



**CITY OF EDGEWOOD
REGULAR COUNCIL MEETING AGENDA**

Tues., January 10, 2017 – 7:00 pm. ♦ City Hall – 2224 104th Avenue East ♦ Edgewood, WA

1. CALL TO ORDER

Pledge of Allegiance, Roll Call, Additions/Deletions

2. PRESENTATION

Prosecuting Attorney, Mark Lindquist

3. PUBLIC HEARING

AB17-001, Public Hearing (pg. 3) - Ordinance No. 17-0488, amending sections of Chapter 12.06 Right of Way Franchises and Permits for public and private utilities; adding an alternative, annual permitting process for work within the City right of way; cost reimbursement provisions; when application of right of way permits are required

4. AUDIENCE COMMENT

5. MAYOR'S REPORT

6. CONSENT AGENDA: (pg. 20) *The consent agenda includes items that are routine in nature and are adopted by one motion. Should Council wish to discuss a consent agenda item, the item would be removed from the consent agenda and discussed under Council Business.*

The following items are presented for Council approval:

A. Regular City Council Meeting Minutes of December 13, 2016

B. Study Session Meeting Minutes of December 20, 2016

C. Study Session Meeting Minutes of January 3, 2017

D. AB17-002, a motion approving December 2016 (Period 13) and January 2017 Budgeted Expenditures as follows: Nationwide Retirement Solutions Check Numbers 10586-10589 in the amount of \$8,607.08; IRS 941 ACHs; AWC Employee Benefit Trust; Deferred Compensations Program; Dept. of Retirement Systems; Employment Security Department; Dept. of Labor & Industry and Payroll Direct Deposit in the amount of \$112,919.89; and Vendor Check Numbers 21731-21772 with EFT Payments in the amount of \$394,347.77. Total distributions submitted for review & authorization in the amount of \$515,874.74.

7. COUNCIL BUSINESS

A. AB17-0354 (pg. 46), a motion to approve Resolution No. 17-0354, authorizing the Mayor to execute an agreement for City Attorney Services with Carol Morris of Morris Law, P.C. as City Attorney

B. AB17-0355 (pg. 59), a motion to approve Resolution No. 17-0355, authorizing the Mayor to declare the Sharp MX6240N Color MFP Copier as surplus, and administer the donation or sale of the item

C. AB16-0485 (pg. 62), a motion to adopt (Version A or Version B) of Ordinance No. 16-0485, granting unto Mt. View-Edgewood Water Company, a non-profit corporation of the State of Washington, its successors and assigns, the right, privilege, authority and nonexclusive franchise, to construct, maintain, operate, replace and repair water system infrastructure, in,

across, over, along, under, through and below the public rights-of-way of the City of Edgewood, providing for severability; and establishing an effective date

8. COUNCIL COMMENTS

9. EXECUTIVE SESSION

10. ADJOURN



**CITY OF EDGEWOOD
REQUEST FOR COUNCIL ACTION
AGENDA BILL NO.: 17-001– PUBLIC HEARING – Ch. 12.06- ROW**

Date Action Requested: January 10, 2017

Title: PUBLIC HEARING - EMC 12.06 Right of Way Permitting Code Revisions Ordinance

Attachments: Draft Ordinance with code modifications to EMC Chapter 12.06 (Highlights outlined in Red), Right of Way Franchises and Permits for Public and Private Utilities and redline/strikethrough of current code

Submitted By: Aaron Nix, ACA Municipal Services

Approved For Agenda By: Daryl Eiding, Mayor

Discussion: As directed by the Mayor and City Council, staff was advised to develop an alternative annual utility right of way permit in order to create a simpler, more cost effective process for franchised utilities in order to allow them to bypass the rigors of the current right of way permitting process that entails formal application, payment of established fees, formal documentation and tracking. Based on recent feedback from one of these utility providers, the system isn't working and is limiting on their ability to provide the expected level of service would be impacted under the current system. It's unclear, under past practices, whether all activities within the City's right of way were being formally documented, as intended under the City's regulatory obligations. With this, the proposed modifications are intended to help alleviate these concerns, when allowable and under controlled circumstances, as outlined therein.

Recommendation: There are no formal recommendations on the Draft code language at this time, as these revisions are being presented to the Council and public for review and comment. The intent of the current version is to serve as a basis for discussion with the City Council, which has occurred at several previous study sessions with City Staff and others. Tonight's public hearing is a chance for the public to provide their comments on the current version and provide any insight on what is being proposed in regard to the revisions being suggested. With this information, additional study and analysis may be warranted prior to adoption, as directed by the Mayor and City Council.

Fiscal Impact: N/A

ORDINANCE NO. 17-0488

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, AMENDING SECTIONS OF CHAPTER 12.06 RIGHT OF WAY FRANCHISES AND PERMITS FOR PUBLIC AND PRIVATE UTILITIES; ADDING AN ALTERNATIVE, ANNUAL PERMITTING PROCESS FOR WORK WITHIN THE CITY RIGHT OF WAY; COST REIMBURSEMENT PROVISIONS; WHEN APPLICATION FOR RIGHT OF WAY PERMITS ARE REQUIRED; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, current City of Edgewood municipal code regulates permits for public and private utilities within the City's right of way within section 12.06 of Edgewood Municipal Code; and

WHEREAS, this City Council has been made aware of the potential time/cost burden placed on a local water purveyor as it pertains to the traditional right of way permitting process, as it pertains to routine, maintenance of service related infrastructure, outside areas of significant public use within the right of way within the City of Edgewood; and

WHEREAS, it is the Council's desire to continue to regulate activities within the City's right of way, in the protection of health and life safety in the public interest, but to do so for less critical items in a more streamlined, effective manner, that otherwise are not being reported, observed or recorded due to the limitations associated with the current permitting system; and

WHEREAS, the Council of the City of Edgewood desires to provide this flexibility, protect the City's infrastructure, report all activities/work within the City's right of way and provide a cost recovery mechanism in order to help the City meet these objectives,

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

Section 1. Findings. The recitals above are hereby adopted as legislative findings in support of this ordinance. The City Council further adopts by reference previously held study session staff reports and the agenda bill dated February XX, 2017 as additional findings.

Section 2. EMC 12.06 of the Edgewood Municipal Code is hereby amended to provide in its entirety as follows:

12.06.010 Purpose.

The purpose of this chapter is to regulate **the use of the public right of way. Establish standards** for the granting of city right-of-way franchises for public and private utilities, and to ensure consistency of such franchises with the city comprehensive plan, sound engineering and design standards, health and sanitation regulations, and the public interest. The provisions of this chapter shall apply to all franchisees

unless otherwise specified; provided, that, should the provisions of a specific franchise conflict with the provisions of this chapter, the provisions of the franchise shall control. (Ord. 05-245 § 2).

Section 3. EMC 12.06 of the Edgewood Municipal Code is hereby amended to provide in its entirety as follows:

12.06.020 Franchises required.

Persons and private or municipal corporations are required to obtain a right-of-way franchise approved by the Edgewood city council in order to use the right-of-way for the construction and maintenance of waterworks, gas pipes, telephone, telegraph, and electric lines, sewers, cable TV, petroleum products, and any other such public and private utilities, except that:

A. The Edgewood department of public works and any entity under contract with Edgewood shall be exempt from this requirement.

B. The waterworks, specifically including without limitation any pipelines owned and/or operated by any municipal utility for which a valid recorded easement or use right has been granted by the city council, shall be exempt from this requirement. (Ord. 09-315 § 2; Ord. 05-245 § 2).

C. In lieu of a franchise, site-specific facilities may be authorized through a right of way use agreement approved by the City Council.

Section 4. EMC 12.06 of the Edgewood Municipal Code is hereby amended to provide in its entirety as follows:

12.06.060 Application.

Applications for right-of-way franchises shall be submitted in the form approved by the **Public Works Director** to the Edgewood department of public works. (Ord. 05-245 § 2).

Section 5. EMC 12.06 of the Edgewood Municipal Code is hereby amended to provide in its entirety as follows:

12.06.070 Franchise fees.

There is established fee for each franchise application, as established within the fee schedule, as outlined within **EMC 3.35.010**. Said fee will provide reimbursement to the city of Edgewood for the administrative costs and expenses associated with processing the application. The fee shall be payable in its entirety at the time each separate application for a new franchise or franchise renewal, amendment, supplement, or assignment is filed with the department of public works. Each applicant shall reimburse the city for public notice advertising and publication costs incurred in respect to each application in addition to the established fee. Further, to the fullest extent allowed by law, all grantees shall reimburse the city for all

direct and indirect costs and expenses over and above **the established fee** incurred by the city in connection with any grant, modification, amendment, renewal, or transfer of any franchise, within 30 days after written demand thereof. (Ord. 05-245 § 2).

Section 6. EMC 12.06 of the Edgewood Municipal Code is hereby amended to provide in its entirety as follows:

12.06.080 Review of applications.

The Edgewood department of public works shall be responsible for the administration and enforcement of franchises, right-of-way permits **and alternative annual utility right-of-way permits**. (Ord. 05-245 § 2).

Section 7. EMC 12.06 of the Edgewood Municipal Code is hereby amended to provide in its entirety as follows:

12.06.090 Utility right-of-way permit **or alternative annual utility right of way permit required.**

Persons and private or municipal corporations are required to obtain a utility right-of-way permit or **an alternative annual** utility right of way permit, approved by the Edgewood **Public Works Director** for construction and maintenance of utility facilities in the public right-of-way of city roads, as outlined in EMC [12.06.020](#), except as noted in EMC [12.06.120](#) and [12.06.160](#). (Ord. 05-245 § 2).

Section 8. EMC 12.06 of the Edgewood Municipal Code is hereby amended to provide in its entirety as follows:

12.06.095 Alternative, annual utility right-of-way-permit.

A. **PURPOSE.** It is the intent of this section to establish an alternative, streamlined permitting process under which franchisee may obtain a single, annual permit collectively authorizing repetitive, marginally intrusive activities by utilities within the city right-of-way that individually are of very short duration, do not entail disruption to traffic or pedestrian flows, and are objectively minor in nature. Such activities include:

Minor utility service adjustments or repair located within the right of way, but outside the paved roadway, shoulder, sidewalk and/or ditchlines.

