$1,000.00, or fraction thereof
Other Inspections and Fees:	
1. Fire Sprinklers, 10 heads or less (Fire Sprinkler Affidavit).....	\$156.00
2. Inspections outside of normal business hours	\$60.00 per hour ¹ (minimum charge – two hours)
3. Re-inspection fees assessed under provisions of Chapter 15.03	\$60.00 per hour ¹
4. Inspections for which no fee is specifically indicated	\$60.00 per hour ¹ (minimum charge – one hour)
5. Additional plan review required by changes, additions or revisions to plans	\$60.00 per hour ¹ (minimum charge – one hour)
6. For use of outside consultants for plan checking and inspections, or both	Actual Costs ²
7. Investigation fee for work commenced prior to obtaining a permit.....	Double permit fee
8. Permit extension.....	50% of original permit fee

¹ Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.

² Actual costs include administrative and overhead costs.

Schedule E – Water and Sewer

Meter Installation Charge*	
Meter set $\frac{3}{4}$ x $\frac{5}{8}$	\$250
Meter set 1"	\$400
Meter set 1.5"	\$400 + meter cost
Meter set 2"	\$400 + meter cost

*Meters over 2" will be purchased by the City and the cost reimbursed by the applicant. Contractor will install the meter according to the Standard Plans and Specifications.

Other Fees	
Service call for water reconnection after water is turned off for non-payment	\$100.00/ call
Service call for new customers or temporary water turn on/off	\$25.00
Water/sewer account deposit	\$60.00 minimum
Penalty for meter tampering	\$200.00 /occurrence
Meter removal fee*	\$100.00/occurrence
Water meter test deposit	\$25.00/test
Cleaning usage fee**	\$50.00 up to 300 cubic feet + \$3.26 for every 100 cubic over 300
Pumping charge for leak adjustment	\$0.75/ 100 cubic feet
Penalty for irrigating during water shortage	\$100.00/occurrence
Sewer service calls resulting from private side responsibility at cost of labor, material, and equipment	\$50.00 minimum
Latecomers agreement application fee	\$250.00 + \$25.00/lot in benefited area
Latecomers agreement appeal fee	\$500.00
Capital recovery appeal fee	\$500.00
Fire Hydrant Use Permit with Meter Rental	\$1000.00 deposit***/\$5.00 daily meter rental charge/\$150 meter assembly installation and removal fee/water consumption charged on wholesale or bulk rates with a minimum \$20.00 charge

The City does not tap the sewer main for side sewers. This work must be completed by the customer's licensed contractor.

*Meters are removed where, in the City's judgment, such is necessary to insure that water will not be used without authorization.

**For a period of 5 days only. If the owner or property manager wishes the water to remain on after 5 days, then they must make a \$60.00 deposit in addition to the \$50.00 fee.

***Should damage or theft occur, renter will forfeit deposit and reimburse the City the current replacement cost difference.

Schedule F – Planning

Planning Fees	
	Fee Amount
<u>ENVIRONMENTAL REVIEW</u>	
STATE ENVIRONMENTAL POLICY ACT (SEPA)	
Environmental Review	\$250 ⁽¹⁾
Environmental Review Appeal	\$1,000 ⁽¹⁾
Environmental Review EIS	\$750 ⁽¹⁾
Environmental Review Exemption	\$50
SHORELINE	
Substantial Development Permit (SDP)	\$1,000 ⁽¹⁾
Substantial Development Permit + Conditional Use or Variance	\$1,000 ⁽¹⁾
Conditional Use or Variance without SDP	\$1,000 ⁽¹⁾
Shoreline Exemption	\$100
CRITICAL AREAS	
Critical Areas - Land Exchange, Conservation Easement, Bonus Density or Density Credits	\$250
Critical Areas Permit	\$250 per critical area location
Critical Areas Permit Extensions	50% of the original fee
Flood Plain Development Permit	\$750 ⁽¹⁾
<u>LAND USE ACTIONS</u>	
Binding Site Plan - Final	NO FEE
Binding Site Plan - Preliminary	\$1000 plus \$50 per lot
Boundary Line Adjustment	\$250
Manufactured Home Park/Subdivision	\$1,500 plus \$50 per space
Recreational Vehicle Park	\$750 plus \$50 per space
Planned Unit Residential Development (PURD)	\$2,000 plus \$70 per lot
Planned Unit Residential Development (PURD) - Final	\$750
Plat Amendment	\$500
Plat Amendment, Administrative	\$250
Short Plat	\$1,000 plus \$100 per lot
Short Plat - Final	\$200
Subdivision - Final Plat	\$750
Subdivision - Preliminary Plat	\$1,500 plus \$50 per lot
Subdivision - Required Inspections	Actual Costs
Extension of Time Limit for Final Plat Submittal	50% of the original fee
<u>PLANNING</u>	
Administrative Review	\$400
Annexation Request	\$500 plus \$150 per acre
Appeal of Administrative Decision	\$1,000 ⁽¹⁾
Comprehensive Plan Amendment (Text & Map)	\$1,000 ⁽¹⁾
Comprehensive Plan Amendment (Text or Map)	\$1,000 ⁽¹⁾
Comprehensive Plan Amendment Map & Rezone Combined	\$1,000 ⁽¹⁾

Conditional Use Permit	\$1,000
Downtown Design Review	\$500
Pre-application Conference	No Fee
Private Road Application Review - Final	\$500
Private Road Name (petition)	\$50 plus the cost of the signs
Private Road Name (quick pick)	Cost of Signs
Public Hearing - Postponement/Re-noticing	\$50 plus \$1.00 per notice address
Site Plan Review (Commercial and Industrial)	\$500 minimum. \$110 per 1,000 sq.ft. of building up to 25,000 sq.ft. Plus \$25.00 per 1,000 sq.ft. above 25,000 sq.ft.
Temporary Use Permit	\$50
Variance, Administrative	\$400 ⁽¹⁾
Variance, Hearing Examiner	\$1,000 ⁽¹⁾
SIGNS	
Sign Permit - Face change only	\$35
Sign Permit - Temporary	\$50
Sign Permit - Special Service Sign	\$250 plus \$100 annually
ZONING	
Rezone	\$1,500 ⁽¹⁾
Written Zoning Interpretation	\$100 ⁽¹⁾
Zoning Confirmation Letter	\$50
Zoning Text Amendment	\$500

NOTES: (1) Minimum charge. If outside review is required. Actual cost plus 10%.