Other, similarly minor and marginally-intrusive activities within the right of way, as may be approved by the Public Works Director.

B. **DURATION.** An alternative annual utility right of way permit will be valid for a maximum of one calendar year and will serve as a blanket, collective authorization for all of the activities referenced above and as further approved by the Public Works Director.

C. **COST REIMBURSEMENT.** The permittee shall reimburse the city for all of the City's direct and indirect costs and expenses in review, inspection and documentation of activities with this permit,

establishing an initial cash reserve balance in the amount of \$1,000, to be drawn upon as staff, consultant and/or legal expenses are for these activities, at hourly rates established within the city of Edgewood's adopted Fee Schedule. Said cash reserve balance shall be replenished when the balance reaches a level below \$200, within 30 days after written notice thereof by the Finance Director.

D. NOTICE. The permittee shall provide no less than 48 hours written notice to the Public Works Director before performing any of the activities authorized under an alternative annual utility right of way permit. Said notice shall include the nature, commencement date, location, duration and anticipated completion date of the activities. Once the activity is completed, the permittee shall notify the City of work completion and readiness for final inspection by the City.

E. REQUIREMENTS; CONDITIONS. Except as otherwise provided under this section, all other applicable requirements of this chapter shall apply with respect to alternative annual utility right of way permits. Without limitation of the foregoing. The Public Works Director may impose such reasonable conditions of approval upon any such permit as deemed necessary or appropriate by the Director in order to protect the public health, safety and welfare.

Section 9. EMC 12.06 of the Edgewood Municipal Code is hereby amended to provide in its entirety as follows:

12.06.100 Application.

Applications for utility right-of-way permits and alternative annual utility right of-way-permits shall be submitted to the Edgewood department of public works in the form approved by the city engineer. (Ord. 05-245 § 2).

Section 10. EMC 12.06 of the Edgewood Municipal Code is hereby amended to provide in its entirety as follows:

12.06.110 Utility right-of-way permit fees.

All permit applications to perform work on any city-owned and maintained public road surface shall be accompanied by an application fee, as indicated within the most current version of the City's Fee Schedule. In addition, any excavation work on any city-owned and maintained public road surface shall be accompanied by the following:

On chip sealed surfaces where estimated pavement cuts are less than 180 square feet, a cash deposit toward the final fee of a sum equal to \$4.60 per square foot, times the estimated paved surface on each excavation to be made is required. For estimated pavement cuts greater than 180 square feet on chip sealed surfaces, the cash deposit shall be the sum equal to \$828.00, plus an additional \$828.00 per 100 lineal feet, or portion of trench length exceeding the first 100 feet.

On full depth asphalt or concrete surfaces where estimated pavement cuts are less than 960 square feet, a cash deposit is required toward the final fee of a sum equal to \$4.00 per square foot, times the estimated paved surface on each excavation to be made. For estimated pavement cuts greater than 960 square feet, the cash deposit shall be the sum equal to \$3,840 per 100 lineal feet or portion of the trench length exceeding the first 100 feet. (Ord. 05-245 § 2).

Section 11. EMC 12.06 of the Edgewood Municipal Code is hereby amended to provide in its entirety as follows:

12.06.120 Permit Exception.

A. Any utility performing work as a result of a city construction or maintenance project. (Ord. 05-245 § 2).

B. A right-of-way use permit shall not be required of utilities or franchised utilities when responding to emergencies that require work in the right-of-way, including without limitation water or sewer main breaks, gas leaks, downed power lines or similar emergencies; provided, that the department shall be notified by the responding utility or city contractor verbally or in writing, as soon as practicable following onset of an emergency. Nothing herein shall relieve a responding utility or city contractor from the requirement to apply for a right-of-way use permit within 48 hours after beginning emergency work in the right-of-way.

Section 12. Severability. Should any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 13. Effective Date. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

**Presented to Council for First Reading, 2017
Presented to Council for Second Reading, 2017**

ADOPTED BY THE CITY COUNCIL ON, 2017

Mayor Daryl Eiding

ATTEST/AUTHENTICATED:

City Clerk Rachel Pitzel

APPROVED AS TO FORM:

, City Attorney

Date of Publication:

Effective Date:

DRAFT

Chapter 12.06
RIGHT-OF-WAY FRANCHISES
AND PERMITS FOR PUBLIC
AND PRIVATE UTILITIES

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Sections:

- [12.06.010 Purpose.](#)
- [12.06.020 Franchises required.](#)
- [12.06.030 Nonexclusive grant.](#)
- [12.06.040 Term of grant.](#)
- [12.06.050 Eminent domain.](#)
- [12.06.060 Application.](#)
- [12.06.070 Franchise fees.](#)
- [12.06.080 Review of applications.](#)
- [12.06.090 Utility right-of-way permit required.](#)
- [12.06.100 Application.](#)
- [12.06.110 Utility right-of-way permit fees.](#)
- [12.06.120 Exemption from all permit fees.](#)
- [12.06.130 Interference with the right-of-way.](#)
- [12.06.140 Damage to property.](#)
- [12.06.150 Relocation or removal of facilities.](#)
- [12.06.160 Removal of unauthorized facilities.](#)
- [12.06.170 Failure to relocate.](#)
- [12.06.180 Emergency removal or relocation of facilities.](#)
- [12.06.190 Damage to utility's facilities.](#)
- [12.06.200 Restoration of right-of-way or other private property.](#)
- [12.06.210 Duty to provide information.](#)
- [12.06.215 Grantee insurance.](#)
- [12.06.216 General indemnification.](#)
- [12.06.217 Performance and restoration surety.](#)
- [12.06.218 Restoration bond.](#)
- [12.06.220 Penalties.](#)
- [12.06.230 Other remedies.](#)
- [12.06.240 Severability.](#)

12.06.010 Purpose.

The purpose of this chapter is to regulate [THE USE OF THE PUBLIC RIGHT-OF-WAY, ESTABLISH STANDARDS FOR](#) the granting of city right-of-way franchises for public and private utilities, and to ensure consistency of such franchises with the city comprehensive plan, sound engineering and design standards, health and sanitation regulations, and the public interest. The provisions of this chapter shall apply to all franchisees [UNLESS OTHERWISE SPECIFIED](#); provided, that, should the provisions of a specific franchise conflict with the provisions of this chapter, the provisions of the franchise shall control. (Ord. 05-245 § 2).

12.06.020 Franchises required.

Persons and private or municipal corporations are required to obtain a right-of-way franchise approved by the Edgewood city council in order to use the right-of-way for the construction and maintenance of waterworks, gas pipes, telephone, telegraph, and electric lines, sewers, cable TV, petroleum products, and any other such public and private utilities, except that:

A. The Edgewood department of public works and any entity under contract with Edgewood shall be exempt from this requirement.

B. The waterworks, specifically including without limitation any pipelines owned and/or operated by any municipal utility for which a valid recorded easement or use right has been granted by the city council, shall be exempt from this requirement. (Ord. 09-315 § 2; Ord. 05-245 § 2).

[C. IN LIEU OF A FRANCHISE, SITE-SPECIFIC FACILITIES MAY BE AUTHORIZED THROUGH A RIGHT-OF-WAY USE AGREEMENT APPROVED BY THE CITY COUNCIL.](#)

12.06.030 Nonexclusive grant.

No franchise granted hereunder shall confer any exclusive right or authorization to occupy or use the right-of-way. (Ord. 05-245 § 2).

12.06.040 Term of grant.

Unless otherwise specified in the franchise, or unless otherwise renewed, a franchise granted hereunder shall be in effect for a term of not more than five years. (Ord. 05-245 § 2).

12.06.050 Eminent domain.

Nothing herein shall be deemed or construed to impair or affect, in any way or to any extent, the city's power of eminent domain. (Ord. 05-245 § 2).

12.06.060 Application.

Applications for right-of-way franchises shall be submitted in the form approved by the Public Works Directorate~~city engineer~~ to the Edgewood department of public works. (Ord. 05-245 § 2).

12.06.070 Franchise fees.

There is established a ~~\$500.00 nonrefundable~~ fee for each franchise application, as established within the fee schedule, as outlined within EMC 3.35.010. Said fee will provide reimbursement to the city of Edgewood for the administrative costs and expenses associated with processing the application. The fee shall be payable in its entirety at the time each separate application for a new franchise or franchise renewal, amendment, supplement, or assignment is filed with the department of public works. Each applicant shall reimburse the city for public notice advertising and publication costs incurred in respect to each application in addition to the ~~established \$500.00~~ fee. Further, TO THE FULLEST EXTENT ALLOWED BY LAW, all grantees shall reimburse the city for all direct and indirect costs and expenses over and above ~~the established fee \$500.00~~ incurred by the city in connection with any grant, modification, amendment, renewal, or transfer of any franchise, within 30 days after written demand thereof. (Ord. 05-245 § 2).

12.06.080 Review of applications.

The Edgewood department of public works shall be responsible for the administration and enforcement of franchises, ~~and~~ right-of-way permits and alternative ANNUAL UTILITY right-of-way permits. (Ord. 05-245 § 2).

12.06.090 Utility right-of-way permit or alternative ANNUAL UTILITY RIGHT-OF-WAY PERMIT required.

Persons and private or municipal corporations are required to obtain a utility right-of-way permit or AN alternative ANNUAL UTILITY RIGHT-OF-WAY PERMIT, ~~as outlined within EMC 12.06.095~~, approved by the Edgewood Public Works Directorate~~engineer~~ for construction and maintenance of utility facilities in the public right-of-way of city roads, as outlined in EMC 12.06.020, except as noted in EMC 12.06.1230 and 12.06.160. (Ord. 05-245 § 2).

12.06.095 Alternative, ANNUAL utility right-of-way permit.

A. PURPOSE. It is the intent of ~~the City Council~~ THIS SECTION to ESTABLISH allow for an alternative, streamlined permitting process UNDER WHICH FRANCHISEE MAY OBTAIN A SINGLE, ANNUAL PERMIT COLLECTIVELY AUTHORIZING for REPETITIVE, MARGINALLY less-intrusive activities BY that utilities may need to undertake within the city right-of-way that INDIVIDUALLY are of

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very short duration, do not entail disruption to traffic or pedestrian flows, and are OBJECTIVELY minor in nature. ~~SUCH~~These activities include:

1. Minor utility service adjustments or repair LOCATED WITHIN THE RIGHT-OF-WAY BUT outside the typical roadway section (paved roadway, shoulder, sidewalk and/or ditchlines),
2. Other, SIMILARLY MINOR AND MARGINALLY-INTRUSIVE activities WITHIN THE RIGHT-OF-WAY, as MAY BE ~~agreed to and~~ approved by the Public Works Director,

B. DURATION. ~~AN~~The alternative ANNUAL utility right of way ~~annual~~ permit will be valid for a MAXIMUM OF ONE calendar year and will serve as a blanket, COLLECTIVE ~~permit~~ AUTHORIZATION to ~~cover~~ FOR ALL OF THE activities ~~as outlined~~ REFERENCED above and AS FURTHER ~~agreed to~~ APPROVED by the Public Works Director, ~~under a single permit.~~

C. COST REIMBURSEMENT. THE PERMITTEE ~~Grantees~~ shall reimburse the city for all OF THE CITY'S direct and indirect costs and expenses in review, inspection and documentation of activities with this permit, establishing an initial cash reserve balance in the amount of \$1,000, to be drawn upon as staff, CONSULTANT AND/OR LEGAL ~~hours~~EXPENSES are INCURRED ~~assessed~~ for these activities, at hourly rates established within the city of Edgewood's adopted Fee Schedule. SAID ~~This~~ cash reserve balance shall be replenished when the balance reaches a level below \$200, within 30 days after written notice thereof by the Finance Director.

D. NOTICE. THE PERMITTEE SHALL PROVIDE NO LESS THAN 48 HOURS WRITTEN NOTICE TO THE PUBLIC WORKS DIRECTION BEFORE PERFORMING ANY OF THE ACTIVITIES AUTHORIZED UNDER AN ALTERNATIVE ANNUAL UTILITY RIGHT-OF-WAY PERMIT. SAID NOTICE SHALL INCLUDE THE NATURE, COMMENCEMENT DATE, LOCATION, DURATION AND ANTICIPATED COMPLETION DATE OF THE ACTIVITIES.

E. REQUIREMENTS; CONDITIONS. EXCEPT AS OTHERWISE PROVIDED UNDER THIS SECTION, ALL OTHER APPLICABLE REQUIREMENTS OF THIS CHAPTER SHALL APPLY WITH RESPECT TO ALTERNATIVE ANNUAL UTILITY RIGHT-OF-WAY PERMITS. WITHOUT LIMITATION OF THE FOREGOING, THE PUBLIC WORKS DIRECTOR MAY IMPOSE SUCH REASONABLE CONDITIONS OF APPROVAL UPON ANY SUCH PERMIT AS DEEMED NECESSARY OR APPROPRIATE BY THE DIRECTOR IN ORDER TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE.

12.06.100 Application.

Applications for utility right-of-way permits ~~and alternative ANNUAL UTILITY right-of-way-annual permits~~ shall be submitted to the Edgewood department of public works in the form approved by the city engineer. (Ord. 05-245 § 2).

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12.06.110 Utility right-of-way permit fees.

All permit applications to perform ~~excavation~~ work on any city-owned and maintained public road surface shall be accompanied by an ~~application fee~~, as indicated within the most current version of the City's Fee Schedule. In addition, any excavation work on any city-owned and maintained public road surface shall be accompanied by the following:

On chip sealed surfaces where estimated pavement cuts are less than 180 square feet, a cash deposit toward the final fee of a sum equal to \$4.60 per square foot, times the estimated paved surface on each excavation to be made is required. For estimated pavement cuts greater than 180 square feet on chip sealed surfaces, the cash deposit shall be the sum equal to \$828.00, plus an additional \$828.00 per 100 lineal feet, or portion of trench length exceeding the first 100 feet.

On full depth asphalt or concrete surfaces where estimated pavement cuts are less than 960 square feet, a cash deposit is required toward the final fee of a sum equal to \$4.00 per square foot, times the estimated paved surface on each excavation to be made. For estimated pavement cuts greater than 960 square feet, the cash deposit shall be the sum equal to \$3,840 per 100 lineal feet or portion of the trench length exceeding the first 100 feet. (Ord. 05-245 § 2).

12.06.120 ~~Permit Exception~~Exemption from all permit fees.

~~A. Any utility performing work as a result of a city construction or maintenance project shall be exempt from any applicable permit fee. Any utility performing emergency work shall be exempt from any applicable permit fee.~~ (Ord. 05-245 § 2).

~~B. A right-of-way use permit shall not be required of utilities or franchised utilities when responding to emergencies that require work in the right-of-way, INCLUDING WITHOUT LIMITATION, such as, water or sewer main breaks, gas leaks, downed power lines or similar emergencies; provided, that the department shall be notified by the responding utility or city contractor verbally or in writing, as soon as practicable following onset of an emergency. Nothing herein shall relieve a responding utility or city contractor from the requirement to apply for a right-of-way use permit within 48 hours after beginning emergency work in the right-of-way.~~

12.06.130 Interference with the right-of-way.

No utility may locate or maintain its facilities so as to unreasonably interfere with the use of the right-of-way by the city, by the general public or other persons authorized to use or be present in or upon the right-of-way. All such facilities shall be moved by and at the expense of the utility, temporarily or permanently, as determined by the city.

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The city of Edgewood promotes a coordinated planning effort between the department of public works and the franchised utility to minimize the need for cutting pavement that is less than 36 months old. Except as exempted in EMC [12.06.120](#), the fee for permission to cut pavement that is less than 36 months old is established at an additional \$2.00 per square foot of disturbed pavement. (Ord. 05-245 § 2).

12.06.140 Damage to property.

No utility or any person acting on a utility's behalf shall take any action or permit any action to be done that may impair or damage any right-of-way, specifically including city property, real or personal, or other property located in, on or adjacent thereto. (Ord. 05-245 § 2).

12.06.150 Relocation or removal of facilities.

Within 30 days from the date of written notice from the city engineer, or such longer period as may be specified following written notice from the city engineer, a utility shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any facilities within the right-of-way whenever the city engineer shall have determined that such removal, relocation, change or alteration is reasonably necessary for:

- A. The construction, repair, maintenance or installation of any city or other public improvement in or upon the right-of-way.
- B. The operations of the city or other governmental entity in or upon the right-of-way. (Ord. 05-245 § 2).

12.06.160 Removal of unauthorized facilities.

Within 30 days from the date of written notice from the city engineer, any utility, or other person that owns, controls or maintains any unauthorized facility or related appurtenances within the rights-of-way shall, at its own expense, remove such facilities or appurtenances from the right-of-way. If such utility fails to remove such facilities or appurtenances, the city may cause the removal and charge the utility for the costs incurred. A facility is unauthorized and subject to removal in the following circumstances:

- A. Upon expiration or termination of the grantee's franchise.
- B. Upon abandonment of a facility within the right-of-way.
- C. If the system or facility was constructed or installed without the prior grant of a franchise.
- D. If the system or facility was constructed or installed without the prior issuance of a required utility right-of-way permit.
- E. If the system or facility was constructed or installed at a location not permitted by the utility's franchise.

F. Any such other reasonable circumstances deemed necessary by the city engineer. (Ord. 05-245 § 2).

12.06.170 Failure to relocate.

If a utility is required to relocate, change or alter the facilities constructed, operated and/or maintained hereunder and fails to do so, the city may cause such to occur and charge the utility for the costs incurred. (Ord. 05-245 § 2).

12.06.180 Emergency removal or relocation of facilities.

The city retains the right and privilege to cut or move any facilities located within the right-of-way as the city may determine to be necessary, appropriate or useful in response to any public health or safety emergency. (Ord. 05-245 § 2).

12.06.190 Damage to utility's facilities.

Unless directly and proximately caused by the willful, intentional or malicious acts of the city, the city shall not be liable for any damage to or loss of any facility within right-of-way as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work of any kind in the right-of-way by or on behalf of the city. (Ord. 05-245 § 2).

12.06.200 Restoration of right-of-way or other private property.

A. When a utility, or any person acting on its behalf, does any work in or affecting any right-of-way, or any other property, it shall, at its own expense, promptly remove any obstructions from the area and restore such ways or property to the same condition that existed before the work was undertaken.

B. If weather or other conditions do not permit the complete restoration required hereunder, the utility shall temporarily restore the affected right-of-way or other property. Such temporary restoration shall be at the utility's sole expense and the utility shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.

C. A utility or person acting on its behalf shall use suitable barricades, flags, flaggers, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting right-of-way or any other property. (Ord. 05-245 § 2).

12.06.210 Duty to provide information.

Within 10 days of completion of the work, each utility shall furnish the city engineer with information sufficient to demonstrate:

A. That the utility has complied with all requirements of this chapter.

B. That all fees due the city in connection with the facilities provided by the utility have been properly collected and paid by the utility.

C. That all books, records, maps and other documents maintained by the utility with respect to its facilities within right-of-way shall be made available for inspection by the city engineer at reasonable times and intervals.

D. That "as-built" drawings of the work have been completed and are on file with the grantee. (Ord. 05-245 § 2).

12.06.215 Grantee insurance.

Unless otherwise conditioned, each utility or contractor shall, as a condition of the grant, secure and maintain the following liability insurance policies, insuring both the grantee and the city, and its elected and appointed officers, officials, agents, representatives, and employees as additional insureds:

A. Comprehensive general liability insurance with limits not less than:

1. Two million dollars for bodily injury or death to each person;
2. Two million dollars for property damage resulting from any one accident; and
3. Two million dollars for all other types of liability.