Schedule G – Park Facilities

Group Category	Rotary Covered Area	Tam O'Shanter Covered Area	Other Park Reservation
I. Parks and recreation programs, park co-sponsored programs, other City sponsored events, park department and/or other city department benefit programs	Fee Waived	Fee Waived	Fee Waived
II. Non-profit organizations who charge membership fees, request donations and/or schedule fundraisers, including church organizations	\$40.00* for (4) hours of use or part thereof.	\$75.00* for (4) hours of use or part thereof.	\$25.00* for (4) hours of use or part thereof.
IV. Private parties*	\$60.00* for (4) hours of use or part thereof.	\$100.00* for (4) hours of use or part thereof.	\$35.00* for (4) hours use or part thereof.

Non-Resident Fee: \$25.00 in addition to standard reservation fee.

Entire Tam O'Shanter Park closed for private use: \$1,200.00

**If gathering is of a commercial nature and/or is a gathering in excess of 100 people a Special Event Permit and Fee will also be required.*

*** If maintenance or security people are required, a charge for actual costs incurred will be paid by user.*

VIII. League Field Use	Ball Park(s)
Annual fees charged for Cal Ripkin/Little League	\$1,100.00 (4 fields)
Annual fees charged for girls softball	\$1,100.00 (3 fields)
Annual fees charged for Babe Ruth	\$1,100.00 (Rister)
Annual fees charged for Kelso Soccer Club	\$400.00 (2 fields)
Annual fees charged for Boxing Club	\$300.00

Schedule H– Library

Nonresident Library Cards	
Household Cards: Good for all members of a household living at the same address.	
Annual Fee - Issued for one year from date of purchase.	\$70.00
Semi Annual Fee: Issued for six (6) months from date of purchase.	\$40.00
Quarterly Fee: Issued for three (3) months from date of purchase.	\$20.00
Senior Card: Good for up to a two-member senior citizen household.	
Annual Fee - Issued for one year from date of purchase.	\$35.00
Semi Annual Fee: Issued for six (6) months from date of purchase.	\$20.00
Quarterly Fee: Issued for three (3) months from date of purchase.	\$10.00

Lost Cards will be replaced for a \$1.00 processing and handling fee.

Overdue Fines*	
Books and all other items except for videos and audiovisual equipment	
Daily Fine	\$.10/day
Grace Period	14 Days
Maximum Fine	\$10.00/item
Videos and audiovisual equipment are due at closing time on the due date.	
Daily Fine	\$1.00/day
Maximum Fine	\$10.00/item

*Collection agency fees, legal fees, and other administrative costs incurred while attempting to secure the return of library materials will be passed on to the delinquent borrower.

Lost or Unreturned Items	
Books, videos and other library materials (excluding equipment) will be charged at the original price of the item in addition to accumulated overdue charges for the item(s).	
Audiovisual equipment will be charged the cost of replacement in addition to accumulated charges for the item(s)	
The Library Director may authorize charging the cost of replacement or replacement fees on	

books or sets that are particularly valuable or difficult to replace.

Damaged Materials and Equipment*	
Library materials such as books	Cost to repair or rebind the item with a minimum charge of \$1.00
Irreparable damage	Original cost of the item or replacement as specified above
Equipment	Cost to repair
Irreparable damage	Replacement cost of the item

* Once the cost of the item or replacement charge has been paid, the patron, upon request, may have the item.

Other Fees

Copies and Printouts	\$.10 each
----------------------	------------

Schedule I – Engineering

Civil Engineering Permit Fees	
Base Application Fee	\$50
Site	
ADA Ramp	\$150 (includes 10' of sidewalk)
Driveway Approach – Commercial	\$250 (includes 25' of sidewalk)
Driveway Approach – Residential	\$150 (includes 25' of sidewalk)
Sidewalk New/Repair/Replacement	\$25 for first 25', \$25 per 50' thereafter
Fill and Grade	(See separate worksheet)
Water	
Water Service Installation from main to within 5ft of structure (2" or smaller)	\$150
Construction of the City Water Main	\$500 for first 100', \$0.50 per foot thereafter
Water System Vaults, Fire Suppression, Metering, Pressure Regulating, Backflow Prevention (3" or larger)	\$500
Abandonment, Service Repair, or Additional Backflow Device (2" or smaller)	\$50
Sewer	
Sewer Service Installation	\$300
Construction of the City Water Main	\$500 for first 100', \$0.50 per foot thereafter
Abandonment or Lateral Repair	\$125
Stormwater	
Stormwater Onsite Pipe	(See Separate Worksheet)
Construction of the City Stormwater Main	\$500 for first 100', \$0.50 per foot thereafter
Other	
ROW Obstruction/Traffic Control Plan	\$25
One-time 6 Month Renewal of Permit*	\$25
Penalty for 4 th Submittal of Plans for a Single Application	25% of original permit fees
Engineering Review and Inspection Hourly Rate	\$55.00/hour
Special Technical Review	Cost Recovery
Hourly Rate for Reviews not Specified	\$65/hour
Working Without a Permit	Fees doubled

Street or Alley Vacation	\$250
Private Utility (Gas, Power, Telephone, Cable, etc...)	
Overhead ROW Work – Franchise	\$25 per each 1000'
Overhead ROW Work	\$50 per each 1000'
Open Cut ROW Ground Work – Franchise	\$50 per each 100'
Open Cut ROW Ground Work	\$75 per each 100'
Trenchless ROW Ground Work – Franchise	\$25 for 1 st 25', \$25 per 100' thereafter
Trenchless ROW Ground Work	\$50 for 1 st 25', \$50 per 100' thereafter

*Permit renewals after 1 year must repay initial fees for an additional 6 months.