B. Automobile liability for owned, non-owned and hired vehicles with a limit of \$1,000,000 for each person and \$3,000,000 for each accident.

C. Worker's compensation within statutory limits and employer's liability insurance with limits of not less than \$1,000,000.

D. Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed operation hazard policies with limits of not less than \$2,000,000.

E. The liability insurance policies required by this section shall be maintained at all times by the grantee. Each such insurance policy shall contain the following endorsement:

It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until 90 days after receipt by the City, by registered mail, of a written notice addressed to the City Risk Manager of such intent to cancel or not to renew.

F. Within 60 days after receipt by the city of said notice, and in no event later than 30 days prior to said cancellation, the grantee shall obtain and furnish to the city replacement insurance policies meeting the requirements of this chapter.

G. If the grantee can show to the city risk manager's satisfaction that an entity is financially able to self-insure the exposures, a substitution for insurance will be considered. (Ord. 05-245 § 2).

12.06.216 General indemnification.

In addition to and distinct from the insurance requirements of this chapter, each grantee shall agree in writing to defend, indemnify, and hold the city and its officers, officials, employees, agents, and representatives harmless from and against any and all damages, losses and expenses, including reasonable attorneys' fees and costs of suit or defense, arising out of, resulting from, or alleged to arise out of or result from the acts, omissions, failure to act, or misconduct of the grantee or its affiliates, officers, employees, agents, contractors, or subcontractors in the construction, operation, maintenance, repair, or removal of its facilities and in providing or offering services over the facilities or network, whether such acts or omissions are authorized, allowed, or prohibited by this chapter or by a grant agreement made or entered into pursuant to this chapter. (Ord. 05-245 § 2).

12.06.217 Performance and restoration surety.

Before a franchise granted pursuant to this chapter is effective, and as necessary thereafter, the grantee shall provide and deposit such monies, bonds, letters of credit, or other instruments in form and substance acceptable to the city as may be required by this chapter, or by an applicable franchise or other applicable code, ordinance, or rules and regulations of the city. (Ord. 05-245 § 2).

12.06.218 Restoration bond.

Unless otherwise provided in a franchise, each utility or contractor shall provide a restoration bond, written by a surety acceptable to the city, equal to at least 100 percent of the estimated cost of restoration as required as a result of constructing the grantee's facilities within rights-of-way, shall be deposited before construction commences.

A. The restoration bond shall remain in force until 60 days after substantial completion of the work, as determined by the city engineer or designee, including restoration of all rights-of-way and other property affected by the construction.

B. The restoration bond shall guarantee, to the satisfaction of the city:

1. Timely completion of restoration;

2. Restoration in compliance with applicable plans, permits, technical codes, and standards;
3. Proper restoration of the facilities as specified by the city; and
4. Restoration of the rights-of-way and any other property affected by the construction. (Ord. 05-245 § 2).

12.06.220 Penalties.

Any person found violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this chapter is subject to a civil penalty pursuant to Chapter [1.10](#) EMC for each act. Each day constitutes a separate act. (Ord. 05-245 § 2).

12.06.230 Other remedies.

Nothing in this chapter shall be construed as limiting any judicial remedies that the city may have, at law or in equity, for enforcement of this chapter. (Ord. 05-245 § 2).

12.06.240 Severability.

If any section, subsection, sentence, clause, phrase, or other portion of this chapter, or its application to any person is, for any reason, declared invalid, in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof. (Ord. 05-245 § 2).



**CITY OF EDGEWOOD
COUNCIL STUDY SESSION SUMMARY**

Tues., January 3, 2017 – 7:00 PM ♦ City Hall – 2224 104th Avenue East ♦ Edgewood, WA

1.  CALL TO ORDER

Mayor Eidinger called the meeting to order at 7:00pm and Councilmember Meyers led attendees in the Pledge of Allegiance.

ROLL CALL

Present: Mayor Daryl Eidinger (Not voting), Councilmember Mark Creley, Councilmember Luke Meyers, Deputy Mayor Tyron Christopherson, Councilmember Stephanie Shook, Councilmember Rosanne Tomyn, Councilmember Nate Lowry. **Excused:** Councilmember Donna O'Ravez.

Staff Present: Assistant City Administrator Dave Gray, Assistant City Administrator Aaron Nix, City Clerk Rachel Pitzel, Community Development Director Kevin Stender, Police Chief Micah Lundborg.

2. COUNCIL BUSINESS

A. Review / Discussion – City Attorney Services contract with Morris Law, P.C.
Assistant City Administrator Dave Gray briefed Council on this agenda item.
Discussion Followed between staff and the Council.

B. Review / Discussion – Sharp Copier Surplus
Assistant City Administrator Dave Gray briefed Council on this agenda item.
Discussion followed between staff and the Council.

C. Review / Discussion – ROW EMC 12.06 Modifications
Assistant City Administrator Aaron Nix briefed Council on this agenda item.
Discussion followed between staff and the Council; Mr. Nix noted he did receive some comments back from MTVE in regards to a spelling error and addressed their concern of “Public Works Director.”

D. Review / Discussion – Mt. View-Edgewood Water Co. Franchise Agreement
Assistant City Administrator Aaron Nix briefed Council on this agenda item.
Discussion followed between staff and the Council; Mr. Nix noted the two different versions: Version A and Version B, one keeps Section 29, the other deletes Section 29.
Councilmember Creley handed out a document regarding receivership and the process.

3. OTHER COUNCIL ISSUES

Mayor Eidinger mentioned Jen Bartelson is leaving and we have promoted within to Jamie Curbow. We will be posting Jamie's position as Communication Coordinator on Friday on AWC.

Mayor Eidinger noted it was Chief Lundborg's first official study session attendance and his first day on the job; and welcomed him to the City.

Councilmember Meyers discussed the “Neighbor Next Door” app for cell phones and asked Chief Lundborg if he was familiar with it; he noted he looks forward to see the Chief practice some strategic visions that were mentioned in the interview.

Deputy Mayor Christopherson stated he had received a second complaint on the streetlight at the bottom of Jovita Blvd.

Assistant City Administrator Nix noted he is working on the communications with the three jurisdictions regarding the issue.

Mayor Eidinger briefed Council on the summer movie dates and discussed cost in savings by using a different vendor.

Assistant City Administrator Nix noted he talked to Conner Homes- almost done with Geo Tech, and will be issuing several permits; they noted the second phase would begin in May.

Councilmember Meyers discussed that many things are occurring regionally regarding homelessness and he would like to see some educational pieces come to Council to address this issue.

Community Development Director Stender stated he would get in touch with some folks on gathering some information on that issue.

Assistant City Administrator Nix noted that MTVE has begun updating their Comprehensive Plan- noted they have some numbers that the City of Edgewood has updated regarding potential growth in the future; they were looking at gross land instead of net land. Mr. Nix also noted that MTVE had density numbers incorrect and he has provided the numbers them for review.

Community Development Director Stender noted that Lake Haven sent a draft version of theirs with verbiage of the LID that needed clarification. He stated the City is asking them to revise and insert information that is representative of our Comprehensive Plan, or put a reference that cites the City of Edgewood's Comprehensive Plan. Mr. Stender noted that the way Lake Haven has it organized, it has many jurisdictions and all their different Codes, which make their numbers off.

4. ADJOURN

Mayor Eidinger adjourned the meeting at 7:54pm.

Rachel Pitzel, City Clerk

Daryl Eidinger, Mayor



**CITY OF EDGEWOOD
REGULAR COUNCIL MEETING SUMMARY**

Tues., December 13, 2016 – 7:00 p.m. ♦ City Hall – 2224 104th Avenue East ♦ Edgewood, WA

1.  CALL TO ORDER

Mayor Eidinger called the meeting to order at 7:01pm and led the attendees in the Pledge of Allegiance.

ROLL CALL

Present: Mayor Daryl Eidinger (Not voting), Councilmember Donna O'Ravez, Councilmember Mark Creley, Councilmember Luke Meyers, Deputy Mayor Tyron Christopherson, Councilmember Stephanie Shook, Councilmember Rosanne Tomin, Councilmember Nate Lowry.

Staff Present: Assistant City Administrator Dave Gray, Assistant City Administrator Aaron Nix, City Clerk Rachel Pitzel, Zach Lell, City Attorney.

Additions/Deletions to the Agenda

There were no additions or deletions to the agenda.

2. AUDIENCE COMMENT

Greg Busch- regarding the AT&T Franchise Agreement, thanked staff for the time and help with getting it processed and on this evenings agenda

3. MAYOR'S REPORT

Mayor Eidinger spoke about the following:

- Special thanks to all for their hard work this year;
- City Attorney RFQ interviews and Police Chief interviews;
- Starbucks opening;
- Update on the Jovita Blvd. project;
- Discussed the Planning Dept. increase in plan reviews;
- Recapped the Holiday Tree Lighting ceremony and noted the movie night coming up on December 16th at 6:30 pm.

4. CONSENT AGENDA

The consent agenda includes items that are routine in nature and are adopted by one motion. Should Council wish to discuss a consent agenda item, the item would be removed from the consent agenda and discussed under Council Business.

The following items are presented for Council approval:

- A.** Regular Meeting Minutes of November 22, 2016
- B.** Study Session Meeting Minutes of November 29, 2016
- C.** Study Session Meeting Minutes of December 6, 2016
- D. AB16-051**, a motion approving December 2016 Budgeted Expenditures as follows:
Nationwide Retirement Solutions Check Numbers 10584-10585 in the amount of \$4,298.34; IRS 941 ACHs; AWC Employee Benefit Trust; Deferred Compensations Program; Dept. of Retirement Systems and Payroll Direct Deposit in the amount of \$66,130.25; and Vendor Check Numbers 21693-21723 and 21727-21730 with EFT Payments in the amount of \$645,769.18 (voided Check Numbers 21724-21726). Total distributions submitted for review & authorization in the amount of \$716,197.77
- E. AB16-052-** 3 Square Blocks Third Addendum to Professional Services Agreement with the Task Order identified as Third Amendment, Exhibit A

Motion: As Read, **Action:** Approve, **Moved by** Councilmember Stephanie Shook, **Seconded by** Deputy Mayor Tyron Christopherson. **Motion passed unanimously (7-0).**

5. COUNCIL BUSINESS

A. **AB 16-053**, a motion to confirm the Mayoral appointment of Police Chief

Motion: As Read, **Action:** Approve, **Moved by** Councilmember Stephanie Shook, **Seconded by** Councilmember Mark Creley. **Motion passed unanimously (7-0).**

Councilmember Tomynd left the meeting at 7:14 p.m.

B. **AB16-0486**, a motion to approve Ordinance No. 16-0486, amending the Budget for the 2016 Fiscal Year (Amendment No. 2), providing updates to the General Fund, Capital Roads Fund, Street & Surface Water Funds; providing for severability; and establishing an effective date

Assistant City Administrator/Finance Director Gray briefed Council on this item.

Motion: As Read, **Action:** Approve, **Moved by** Councilmember Stephanie Shook, **Seconded by** Councilmember Luke Meyers. **Motion passed unanimously (6-0).**

Councilmember Tomynd returned at 7:16 p.m.

C. **AB16-0350**, a motion to adopt Resolution No. 16-0350, authorizing an interim Interfund Loan from Fund 001 General Fund to Fund 340 Capital Projects-Roads Fund, for a potential cash flow lag for grant reimbursement, setting forth an interest rate and repayment schedule for said loan

Assistant City Administrator/Finance Director Gray briefed Council on this item.

Motion: As Read, **Action:** Approve, **Moved by** Deputy Mayor Tyron Christopherson, **Seconded by** Councilmember Stephanie Shook. **Motion passed unanimously (7-0).**

D. **AB16-0351**, a motion to adopt Resolution No. 16-0351, authorizing the Mayor to execute a 60-month lease agreement through Wells Fargo Financing for a Kyocera TA 6551 ci copier together with a full maintenance and supplies agreement with Kyocera Document Solutions Northwest

Assistant City Administrator/Finance Director Gray briefed Council on this item.

Motion: As Read, **Action:** Approve, **Moved by** Councilmember Nate Lowry, **Seconded by** Councilmember Mark Creley. **Motion passed unanimously (7-0).**

E. **AB16-0487**, a motion to adopt Ordinance No. 16-0487, granting a Right of Way Use Agreement to New Cingular Wireless PCS, LLC, to operate and maintain a single private wireless communications facility, to be co-located on a Puget Sound Energy distribution pole within certain public rights of way in the City; setting forth terms and conditions; providing for severability; and establishing an effective date

Assistant City Administrator Nix briefed Council on this item.

Motion: As Read, **Action:** Approve, **Moved by** Councilmember Donna O'Ravez, **Seconded by** Councilmember Stephanie Shook. **Motion passed unanimously (7-0).**

- F. AB16-0485**, a motion to adopt Ordinance No. 16-0485, granting unto Mt. View-Edgewood Water Company, a nonprofit Corporation of the State of WA, its successors and assigns, the right, privilege, authority and nonexclusive franchise, to construct, maintain, operate, replace and repair water system infrastructure, in, across, over, along, under, through and below the public rights-of-way of the City of Edgewood, WA; providing for severability; and establishing an effective date

Councilmember Meyers recused himself from the meeting at 7:27pm:

“For the record, I am an official/employee of the Mt. View- Edgewood Water Co. as a Board Member. My compensation for this position is comprised exclusively of a fixed salary; I receive no bonus or any other contingent payment from this organization. I understand further that the total amount received by MTVE for the City under the franchise does not exceed \$1,500/month or \$18,000/year.

Based upon these facts, and my consultation with the City Attorney, I am recusing myself from any participation in the Council’s discussions and vote on this subject, and I will leave the Council Chamber for the duration of the Council’s deliberations. I would ask the City Clerk to note this disclosure in the minutes, as required by law. For the record, I have refrained - and will continue to refrain - from attempting to influence the votes of other Councilmembers.”

Assistant City Administrator Nix briefed Council on this item. Discussion took place regarding:

- Zoning Map change
- Essential Public Facility
- Blanket permit- code modifications
- Section 29 of the agreement
- Section 30 of the agreement

Motion: As read with the authority of the Mayor to make and or negotiate any minor modification he deems appropriate, **Action:** Approve, **Moved by** Councilmember Stephanie Shook, **Seconded by** Councilmember Rosanne Tomy.

Roll Call Vote:

Yes: Deputy Mayor Tyron Christopherson, Councilmember Stephanie Shook, Councilmember Rosanne Tomy.

No: Councilmember Donna O’Ravez, Councilmember Mark Creley, Councilmember Nate Lowry.

Abstain: Councilmember Luke Meyers.

Motion failed - Tie vote (summary: Yes = 3, No = 3, Abstain = 1)

RCW 35a.12.100-Duties and authority of the mayor—Veto—Tie-breaking vote- The mayor shall preside over all meetings of the city council, when present, but shall have a vote only in the case of a tie in the votes of the councilmembers with respect to matters other than the passage of any ordinance, grant, or revocation of franchise or license, or any resolution for the payment of money.

Councilmember Meyers returned at 8:03pm

- G. AB16-0352**, a motion to adopt Resolution No.16-0352, authorizing the Mayor to execute a contract with A Advanced Septic Design & Construction Services in constructing storm drainage improvements behind a section of sidewalk on the eastside of Meridian, not to exceed an amount of \$25,356.73; contingent on final authorization to conduct this work on private property within an associated easement to install these storm improvements

Assistant City Administrator Nix briefed Council on this item.

Motion: As Read, **Action:** Approve, **Moved by** Deputy Mayor Tyron Christopherson, **Seconded by** Councilmember Nate Lowry. **Motion passed unanimously (7-0).**

H. AB16-0353, a motion to adopt Resolution No. 16-0353, delegating to the Mayor the authority to legally bind the City of Edgewood for the sole purpose of requesting federal reimbursement

Assistant City Administrator Nix briefed Council on this item.

Motion: As Read, **Action:** Approve, **Moved by** Councilmember Stephanie Shook, **Seconded by** Councilmember Luke Meyers. **Motion passed unanimously (7-0).**

6. COUNCIL COMMENTS

Mayor Eidinger discussed the date of the Council Retreat, noted it will be on January 29th from 9am-3pm with lunch provided; reminded folks of Movie Night at City Hall on Dec. 16th at 6:30 p.m.

Deputy Mayor Christopherson asked about the bullnose curb down meridian and who maintains them. He also complimented the work on Jovita and the roundabout, noted they looked great, and gave thanks.

Councilmember Meyers mentioned he saw a large semi on Edgewood Drive E. asked about getting a height marker on the bridge.

Deputy Mayor Christopherson mentioned that Hedden Elementary School was damaged again by copper thieves and noted that Northwood and Mt. View were also damaged. He also mentioned that it was a repeat offense for the schools; the students are without power in the portables, and are having to have classes inside the gym until it gets fixed.

Councilmember Lowry wanted to thank staff efforts to move money around to get Contractor paid, noted that staff is doing a great job by keeping things moving and relayed his thanks.

Assistant City Administrator Nix wanted to note regarding the trees on power lines that Councilmember Meyers noted at the last meeting. He stated the lines the trees are on are CenturyLink lines not Puget Sound Energy as originally thought. He noted the City does not have a Franchise Agreement with CenturyLink, as they refuse to have one; he noted that the City needs to work on that at a staff level and are getting that addressed, in the meantime, the trees will be removed on Friday.

7. EXECUTIVE SESSION

Mayor Eidinger asked City Attorney Zach Lell if there was an executive session. City Attorney Lell said that there would be an Executive Session and he stated the following: "Pursuant to RCW 42.30.110(1)(i), the City Council will now convene an executive session for the purpose of discussing potential litigation with legal counsel. The executive session will last approximately 5 minutes, after which the Council may take action in open session when it reconvenes."

Mayor Eidinger recessed the meeting to Executive Session at 8:23pm

8:28pm – The Executive Session was extended for 5 minutes.

8:33pm - Mayor Eidinger called the meeting back to order.

8. ADJOURN

Mayor Eidinger adjourned the meeting at 8:33 pm.

Rachel Pitzel, City Clerk

Daryl Eidinger, Mayor



**CITY OF EDGEWOOD
COUNCIL STUDY SESSION SUMMARY**

Tues., December 20, 2016 – 7:00 PM ♦ City Hall – 2224 104th Avenue East ♦ Edgewood, WA

1.  CALL TO ORDER

Mayor Eidinger called the meeting to order at 7:01pm and Asst. City Administrator Gray led attendees in the Pledge of Allegiance.

ROLL CALL

Present: Mayor Daryl Eidinger (Not voting), Councilmember Mark Creley, Councilmember Luke Meyers, Deputy Mayor Tyron Christopherson, Councilmember Rosanne Tomy, Councilmember Nate Lowry. **Excused:** Councilmember Donna O'Ravez, Councilmember Stephanie Shook.

Staff Present: Assistant City Administrator Dave Gray, Assistant City Administrator Aaron Nix, and City Clerk Rachel Pitzel

2. COUNCIL BUSINESS

A. Review/Discussion - Single Room Rentals

Assistant City Administrator Nix briefed Council on this agenda item.

Discussion followed between staff and the Council. Consensus from everyone was to have the Planning Commission add this item to their priorities list.

B. Review/Discussion - Right-of-Way Code Revisions (EMC 12.06)

Assistant City Administrator Nix briefed Council on this agenda item.

Discussion followed between staff and the Council on the following:

- Section 12.06.095
- Commonalities of blanket permits and other jurisdictions

C. Discussion - Lakehaven Sewer Comprehensive Plan Update

Assistant City Administrator Nix briefed Council on this agenda item and handed out documents.