Stormwater Fees	
Submittal of Minimum Technical Requirement #2 is required	\$200
Submittal of Minimum Technical Requirements #1 – 5 is required	\$300
Submittal of Minimum Technical Requirements #1 – 9 is required	\$700
Stormwater conveyance pipe	\$2 per lineal foot

Grading Permit Fees	
Residentially-zoned parcel having less than 100 cubic yards of combined cut and fill and a slope of less than 2%	\$100
Over 50 cubic yards of combined cut and fill and Submittal of Minimum Technical Requirement #2 is required	\$200
Over 50 cubic yards of combined cut and fill and submittal of Minimum Technical Requirements #1 – 5 is required	\$300
Over 50 cubic yards of combined cut and fill and Submittal of Minimum Technical Requirements #1 – 9 is required	\$700
Notes:	
<ol style="list-style-type: none"> 1) A grading permit is not required for projects under 50 cubic yards. 2) Projects of 500 or more cubic yards requires a SEPA checklist and separate fees. 3) Minimum Technical Requirements based on Appendix 1 of the 2013 Western Washington Phase II Municipal Stormwater Permit. 	

CITY OF KELSO
MASTER FEE SCHEDULE

<u>Fee Schedule</u>	<u>Page No.</u>
Schedule A: Administrative	2
Schedule B: Other Fees	4
Schedule C: Police	7
Schedule D: Building	8
Schedule E: Water and Sewer	13
Schedule F: Planning	14
Schedule G: Park Facilities	16
Schedule H: Library	17
Schedule I: Engineering	19

Table of Contents

Schedule A – Administrative **Error! Bookmark not defined.**

Schedule B – Other Fees **Error! Bookmark not defined.**

Schedule C – Police **Error! Bookmark not defined.**

Schedule D – Building..... **Error! Bookmark not defined.**

Schedule E – Water and Sewer **Error! Bookmark not defined.**

Schedule F – Planning **Error! Bookmark not defined.**
Schedule G – Park Facilities..... **Error! Bookmark not defined.**
Schedule H– Library **Error! Bookmark not defined.**
Schedule I – Engineering..... **Error! Bookmark not defined.**

Schedule A – Administrative

Reproduction of Public Records	
Public Records Inspection Request	There is no fee for inspecting public records
Public Records Request	There is no fee for a requestor to obtain up to ten (10) pages of standard 8.5 x 11 inch black and white photocopies
Standard 8.5 x 11 inch black and white photocopies exceeding ten (10) pages	\$.15 per page
Legal 8.5 x 14 inch or 11 x 17 inch black and white photocopies or color photocopies	\$.25 per page
Copies of audio tapes, video tapes, DVD, CD's or other storage devices	\$1.00 plus the hourly wage of the staff person for the time spent duplicating the storage device
Scan hard copy records into electronic format	\$.10 per page
E-mailing electronic records	No charge, except where another cost applies.

Envelopes and/or packaging	At Cost
Standard business envelopes	At Cost
Postage	At Cost
Maps of any size or other odd sized copies*	36" x 24" \$5.50 per page 25" x 18" \$5.00 per page
Public Records Request Deposit	10% of the estimated cost if request is estimated to exceed \$50.00
Non-Public Records Request reproduction	
Copies/Printing	Charge
8 ½ x 11" B & W	\$0.40 each
8 ½ x 11" Color	0.65 each
8 ½ x 14" B & W	0.45 each
8 ½ x 14" Color	0.75 each
11 x 17" B&W	0.65 each
11 x 17" Color	\$1.25 each
Construction/Engineering Plans	See "Maps" item under Pub. Rec. fees
CD Copies	See "Storage Device" item under Pub. Rec. fees
Business License list	\$0.40 per page
Certified Copies	\$6.13 for first five (5) pages; \$0.40 each add'l page
Microfiche copies	\$0.40 each
Tapes (Public furnishes tapes)	See "Storage Device" item under Pub. Rec. fees

*If the City determines, in its sole discretion, that the materials need to be copied by an outside vendor due to volume, current workload of City staff, size or nature of the record, or any other reason, the requestor will be charged the actual amount invoiced to the City by the copying vendor.

Payment may be made by cash, check, or money order payable to the City of Kelso.

Non-Sufficient Funds Check Return Fee \$35.00

Schedule B – Other Fees

Bus Pass - Rates are determined by River Cities Transit	
Adult	\$10.00
Student	\$6.00
Disabled/Senior	\$5.00

Business Licenses	
Certificate of Registration	\$50.00
Late Renewal	\$25.00

Additional/Misc.	
Pawn Broker/Secondhand Dealer - New	License \$120.00 + State Background and Fingerprints \$36.00
Pawn Broker/Secondhand Dealer - Renew	\$120.00
Solicitor	\$25.00
Merchant Patrols, Private Detectives and Private Security Operated by Single Individual	\$100.00/Year
Merchant Patrols, Private Detectives and Private Security Operators	\$25.00/year/Individual (Max Fee \$200.00)
Utility Contractor	\$25.00/Year

Sound Truck	\$25.00 for any calendar month or portion thereof.
Taxi Master - New	\$160.00 + \$10.00/Vehicle
Taxi Master– Renew	\$120.00 + \$10.00/Vehicle
Taxi Driver – New	\$50.00
Taxi Driver – Renew	\$35.00
Kennel License	\$100.00
Pet Shop License	\$100.00
Transfer kennel or pet shop license to new owner	\$15.00
Penalty fee if the license is not applied for within thirty days of commencement of operation or the license renewal date	50% of license fee
Public Market Master	\$120.00
Amusement Device – Between January 1 and Jun 30	\$56.00 per machine
Amusement Device - Between July 1 and December 31	\$30.00 per machine
Public Dance	\$25.00
Cabaret – Live Entertainment W/Alcohol	\$400.00/year (\$100.00 Qtrly)
Live Entertainment No Alcohol	\$250.00/year (\$62.50 Qtrly)
Mechanical Entertainment W/Alcohol	\$300.00/year (\$75.00 Qtrly)
Mechanical Entertainment No Alcohol	\$200.00/year (\$50.00 Qtrly)
Adult Cabaret	\$500.00/year
Adult Cabaret Manager and Entertainer Nonrefundable Processing Fee	\$25.00
Adult Cabaret Manager and Entertainer License	\$100.00/Year
Model and Escort Nonrefundable Processing Fee	\$25.00
Model and Escort License	\$100.00/Year
Other Sexually Oriented Business Nonrefundable Application Fee	\$100.00
Sexually Oriented Business License	\$125.00
Massage Business License	\$100.00/year
Massage Parlor Attendant – New	\$50.00
Massage Parlor Attendant – Renew	\$25.00

City Hall Meeting Rooms	
City Council Chambers	\$100.00/Use
Executive Session Room	\$50.00/Use
Large Conference Room Ste. #203	\$50.00/Use
Small Conference Room Ste. #219	\$25.00/Use

Small Conference Room Ste. #210	\$25.00/Use
---------------------------------	-------------

Kelso Train Depot Meeting Rooms	
Lower Level Conference Room	\$50.00/Use

Special Event Permit	
Events held on City Property (Non-Park)	\$100.00
Events held in City Parks	\$25.00 (not including applicable park rental fees)

Fireworks Permit	
Nonrefundable Permit Fee	\$25.00
Refundable Deposit	\$100.00

Dog License Fees	
Spayed/Neutered Dogs	\$10.00 <u>12.00</u> /Year
Not Spayed/Neutered Dogs	\$27.00 <u>30.00</u> /Year
Dogs acquired, brought into the City, or becoming an adult after July 1st	Half the annual license fee
Potentially Dangerous Dog Registration	Before July 1 - \$100.00/Year After July 1 - \$50.00
Dangerous Dog Registration	Before July 1 - \$250.00 After July 1 - \$150.00
Late Application/Renewal	\$15.00
Replacement License	\$2.50 <u>3.00</u>
Replacement Dangerous Dog Identification Collar	\$20.00 <u>23.00</u>

Guard Dog License Fees	
Guard Dog Trainer	\$50.00/Year
Guard Dog User - New	\$50.00/Year
Guard Dog User - Renew	\$25.00/Year
Guard Dog Purveyor	\$250.00/Year

Animal Redemption	
-------------------	--

Impound Costs	
First in a twelve-month period	\$15.00 <u>50.00</u>
Second in a twelve-month period	\$20.00 <u>100.00</u>
Subsequent in a twelve-month period	\$30.00 <u>150.00</u>
Daily Care – For each twenty-four hour period, or portion thereof, from the time of impoundment	
Dog, Cat, or single litter of puppies or kittens	\$10.00 <u>15.00</u>
Any other animal	\$10.00 <u>15.00</u>
Veterinary Costs	
Actual costs incurred for necessary medical care and such other costs as may be set by resolution of the City Council.	
Transportation	
If provided at owner or custodian request or for livestock impounded off the property, actual costs incurred; ten dollars plus twenty cents per mile traveled to locate and transport the animal, or actual costs, whichever amount is greater.	
Maximum Redemption	fifty-four dollars exclusive of veterinary and transportation costs

Schedule C – Police

Concealed Pistol License	
New Application	\$52.50
Renewal	\$32.00
Late Renewal	\$42.00
Replacement	\$10.00

Other Fees	
Photo Copies	\$0.40 each
Fingerprints	\$10.00 for up to two cards; \$10.00 for each add'l card thereafter

Repeated False Alarm Response	
Third occurrence of a false alarm within any 6 month period	\$50.00
Fourth and all subsequent false alarms within the same six month period	\$100.00 each

Schedule D – Building

Building Permit Fees. The fee for each International Building Code, International Residential Code, Washington State Energy Code or Washington State Ventilation and Indoor Air Quality Code building permit shall be as set forth in Table 1-A.

Plan Review Fees. Kelso Municipal Code 15.03.180. When submitted documents are required by the administrative chapter of each code, a plan review fee shall be paid at the time of submitting the submittal documents for plan review. Said plan review fee for International Residential Code permits shall be sixty-five percent of the building permit fee and for International Building Code permits shall be seventy percent of the building permit fee as established by resolution of the city council. The plan review fees specified in this section are separate fees from the permit fees and in addition to permit fees.