Discussion followed between staff and the Council on the following:

- Capacity of 1.1MGD
- Map that identifies Lakehaven entire system
- Pipes and replacement schedules-life expectancy of pipes
- Revenue potential
- Three Sewer Lift Stations that the City supports
- Page 4-9, Development scenarios
- Page 12-9, Current rates

D. Discussion (no material) - Annual Council Retreat topics

Mayor Eidinger briefed Council on this agenda item.

Discussion followed between staff and the Council.

- Police Chief assessment
- Aerial photo of the Edgewood core and what we want to see Edgewood look like
- Updated building permit schedule
- Strategic Planning

Councilmember Meyers recused himself for the remainder of the meeting at 8:38pm.

E. Review/Discussion - Mt. View-Edgewood Water Co. Franchise Agreement

Assistant City Administrator Nix briefed Council on this agenda item.

Discussion followed between staff and the Council on the following:

- Scriveners errors identified and changed
- Section 29

3. OTHER COUNCIL ISSUES

Mayor explained a new attorney would be representing the City starting the first of the year. He noted the contract would be on the regular Council meeting agenda for January 10, 2016.

4. ADJOURN

Mayor Eidinger adjourned the meeting at 8:55pm.

Rachel Pitzel, City Clerk

Daryl Eidinger, Mayor



**CITY OF EDGEWOOD
REQUEST FOR COUNCIL ACTION
Agenda Bill No.: 17-002**

Date Action Requested: January 10, 2017

Title: AB17-002, a motion approving December 2016 (Period 13) and January 2017 Budgeted Expenditures as follows: Nationwide Retirement Solutions Check Numbers 10586-10589 in the amount of \$8,607.08; IRS 941 ACHs; AWC Employee Benefit Trust; Deferred Compensations Program; Dept. of Retirement Systems; Employment Security Department; Dept. of Labor & Industry and Payroll Direct Deposit in the amount of \$112,919.89; and Vendor Check Numbers 21731-21772 with EFT Payments in the amount of \$394,347.77. Total distributions submitted for review & authorization in the amount of \$515,874.74.

Attachments: Payment Distribution Review & Authorization, Voucher Directory

Submitted By: Dave Gray, Assistant City Administrator, Finance

Approved For Agenda By: Mayor Daryl Eidinger

Prepared For Agenda By: Rachel Pitzel, City Clerk

Recommendation: Move to Approve AB17-002

Discussion: Approval of Claims and Payroll Expenditures.

Alternatives: 1) Do not approve. 2) Refer to Council Study Session for Further Review.

Fiscal Impact: An increase in the sum of \$515,874.74 to authorized Budgeted Expenditures.

January 10th 2017 Council Meeting Check & EFT Payment Distribution Review & Authorization

Number	Name	Print Date	Amount
US Bank PAYROLL ACCOUNT DISTRIBUTION			
10585 Last Number Issued Previous Authorization			
10586	Nationwide Retirement Solutions-401	12/15/2016	\$4,260.84
10587	Nationwide Retirement Solutions-Council	12/15/2016	\$37.50
10588	Nationwide Retirement Solutions-401	12/30/2016	\$4,271.24
10589	Nationwide Retirement Solutions-Council	12/30/2016	\$37.50
			Total \$8,607.08
<u>Direct Deposit Run -</u>	Payroll Vendor	12/15/2016	\$32,141.97
<u>DCP 12/15/16</u>	Deferred Compensation Program	12/15/2016	\$1,182.03
<u>DRS 12/15/16</u>	Dept of Retirement Systems	12/15/2016	\$6,430.35
<u>IRS 941 12/15/16</u>	IRS 941	12/15/2016	\$4,671.38
<u>Direct Deposit Run -</u>	Payroll Vendor	12/30/2016	\$32,336.61
<u>941 12/30/16</u>	IRS 941	12/30/2016	\$4,723.86
<u>AWC 12/30/16</u>	AWC Employee Benefit Trust	12/30/2016	\$20,054.32
<u>DRS 12/30/16</u>	Deferred Compensation Program	12/30/2016	\$1,204.83
<u>DRS2 12/30/16</u>	Dept of Retirement Systems	12/30/2016	\$6,569.99
<u>ESD 4th Qtr 2016 UI</u>	Employment Security Department	12/30/2016	\$924.25
<u>L&I Q4 2016</u>	Dept of Labor & Industry	12/30/2016	\$2,680.30
			Total \$112,919.89
			Grand Total \$121,526.97

Number	Name	Print Date	Amount
CLAIM VOUCHER ACCOUNT DISTRIBUTION			
21730 Last Number Issued Previous Authorization			
21731	Fred Roesch	12/21/2016	\$8,510.56
21732	AHBL	1/10/2017	\$2,175.00
21733	Bob's Property Solutions, Inc.	1/10/2017	\$4,376.00
21734	Buell Recreation LLC	1/10/2017	\$2,060.75
21735	Century Link	1/10/2017	\$107.97
21736	City of Sumner	1/10/2017	\$2,644.13
21737	Comcast Business	1/10/2017	\$798.63
21738	Copiers Northwest	1/10/2017	\$213.39
21739	Form Source, Inc.	1/10/2017	\$268.74
21740	G & K Services Co.	1/10/2017	\$161.40
21741	Gray & Osborne, Inc	1/10/2017	\$26,800.08
21742	Kennedy/Jenks Consultants Inc.	1/10/2017	\$20,318.04
21743	Les Schwab Tire Center	1/10/2017	\$475.70
21744	McAfee	1/10/2017	\$61.54
21745	McLendon's Hardware	1/10/2017	\$48.90
21746	Northwest Landscape Services	1/10/2017	\$6,430.53
21747	Ogden, Murphy, Wallace, PLLC	1/10/2017	\$6,175.64
21748	Outdoor Escapes LLC	1/10/2017	\$183.79
21749	Overhead Door of Seattle	1/10/2017	\$1,859.80
21750	PanGEO, Inc.	1/10/2017	\$900.00
21751	Pierce County Budget & Finance PW	1/10/2017	\$63,425.66
21752	Pierce County Budget & Finance Sheriff	1/10/2017	\$155,371.85
21753	Public Finance Inc.	1/10/2017	\$1,113.92
21754	Puget Sound Energy	1/10/2017	\$4,433.30
21755	Rappe, Kirk S	1/10/2017	\$207.00
21756	Rick Pederson	1/10/2017	\$157.68
21757	Sewall Wetland Consulting, Inc.	1/10/2017	\$350.00
21758	Smarsh, Inc.	1/10/2017	\$171.55
21759	State Auditor's Office	1/10/2017	\$9,454.20
21760	TAB Products Co. LLC	1/10/2017	\$328.68
21761	TCMS Corp.	1/10/2017	\$3,122.65
21762	The News Tribune	1/10/2017	\$1,416.33
21763	Transpo Group	1/10/2017	\$2,427.50
21764	Washington Tractor	1/10/2017	\$4,300.86
<u>EFT Payment 1/4/2017</u>	Pinney Bowes Global Financial Services	1/10/2017	\$212.51
<u>EFT Payment 1/4/2017</u>	Shell	1/10/2017	\$302.65
<u>EFT Payment 1/4/2017</u>	US Bank Corporate Payment System	1/10/2017	\$2,698.03
21765	Association of WA Cities	1/10/2017	\$6,432.00
21766	Comcast	1/10/2017	\$101.26
21767	Drain-Pro	1/10/2017	\$435.00
21768	Public Finance Inc.	1/10/2017	\$1,834.55
21769	Verizon Wireless	1/10/2017	\$721.02
21770	Vision Municipal Solutions, LLC	1/10/2017	\$4,167.45
21771	Wa. Assoc. of Bldg. Officials	1/10/2017	\$0.00
21772	Wa. Cities Insurance Authority	1/10/2017	\$46,377.00
<u>EFT Payment 1/4/2017</u>	Department of Labor & Industries	1/10/2017	\$129.00
<u>EFT Payment 1/4/2017</u>	Wells Fargo Financial Leasing	1/10/2017	\$85.53
			Grand Total \$394,347.77

Total Claims Voucher Distribution	\$394,347.77
Total Distribution Submitted for Review & Authorization	\$515,874.74
Authorization Adjustments:	\$0.00
Total Distribution Net of Prior Authorized Adjustments	\$515,874.74

Claims Voucher Approval: I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation, and that the claim is a just, due and unpaid obligation against the City of Edgewood, and that I am authorized to authenticate and certify to said claim.

Mayor, Daryl Eidinger

Council Member



Voucher Directory

Vendor	Number	Reference	Account Number	Description	Amount
AHBL					
	21732			2016 - December - Period 13-1	
		100811			
			Nov Svcs-Prj 2160330.30		
			001-058-000-558-60-41-03	Prof. Services (Non-reimbursable)	\$2,175.00
		Total 100811			\$2,175.00
	Total 21732				\$2,175.00
Total AHBL					\$2,175.00
Bob's Property Solutions, Inc.					
	21733			2016 - December - Period 13-1	
		1-BPS			
			December Services		
			101-000-000-542-70-48-04	Road Maint ROW Veg Maint Contractor	\$4,376.00
				Tree Clearing-Edgewood Drive	
		Total 1-BPS			\$4,376.00
	Total 21733				\$4,376.00
Total Bob's Property Solutions, Inc.					\$4,376.00
Buell Recreation LLC					
	21734			2016 - December - Period 13-1	
		WAEDG 122016			
			December Purchases		
			001-076-000-576-80-35-05	Park Equipment	\$2,060.75
				Park Slide	
		Total WAEDG 122016			\$2,060.75
	Total 21734				\$2,060.75
Total Buell Recreation LLC					\$2,060.75
Century Link					
	21735			2016 - December - Period 13-1	
		253-952-3537 889B 11/22-12/21/16			
			11/22-12/21/16 Services		
			001-018-000-518-30-42-01	Telecommunications Charges	\$107.97
				Fax and Fire Alarm Line	
		Total 253-952-3537 889B 11/22-12/21/16			\$107.97
	Total 21735				\$107.97
Total Century Link					\$107.97