Table 1-A Building Permit Fees

TOTAL VALUATION	FEE
\$1.00 to \$500.00	\$30.70
\$501.00 TO \$2,000.00	\$30.70 for the first \$500.00 plus \$4.15 for each additional \$100.00, or fraction thereof, to and including \$2,000.00
\$2,001.00 to \$25,000.00	\$96.50 for the first \$2,000.00 plus \$18.45 for each additional \$1,000.00, or fraction thereof, to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$512.80 for the first \$25,000.00 plus \$13.00 for each additional \$1,000.00, or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$832.10 for the first \$50,000.00 plus \$9.25 for each additional \$1,000.00, or fraction thereof, to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$1,284.40 for the first \$100,000.00 plus \$7.45 for each additional

	\$1,000.00, or fraction thereof, to and including \$500,000.00
\$500,001.00 to \$1,000,000.00	\$4,179.65 for the first \$500,000.00 plus \$6.20 for each additional \$1,000.00, or fraction thereof, to and including \$1,000,000.00
\$1,000,001.00 and up	\$7,249.00 for the first \$1,000,000.00 plus \$5.10 for each additional \$1,000.00, or fraction thereof
Other Inspections and Fees:	
1. Inspections outside of normal business hours (minimum charge – two hours)	\$65.00 per hour ¹
2. Re-inspection fees assessed under provisions of Chapter 15.03.....	\$65.00 per hour ¹
3. Inspections for which no fee is specifically indicated (minimum charge – one hour)	\$65.00 per hour ¹
4. Additional plan review required by changes, additions or revisions to plans hour ¹ (minimum charge – one hour)	\$65.00 per
5. For use of outside consultants for plan checking and inspections, or both	Actual Costs ²
6. Investigation fee for work commenced prior to obtaining a permit.....	Double permit fee
7. Building permit extension.....	50% of original permit fee
8. Manufactured housing installation inspection fee:	
a. Single-wide.....	\$129.00
b. Double-wide.....	\$162.00
c. Triple-wide.....	\$193.00
9. Wood stove (free standing) installation inspection fee.....	\$46.00

¹ Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.

² Actual costs include administrative and overhead costs.

Mechanical Permit Fees

The fee for each mechanical permit issued under provision of the International Mechanical Code, International Fuel Gas Code, NFPA 54 (National Fuel Gas Code), NFPA 58 (Liquefied Petroleum Gas Code), or the mechanical device provisions of the International Residential Code shall be as set forth in Table 2-A herein.

Table 2-A Mechanical Permit Fees	
Permit Issuance	
1. For the issuance of each mechanical permit	\$28.00
2. For issuing each supplemental permit for which the original permit has not expired, been canceled or finalized	\$14.00
Unit Fee Schedule <i>(Note: The following do not include permit-issuing fee.)</i>	
Equipment	
1. For the installation or relocation of each of the following piece of equipment:	\$20.00
<ul style="list-style-type: none"> • Furnace –forced air or gravity, (includes ducts and vents) • Boiler • Compressor and or Absorption System (includes heat pumps) • Evaporative Coolers • Air Handler (Not part of an HVAC system) • Ventilation system (Not part of an HVAC system) • Ventilation hood (includes associated ductwork) • Fireplace Insert, Gas fireplace • Incinerator • Fire damper, smoke damper or combination fire/smoke damper • Equipment regulated by the mechanical code but not specifically listed 	
2. Repairs or addition to each piece of equipment or system	\$18.00
Vents	
1. For the installation of the following:	\$10.00
<ul style="list-style-type: none"> • Appliance vent (for a piece of equipment not requiring mechanical permit) • Ventilation fan connected to single vent 	
Piping Systems	
1. For the installation of each of the following piping systems up to four outlets:	\$7.00
<ul style="list-style-type: none"> • Gas piping • Hazardous Process Piping • Non-Hazardous Process Piping 	
2. For the installation of each outlet exceeding four	\$3.00
Other Inspections and Fees	
1. For any of the following services:	\$65.00*
<ul style="list-style-type: none"> • Inspections outside of normal business hours, per hour • Re-inspection fees assessed under provisions of Chapter 15.03, per inspection • Inspections for which no fee is specifically indicated, per hour • Additional plan review required by changes, additions or revisions to plans or to plans for which an initial review has been completed (minimum charge – one hour) 	
2. Investigation fee for work commenced prior to obtaining a permit	Double permit fee
3. Mechanical permit extension	50% of original permit fee
<small>*Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.</small>	

Plumbing Permit Fees

The fee for each plumbing permit issued under the provisions of the Uniform Plumbing Code shall be as set forth in Table 3-A herein.

Table 3-A Plumbing Permit Fees	
Permit Issuance	
1. For issuing each permit	\$28.00
2. For issuing each supplemental permit	\$14.00
Unit Fee Schedule (in addition to items 1 and 2 above)	
Fixtures, devices and equipment	
1. For the installation or relocation of each of the following:	\$9.00
<ul style="list-style-type: none"> • Each fixture requiring a trap (includes piping and backflow protection for that fixture) • Water heater (includes vent) • Industrial waste interceptor • Grease trap • Water treatment equipment • Lawn sprinkler system (includes backflow protection) • Backflow Preventer 	
Equipment regulated by the plumbing code but not specifically listed piping and backflow protection therefor)	
2. Repairs or addition to each fixture, piece of equipment or system	\$9.00
Building Sewer	
1. For the installation of each building sewer or trailer park sewer	\$20.00
Gas Piping System	
1. For the installation of each gas piping systems up to four outlets	\$7.00
2. For the installation of each outlet exceeding four	\$3.00
Other Systems	
1. Rainwater systems – Per drain (inside building)	\$9.00
2. Private sewage disposal system	\$32.00
3. Graywater system	\$32.00
4. Installation and testing of a reclaimed water system	\$38.00*
5. Annual testing of reclaimed water system	\$38.00*
6. For each medical gas piping system for a specific gas – up to five outlets or inlets	\$61.00
7. For each additional medical gas outlet over five outlets	\$7.00
Other Inspection and Fees	
1. For any of the following services:	\$65.00*
<ul style="list-style-type: none"> • Inspections outside of normal business hours, per hour • Re-inspection fees assessed under provisions of Chapter 15.03, per inspection • Inspections for which no fee is specifically indicated, per hour • Additional plan review required by changes, additions or revisions to plans or to plans for which an initial review has been completed (minimum charge – one hour) 	
2. Investigation fee for work commenced prior to obtaining a permit	Double permit fee
3. Plumbing permit extension	50% of original permit fee
*Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.	

Residential Valuation Prices Per Square Foot*

Single Family – New House/Duplex	\$94 Per Square Foot
Tri-Plex/Multi-Family (4 units or less)	\$86 Per Square Foot
Addition	\$75 Per Square Foot
Garage	\$36 Per Square Foot
Carport/Patio Cover	\$15 Per Square Foot
Pole Building	\$24 Per Square Foot
Pole Building – Roof Only	\$19 per Square Foot
Flatwork - 4" Concrete Slab or Asphalt	\$2.50 Per Sq.ft./\$200 Per cy
Wood Deck	\$15 Per Square Foot
Wood Deck with Roof Cover	\$25 Per Square Foot
Fences (height over 7 ft.)	\$500 Minimum Value
Small Storage Sheds (Up to 200 sq.ft.)	\$10 Per Square Foot
Re-Roofs Residential (includes re-sheeting)	\$75 Per Square (100 sq.ft. of roof area=1 sq.)
Re-Roofs - > living units and commercial (includes re-sheeting)	Bid Price (pre-tax)
Demolition -Residential	\$500 Minimum Value

*Based on International Code Council's (ICC) most recent Building Safety Journal publication dated August 2007.

Washington State Building Code Surcharge.

For Each Building Permit: \$4.50

For Residential Multi-Unit Structures: \$4.50 for each permit issued PLUS \$2.00 per Dwelling Unit after the first.

Fire/Life Safety Permit Fees

The fee for each activity requiring a permit issued under the provisions of the International Fire Code shall be set forth in Table 1-A.

Plan Review Fees. Kelso Municipal Code 15.03.180. When submitted documents are required by the administrative chapter of each code, a plan review fee shall be paid at the time of submitting the submittal documents for plan review. Said plan review fee for International Residential Code permits shall be sixty-five percent of the building permit fee and for International Building Code permits shall be **seventy-percent** of the building permit fee as established by resolution of the city council. The plan review fees specified in this section are separate fees from the permit fees and in addition to permit fees.

Table 1-A

TOTAL VALUATION	FEE
\$1.00 to \$500.00	\$30.70
\$501.00 TO \$2,000.00	\$30.70 for the first \$500.00 plus \$4.15 for each additional \$100.00, or fraction thereof, to and including \$2,000.00
\$2,001.00 to \$25,000.00	\$96.50 for the first \$2,000.00 plus \$18.45 for each additional \$1,000.00, or fraction thereof, to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$512.80 for the first \$25,000.00 plus \$13.00 for each additional \$1,000.00, or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$832.10 for the first \$50,000.00 plus \$9.25 for each additional \$1,000.00, or fraction thereof, to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$1,284.40 for the first \$100,000.00 plus \$7.45 for each additional \$1,000.00, or fraction thereof, to and including \$500,000.00
\$500,001.00 to \$1,000,000.00	\$4,179.65 for the first \$500,000.00 plus \$6.20 for each additional \$1,000.00, or fraction thereof, to and including \$1,000,000.00
\$1,000,001.00 and up	\$7,249.00 for the first \$1,000,000.00 plus \$5.10 for each additional \$1,000.00, or fraction thereof
Other Inspections and Fees:	
1. Fire Sprinklers, 10 heads or less (Fire Sprinkler Affidavit).....	\$156.00
2. Inspections outside of normal business hours	\$60.00 per hour ¹ (minimum charge – two hours)
3. Re-inspection fees assessed under provisions of Chapter 15.03	\$60.00 per hour ¹
4. Inspections for which no fee is specifically indicated	\$60.00 per hour ¹ (minimum charge – one hour)
5. Additional plan review required by changes, additions or revisions to plans	\$60.00 per hour ¹ (minimum charge – one hour)
6. For use of outside consultants for plan checking and inspections, or both	Actual Costs ²
7. Investigation fee for work commenced prior to obtaining a permit.....	Double permit fee
8. Permit extension.....	50% of original permit fee

¹ Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.

² Actual costs include administrative and overhead costs.

Schedule E – Water and Sewer

Meter Installation Charge*	
Meter set $\frac{3}{4}$ x $\frac{5}{8}$	\$250
Meter set 1"	\$400
Meter set 1.5"	\$400 + meter cost
Meter set 2"	\$400 + meter cost

*Meters over 2" will be purchased by the City and the cost reimbursed by the applicant. Contractor will install the meter according to the Standard Plans and Specifications.

Other Fees	
Service call for water reconnection after water is turned off for non-payment	\$100.00/ call
Service call for new customers or temporary water turn on/off	\$25.00
Water/sewer account deposit	\$60.00 minimum
Penalty for meter tampering	\$200.00 /occurrence
Meter removal fee*	\$100.00/occurrence
Water meter test deposit	\$25.00/test
Cleaning usage fee**	\$50.00 up to 300 cubic feet + \$3.26 for every 100 cubic over 300
Pumping charge for leak adjustment	\$0.75/ 100 cubic feet
Penalty for irrigating during water shortage	\$100.00/occurrence
Sewer service calls resulting from private side responsibility at cost of labor, material, and equipment	\$50.00 minimum
Latecomers agreement application fee	\$250.00 + \$25.00/lot in benefited area
Latecomers agreement appeal fee	\$500.00
Capital recovery appeal fee	\$500.00
Water hydrant meter rental Fire Hydrant Use Permit with Meter Rental	\$950 <u>\$1000</u> .00 deposit *** /\$5.00 daily meter rental charge/ <u>\$150 meter assembly installation and removal fee</u> /water consumption charged on wholesale or bulk resale rates with a minimum \$20.00 charge

The City does not tap the sewer main for side sewers. This work must be completed by the customer's licensed contractor.