Vendor	Number	Reference	Account Number	Description	Amount
City of Sumner					
	21736			2016 - December - Period 13-1	
		03311			
			December Services		
			001-018-000-554-30-51-01	Animal Control Services	\$2,644.13
		Total 03311			\$2,644.13
	Total 21736				\$2,644.13
Total City of Sumner					\$2,644.13
Comcast Business					
	21737			2016 - December - Period 13-1	
		48956264			
			12/15-1/14/17 Services		
			001-018-000-518-30-42-01	Telecommunications Charges	\$798.63
				City Hall Phones	
		Total 48956264			\$798.63
	Total 21737				\$798.63
Total Comcast Business					\$798.63
Copiers Northwest					
	21738			2016 - December - Period 13-1	
		INV1488109			
			11/14-12/13/16 Overage Charges		
			001-018-000-518-30-45-06	Copier Lease	\$75.25
				Lexmark Overage Charges	
		Total INV1488109			\$75.25
		INV1491434			
			11/29-12/28/16 Overage Charges		
			001-018-000-518-30-45-06	Copier Lease	\$138.14
				Sharp Overage Charges	
		Total INV1491434			\$138.14
	Total 21738				\$213.39
Total Copiers Northwest					\$213.39
Form Source, Inc.					
	21739			2016 - December - Period 13-1	
		850760			
			December Services		
			001-018-000-518-30-31-01	Office & Operational Supplies	\$200.97
				Envelopes	
		Total 850760			\$200.97
		850774			
			November Services		
			001-021-000-521-20-31-01	Office & Operational Supplies	\$67.77

Vendor	Number	Reference	Account Number	Description	Amount
				Business Cards-Deputy Sheriff	
		Total 850774			\$67.77
	Total 21739				\$268.74
Total Form Source, Inc.					\$268.74
G & K Services Co.					
	21740			2016 - December - Period 13-1	
		1068378690			
			12/5/16 Weekly Service		
			001-018-000-518-30-41-01	Professional Services	\$40.35
		Total 1068378690			\$40.35
		1068380685			
			12/12/16 Weekly Service		
			001-018-000-518-30-41-01	Professional Services	\$40.35
		Total 1068380685			\$40.35
		1068382666			
			12/19/16 Weekly Service		
			001-018-000-518-30-41-01	Professional Services	\$40.35
		Total 1068382666			\$40.35
		1068384657			
			12/26/16 Weekly Service		
			001-018-000-518-30-41-01	Professional Services	\$40.35
		Total 1068384657			\$40.35
	Total 21740				\$161.40
Total G & K Services Co.					\$161.40
Gray & Osborne, Inc					
	21741			2016 - December - Period 13-1	
		1-G&O Prj 16463.04			
			Nov Svcs-Prj 16463.04		
			001-058-000-558-60-41-03	Prof. Services (Non-reimbursable)	\$753.48
				Larson Final Short Plat	
		Total 1-G&O Prj 16463.04			\$753.48
		2-G&O Prj 16463.02			
			Nov Svcs-Prj 16463.02		
			410-000-000-531-38-41-01	Professional Service	\$3,360.76
				108th Ave E Hydrologic Report	
		Total 2-G&O Prj 16463.02			\$3,360.76
		2-G&O Prj 16463.03			
			Nov Svcs-Prj 16463.03		
			001-058-000-558-60-41-03	Prof. Services (Non-reimbursable)	\$386.40
				Westridge Slope Monitoring	
		Total 2-G&O Prj 16463.03			\$386.40

Vendor	Number	Reference	Account Number	Description	Amount
		29-G&O Prj 14590.00			
		Nov Svcs-Prj 14590.00			
			340-000-000-595-80-41-02	STPUL HLP 3290(010) Jovita Seismic Walls Construction Mgmt	\$22,299.44
		Total 29-G&O Prj 14590.00			\$22,299.44
	Total 21741				\$26,800.08
Total Gray & Osborne, Inc					\$26,800.08
Kennedy/Jenks Consultants Inc.					
	21742				
				2016 - December - Period 13-1	
	107103				
		Nov Svcs-Prj 1096032*02			
			001-058-000-558-60-41-01	Reim.Engineering - Prof. Serv	\$2,614.16
			Westridge		
	Total 107103				\$2,614.16
	107106				
		Nov Svcs-Prj 1096032*05			
			410-000-000-531-38-41-02	Prof. Service-Plan Update	\$17,703.88
			LID Municipal Code Update		
	Total 107106				\$17,703.88
	Total 21742				\$20,318.04
Total Kennedy/Jenks Consultants Inc.					\$20,318.04
Les Schwab Tire Center					
	21743				
				2016 - December - Period 13-1	
	42700120190				
		December Services			
			001-018-000-518-30-48-06	Equipment Repairs	\$475.70
			2004 Chevy 1500-2 Tires		
	Total 42700120190				\$475.70
	Total 21743				\$475.70
Total Les Schwab Tire Center					\$475.70
McAfee					
	21744				
				2016 - December - Period 13-1	
	950776357				
		December Services			
			001-014-000-518-80-49-03	Computer Subscriptions	\$61.54
			Monthly Anti-Virus Protection		
	Total 950776357				\$61.54
	Total 21744				\$61.54
Total McAfee					\$61.54

Vendor	Number	Reference	Account Number	Description	Amount
McLendon's Hardware	21745			2016 - December - Period 13-1	
		596832/3			
			December Purchases		
			001-018-000-518-30-31-01	Office & Operational Supplies	\$38.03
				Ice Melt for City Hall	
		Total 596832/3			\$38.03
		598735/3			
			December Purchases		
			001-076-000-576-80-31-01	Operational Supplies	\$10.87
		Total 598735/3			\$10.87
	Total 21745				\$48.90
Total McLendon's Hardware					\$48.90
Northwest Landscape Services	21746			2016 - December - Period 13-1	
		IN000005242			
			Dec Svcs-WO #610-67694		
			101-000-000-542-70-48-04	Road Maint ROW Veg Maint Contractor	\$6,430.53
				Jovita/Meridian Planter Cleanup/Landscaping Maint	
		Total IN000005242			\$6,430.53
	Total 21746				\$6,430.53
Total Northwest Landscape Services					\$6,430.53
Ogden, Murphy, Wallace, PLLC	21747			2016 - December - Period 13-1	
		730778			
			November Services		
			001-015-000-515-32-41-01	Legal Services	\$5,661.14
		Total 730778			\$5,661.14
		730796			
			November Services		
			001-015-000-515-32-41-01	Legal Services	\$269.50
				AT&T ROW, Mtn View Water Franchise	
			411-000-000-535-10-41-02	Legal Services	\$245.00
				Meridian Sewer LID	
		Total 730796			\$514.50
	Total 21747				\$6,175.64
Total Ogden, Murphy, Wallace, PLLC					\$6,175.64
Outdoor Escapes LLC	21748			2016 - December - Period 13-1	
		10846			
			November Services		
			001-076-000-576-80-48-01	Equipment Repair & Maintenance	\$183.79

Vendor	Number	Reference	Account Number	Description	Amount
				Irrigation System Winterization	
		Total 10846			\$183.79
	Total 21748				\$183.79
Total Outdoor Escapes LLC					\$183.79
Overhead Door of Seattle					
	21749			2016 - December - Period 13-1	
		102530			
			December Services		
			001-018-000-518-30-48-03	Maintenance/Repairs - Buildings	\$1,859.80
				Police Door Repair	
		Total 102530			\$1,859.80
	Total 21749				\$1,859.80
Total Overhead Door of Seattle					\$1,859.80
PanGEO, Inc.					
	21750			2016 - December - Period 13-1	
		11027			
			December Services		
			410-000-000-531-38-41-01	Professional Service	\$900.00
				Heikkinen Ravine Stability	
		Total 11027			\$900.00
	Total 21750				\$900.00
Total PanGEO, Inc.					\$900.00
Pierce County Budget & Finance PW					
	21751			2016 - December - Period 13-1	
		CI-225226			
			November Services		
			101-000-000-541-30-51-01	Road Preservation (Intergov)	\$1,990.51
			101-000-000-542-70-51-04	ROW Veg Maint (Intergov)	\$19,267.54
			410-000-000-531-38-51-01	Ditch Maint (Intergov)	\$14,091.83
			410-000-000-531-38-51-02	Drain Maint (Intergov)	\$4,468.95
			410-000-000-531-38-51-03	Structure Maint (Intergov)	\$21,141.78
		Total CI-225226			\$60,960.61
		CI-225630			
			November Services		
			101-000-000-542-64-51-02	Traffic Operations (Contract)	\$2,465.05
		Total CI-225630			\$2,465.05
	Total 21751				\$63,425.66
Total Pierce County Budget & Finance PW					\$63,425.66

Vendor	Number	Reference	Account Number	Description	Amount
Pierce County Budget & Finance Sheriff					
	21752		2016 - December - Period 13-1		
		CI-224897			
			December Services		
			001-021-000-521-20-51-01	Police Services	\$150,766.50
		Total CI-224897			\$150,766.50
		CI-225497			
			November Services		
			001-021-000-523-60-51-01	Jail Services	\$743.00
		Total CI-225497			\$743.00
		CI-225581			
			November Services		
			001-021-000-521-20-51-02	Police Overtime	\$3,862.35
		Total CI-225581			\$3,862.35
	Total 21752				\$155,371.85
Total Pierce County Budget & Finance Sheriff					
Pitney Bowes Global Financial Services					
		EFT Payment 1/4/2017 4:04:39 PM - 1	2016 - December - Period 13-1		
		3302246083			
			9/30-12/29/16 Lease		
			001-018-000-518-20-45-03	Postage Meter Lease	\$212.51
				Postage Meter Lease	
		Total 3302246083			\$212.51
		Total EFT Payment 1/4/2017 4:04:39 PM - 1			\$212.51
Total Pitney Bowes Global Financial Services					
Public Finance Inc.					
	21753		2016 - December - Period 13-1		
		0001950			
			4th Qtr 2016 Services		
			411-000-000-535-10-41-01	Professional Services	\$1,113.92
		Total 0001950			\$1,113.92
	Total 21753				\$1,113.92
Total Public Finance Inc.					
Puget Sound Energy					
	21754		2016 - December - Period 13-1		
		300000011233 Nov 2016			
			November Statement		
			001-018-000-518-30-47-01	Electricity	\$1,274.25
				City Hall area & PW barn	
			001-076-000-576-80-47-01	Electricity	\$146.55
				Parks	
			101-000-000-542-63-47-01	Electricity	\$3,012.50