*Meters are removed where, in the City's judgment, such is necessary to insure that water will not be used without authorization.

**For a period of 5 days only. If the owner or property manager wishes the water to remain on after 5 days, then they must make a \$60.00 deposit in addition to the \$50.00 fee.

***Should damage or theft occur, renter will forfeit deposit and reimburse the City the current replacement cost difference.

Schedule F – Planning

Planning Fees	
	Fee Amount
<u>ENVIRONMENTAL REVIEW</u>	
STATE ENVIRONMENTAL POLICY ACT (SEPA)	
Environmental Review	\$250 ⁽¹⁾
Environmental Review Appeal	\$1,000 ⁽¹⁾
Environmental Review EIS	\$750 ⁽¹⁾
Environmental Review Exemption	\$50
SHORELINE	
Substantial Development Permit (SDP)	\$1,000 ⁽¹⁾
Substantial Development Permit + Conditional Use or Variance	\$1,000 ⁽¹⁾
Conditional Use or Variance without SDP	\$1,000 ⁽¹⁾
Shoreline Exemption	\$100
CRITICAL AREAS	
Critical Areas - Land Exchange, Conservation Easement, Bonus Density or Density Credits	\$250
Critical Areas Permit	\$250 per critical area location
Critical Areas Permit Extensions	50% of the original fee
Flood Plain Development Permit	\$750 ⁽¹⁾
<u>LAND USE ACTIONS</u>	
Binding Site Plan - Final	NO FEE
Binding Site Plan - Preliminary	\$1000 plus \$50 per lot
Boundary Line Adjustment	\$250
Manufactured Home Park/Subdivision	\$1,500 plus \$50 per space
Recreational Vehicle Park	\$750 plus \$50 per space
Planned Unit Residential Development (PURD)	\$2,000 plus \$70 per lot
Planned Unit Residential Development (PURD) - Final	\$750
Plat Amendment	\$500
Plat Amendment, Administrative	\$250
Short Plat	\$1,000 plus \$100 per lot
Short Plat - Final	\$200
Subdivision - Final Plat	\$750
Subdivision - Preliminary Plat	\$1,500 plus \$50 per lot
Subdivision - Required Inspections	Actual Costs
Extension of Time Limit for Final Plat Submittal	50% of the original fee
<u>PLANNING</u>	
Administrative Review	\$400

Annexation Request	\$500 plus \$150 per acre
Appeal of Administrative Decision	\$1,000 ⁽¹⁾
Comprehensive Plan Amendment (Text & Map)	\$1,000 ⁽¹⁾
Comprehensive Plan Amendment (Text or Map)	\$1,000 ⁽¹⁾
Comprehensive Plan Amendment Map & Rezone Combined	\$1,000 ⁽¹⁾
Conditional Use Permit	\$1,000
Downtown Design Review	\$500
Pre-application Conference	No Fee
Private Road Application Review - Final	\$500
Private Road Name (petition)	\$50 plus the cost of the signs
Private Road Name (quick pick)	Cost of Signs
Public Hearing - Postponement/Re-noticing	\$50 plus \$1.00 per notice address
Site Plan Review (Commercial and Industrial)	\$500 minimum. \$110 per 1,000 sq.ft. of building up to 25,000 sq.ft. Plus \$25.00 per 1,000 sq.ft. above 25,000 sq.ft.
Temporary Use Permit	\$50
Variance, Administrative	\$400 ⁽¹⁾
Variance, Hearing Examiner	\$1,000 ⁽¹⁾
SIGNS	
Sign Permit - Face change only	\$35
Sign Permit - Temporary	\$50
Sign Permit - Special Service Sign	\$250 plus \$100 annually
ZONING	
Rezone	\$1,500 ⁽¹⁾
Written Zoning Interpretation	\$100 ⁽¹⁾
Zoning Confirmation Letter	\$50
Zoning Text Amendment	\$500

NOTES: (1) Minimum charge. If outside review is required. Actual cost plus 10%.

Schedule G – Park Facilities

Group Category	Rotary Covered Area	Tam O'Shanter Covered Area	Other Park Reservation
I. Parks and recreation programs, park co-sponsored programs, other City sponsored events, park department and/or other city department benefit programs	Fee Waived	Fee Waived	Fee Waived
II. Non-profit organizations who charge membership fees, request donations and/or schedule fundraisers, including church organizations	\$40.00* for (4) hours of use or part thereof.	\$75.00* for (4) hours of use or part thereof.	\$25.00* for (4) hours of use or part thereof.
IV. Private parties*	\$60.00* for (4) hours of use or part thereof.	\$100.00* for (4) hours of use or part thereof.	\$35.00* for (4) hours use or part thereof.
<p>Non-Resident Fee: \$25.00 in addition to standard reservation fee.</p> <p>Entire Tam O'Shanter Park closed for private use: \$1,200.00</p> <p><i>*If gathering is of a commercial nature and/or is a gathering in excess of 100 people a Special Event Permit and Fee will also be required.</i></p> <p><i>** If maintenance or security people are required, a charge for actual costs incurred will be paid by user.</i></p>			

VIII. League Field Use	Ball Park(s)
Annual fees charged for Cal Ripkin/Little League	\$1,100.00 (4 fields)
Annual fees charged for girls softball	\$1,100.00 (3 fields)
Annual fees charged for Babe Ruth	\$1,100.00 (Rister)
Annual fees charged for Kelso Soccer Club	\$400.00 (2 fields)
Annual fees charged for Boxing Club	\$300.00

Schedule H– Library

Nonresident Library Cards	
Household Cards: Good for all members of a household living at the same address.	
Annual Fee - Issued for one year from date of purchase.	\$70.00
Semi Annual Fee: Issued for six (6) months from date of purchase.	\$40.00
Quarterly Fee: Issued for three (3) months from date of purchase.	\$20.00
Senior Card: Good for up to a two-member senior citizen household.	
Annual Fee - Issued for one year from date of purchase.	\$35.00
Semi Annual Fee: Issued for six (6) months from date of purchase.	\$20.00
Quarterly Fee: Issued for three (3) months from date of purchase.	\$10.00

Lost Cards will be replaced for a \$1.00 processing and handling fee.

Overdue Fines*	
Books and all other items except for videos and audiovisual equipment	
Daily Fine	\$.10/day
Grace Period	14 Days
Maximum Fine	\$10.00/item
Videos and audiovisual equipment are due at closing time on the due date.	
Daily Fine	\$1.00/day
Maximum Fine	\$10.00/item

*Collection agency fees, legal fees, and other administrative costs incurred while attempting to secure the return of library materials will be passed on to the delinquent borrower.

Lost or Unreturned Items	
Books, videos and other library materials (excluding equipment) will be charged at the original price of the item in addition to accumulated overdue charges for the item(s).	
Audiovisual equipment will be charged the cost of replacement in addition to accumulated charges for the item(s)	
The Library Director may authorize charging the cost of replacement or replacement fees on books or sets that are particularly valuable or difficult to replace.	

Damaged Materials and Equipment*	
Library materials such as books	Cost to repair or rebind the item with a minimum charge of \$1.00
Irreparable damage	Original cost of the item or replacement as specified above
Equipment	Cost to repair
Irreparable damage	Replacement cost of the item

* Once the cost of the item or replacement charge has been paid, the patron, upon request, may have the item.

Other Fees

Copies and Printouts	\$.10 each
----------------------	------------

Schedule I – Engineering

Civil Engineering Permit Fees	
Base Application Fee	\$50
Site	
ADA Ramp	\$150 (includes 10' of sidewalk)
Driveway Approach – Commercial	\$250 (includes 25' of sidewalk)
Driveway Approach – Residential	\$150 (includes 25' of sidewalk)
Sidewalk New/Repair/Replacement	\$25 for first 25', \$25 per 50' thereafter
Fill and Grade	(See separate worksheet)
Water	
Water Service Installation from main to within 5ft of structure (2" or smaller)	\$150
Construction of the City Water Main	\$500 for first 100', \$0.50 per foot thereafter
Water System Vaults, Fire Suppression, Metering, Pressure Regulating, Backflow Prevention (3" or larger)	\$500
Abandonment, Service Repair, or Additional Backflow Device (2" or smaller)	\$50
Sewer	
Sewer Service Installation	\$300
Construction of the City Water Main	\$500 for first 100', \$0.50 per foot thereafter
Abandonment or Lateral Repair	\$125
Stormwater	
Stormwater Onsite Pipe	(See Separate Worksheet)
Construction of the City Stormwater Main	\$500 for first 100', \$0.50 per foot thereafter
Other	
ROW Obstruction/Traffic Control Plan	\$25
One-time 6 Month Renewal of Permit*	\$25
Penalty for 4 th Submittal of Plans for a Single Application	50 25% of Plan-Check-Fee original permit fees
Engineering Review and Inspection Hourly Rate	\$55.00/hour
Special Technical Review	Cost Recovery
Hourly Rate for Reviews not Specified	\$65/hour
Working Without a Permit	Fees doubled
Street or Alley Vacation	\$250

Private Utility (Gas, Power, Telephone, Cable, etc...)	
Overhead ROW Work – Franchise	\$25 per each 1000'
Overhead ROW Work	\$50 per each 1000'
Open Cut ROW Ground Work – Franchise	\$50 per each 100'
Open Cut ROW Ground Work	\$75 per each 100'
Trenchless ROW Ground Work – Franchise	\$25 for 1 st 25', \$25 per 100' thereafter
Trenchless ROW Ground Work	\$50 for 1 st 25', \$50 per 100' thereafter

*Permit renewals after 1 year must repay initial fees for an additional 6 months.

Stormwater Fees	
Submittal of Minimum Technical Requirement #2 is required	\$200
Submittal of Minimum Technical Requirements #1 – 5 is required	\$300
Submittal of Minimum Technical Requirements #1 – 9 is required	\$700
Stormwater conveyance pipe	\$2 per lineal foot

Grading Permit Fees	
Residentially-zoned parcel having less than 100 cubic yards of combined cut and fill and a slope of less than 2%	\$100
Over 50 cubic yards of combined cut and fill and Submittal of Minimum Technical Requirement #2 is required	\$200
Over 50 cubic yards of combined cut and fill and submittal of Minimum Technical Requirements #1 – 5 is required	\$300
Over 50 cubic yards of combined cut and fill and Submittal of Minimum Technical Requirements #1 – 9 is required	\$700
Notes:	
<ol style="list-style-type: none"> 1) A grading permit is not required for projects under 50 cubic yards. 2) Projects of 500 or more cubic yards requires a SEPA checklist and separate fees. 3) Minimum Technical Requirements based on Appendix 1 of the 2013 Western Washington Phase II Municipal Stormwater Permit. 	