Vendor	Number	Reference	Account Number	Description	Amount
				Street Lights	
		Total 300000011233 Nov 2016			\$4,433.30
	Total 21754				\$4,433.30
Total Puget Sound Energy Refund Deposit Vendor 21731					\$4,433.30
				2016 - December - Period 13-1	
		122116-FR		Fred Roesch	
			Partial Release-Asgnmt of Funds		
			640-000-000-586-10-00-01	Assignment of Funds-Deposits in Lieu of Bond	\$8,510.56
				Partial Release	
		Total 122116-FR			\$8,510.56
	Total 21731				\$8,510.56
	21755			2016 - December - Period 13-1	
		122216-KR		Kirk S Rappe	
			Airline Ticket Reimbursement		
			001-058-000-558-60-43-01	Training/Travel Costs	\$207.00
		Total 122216-KR			\$207.00
	Total 21755				\$207.00
Total Refund Deposit Vendor Rick Pederson					\$8,717.56
	21756			2016 - December - Period 13-1	
		123016-RP			
			12/2-12/13/16 Mileage Reimbursement		
			101-000-000-542-90-43-03	Mileage Reimbursement	\$47.30
			410-000-000-531-38-43-03	Mileage Reimbursement	\$110.38
		Total 123016-RP			\$157.68
	Total 21756				\$157.68
Total Rick Pederson Sewall Wetland Consulting, Inc. 21757					\$157.68
				2016 - December - Period 13-1	
		42013			
			Dec Svcs-Job A8-131		
			001-058-000-558-60-41-03	Prof. Services (Non-reimbursable)	\$350.00
		Total 42013			\$350.00
	Total 21757				\$350.00
Total Sewall Wetland Consulting, Inc.					\$350.00

Vendor	Number	Reference	Account Number	Description	Amount
Shell		EFT Payment 1/4/2017 4:04:39 PM - 2	2016 - December - Period 13-1		
		8000093974612			
		November Statement			
		001-018-000-518-30-32-01		Fuel	\$14.48
				PW Truck Lawn Equipment 15%	
		001-058-000-558-50-32-01		Fuel	\$142.92
				Building Truck	
		001-058-000-558-60-32-01		Fuel	\$13.54
				City Hall Car	
		001-076-000-576-80-32-01		Fuel	\$24.13
				PW Truck Lawn Equipment 25%	
		101-000-000-542-30-32-01		Fuel	\$28.95
				PW Truck Lawn Equipment 30%	
		410-000-000-531-38-32-01		Fuel	\$49.68
				PW Dump Truck	
		410-000-000-531-38-32-01		Fuel	\$28.95
				PW Truck Lawn Equipment 30%	
		Total 8000093974612			\$302.65
		Total EFT Payment 1/4/2017 4:04:39 PM - 2			\$302.65
Total Shell					\$302.65
Smarsh, Inc.					
	21758		2016 - December - Period 13-1		
		INV00198722			
		November Services			
		001-014-000-518-80-49-03		Computer Subscriptions	\$171.55
		Total INV00198722			\$171.55
		Total 21758			\$171.55
Total Smarsh, Inc.					\$171.55
State Auditor's Office					
	21759		2016 - December - Period 13-1		
		L117757			
		Audit No. 41769; 2014-2015			
		001-014-000-514-23-41-01		Accounting & Auditing Services	\$9,379.72
		Total L117757			\$9,379.72
		L118048			
		Audit No. 44516; 2014-2015			
		001-014-000-514-23-41-01		Accounting & Auditing Services	\$74.48
				TBD Audit	
		Total L118048			\$74.48
		Total 21759			\$9,454.20
Total State Auditor's Office					\$9,454.20

Vendor	Number	Reference	Account Number	Description	Amount
TAB Products Co. LLC	21760			2016 - December - Period 13-1	
		2353279			
			December Purchases		
			001-058-000-558-60-31-01	Office & Operational Supplies	\$328.68
				Labels and Website Software	
		Total 2353279			\$328.68
	Total 21760				\$328.68
Total TAB Products Co. LLC					\$328.68
TCMS Corp.	21761			2016 - December - Period 13-1	
		067245			
			Nov Svcs-WO #93184		
			001-018-000-518-30-48-03	Maintenance/Repairs - Buildings	\$574.35
				A/C in Records Room	
		Total 067245			\$574.35
		067371			
			Nov Svcs-WO #93190		
			001-018-000-518-30-48-03	Maintenance/Repairs - Buildings	\$2,065.47
				Replace Water Valve Actuators	
		Total 067371			\$2,065.47
		067372			
			Nov Svcs-WO #93219		
			001-018-000-518-30-48-03	Maintenance/Repairs - Buildings	\$482.83
				Condensate Pump	
		Total 067372			\$482.83
	Total 21761				\$3,122.65
Total TCMS Corp.					\$3,122.65
The News Tribune	21762			2016 - December - Period 13-1	
		255556 11/28-12/25/16			
			11/28-12/25/16 Services		
			001-014-000-511-30-41-02	Legal Publications	\$398.24
				Legal Notice	
			001-058-000-558-60-41-08	Legal Notices/Publications	\$1,018.09
				Legal Notice	
		Total 255556 11/28-12/25/16			\$1,416.33
	Total 21762				\$1,416.33
Total The News Tribune					\$1,416.33

Vendor	Number	Reference	Account Number	Description	Amount
Transpo Group	21763			2016 - December - Period 13-1	
		19779			
			10/2-12/16/16 Services		
			001-058-000-558-60-41-23	Professional Serv-GMA	\$2,427.50
				Traffic Impact Fee Study	
		Total 19779			\$2,427.50
	Total 21763				\$2,427.50
Total Transpo Group					\$2,427.50
US Bank Corporate Payment System					
	EFT Payment 1/4/2017 4:04:39 PM - 3			2016 - December - Period 13-1	
		November 2016 Statement			
			November Purchases		
			001-013-000-513-10-31-05	Meeting Meals Expense	\$12.71
				D.Eidinger-Poodle Dog-Mayors Breakfast Mtg	
			001-013-000-513-10-31-05	Meeting Meals Expense	\$20.00
				D.Eidinger-Fife Chamber of Commerce-Lunch Mtg	
			001-013-000-513-10-31-05	Meeting Meals Expense	\$14.02
				D.Eidinger-Poodle Dog-PCCTA Breakfast Mtg	
			001-013-000-513-10-31-05	Meeting Meals Expense	\$47.45
				D.Eidinger-Loose Wheel-Breakfast Mtg	
			001-013-000-513-10-31-05	Meeting Meals Expense	\$38.85
				D.Eidinger-Ranchito Restaurant-Lunch Mtg	
			001-014-000-514-30-43-01	Training & Travel Costs	\$13.00
				R.Pitzel-WAPRO Conference-Parking	
			001-018-000-518-20-31-01	Office & Operational Supplies	\$5.00
				J.Metzler-Unauthorized Charge/Fraud-To Be Reversed	
			001-018-000-518-20-31-01	Office & Operational Supplies	\$21.99
				D.Eidinger-Albertsons-Cake-Chief's Retirement	
			001-018-000-518-20-49-01	Memberships	\$108.31
				K.Stender-Amazon-Prime Membership Renewal	
			001-018-000-518-30-31-01	Office & Operational Supplies	\$267.02
				H.Bowers-Red Wing Shoes-Work Boots	
			001-018-000-518-30-31-01	Office & Operational Supplies	\$272.88
				J.Curbow-Staples-Copy Paper, Duster, Batteries	
			001-018-000-518-30-31-01	Office & Operational Supplies	\$74.37
				J.Curbow-Amazon-Paper Towels	
			001-018-000-518-30-31-01	Office & Operational Supplies	\$199.89
				D.Eidinger-Costco-Xmas Lights	
			001-018-000-518-30-31-01	Office & Operational Supplies	\$58.66
				A.Nix-Crystal Springs-Office Water Delivery	
			001-018-000-518-30-31-01	Office & Operational Supplies	\$119.46
				J.Curbow-Amazon-Label Maker Tape, Band-aids, Stamp Ink	

Vendor	Number	Reference	Account Number	Description	Amount
			001-018-000-518-30-48-06	Equipment Repairs	\$63.08
				H.Bowers-Thomas Huckins-Blower Repair	
			001-058-000-558-50-43-01	Training/Travel Costs	\$199.00
				D.Mundy-Pearson-IRC Test-Josh Kollman	
			001-058-000-558-50-49-05	Printing & Binding	\$417.79
				D.Eidinger-Xtreme Graphics-Public Notice Signs	
			001-058-000-558-60-43-02	Lodging Charges	\$385.27
				K.Rappe-APA Conference-Hotel	
			001-058-000-558-60-43-04	Conference Meals	\$50.02
				K.Rappe-APA Conference-Meals	
			001-058-000-558-60-49-03	Registration	\$45.00
				A.Nix-AWC-Regional Mtg Registration	
			001-058-000-558-70-41-26	Economic Development Services	\$35.45
				A.Nix-USPS-Postage	
			001-076-000-576-80-31-01	Operational Supplies	\$106.95
				D.Eidinger-Lowes-Security Lighting-Nelson Nature Trail	
			101-000-000-542-64-31-11	Signs	\$121.86
				D.Eidinger-Xtreme Graphics-Signs	
			Total November 2016 Statement		\$2,698.03
			Total EFT Payment 1/4/2017 4:04:39 PM - 3		\$2,698.03
Total US Bank Corporate Payment System					\$2,698.03
Washington Tractor					
21764					
			2016 - December - Period 13-1		
			1178972		
			December Purchases		
			410-000-000-531-38-35-05	Equipment - Surface Water	\$4,300.86
				Honda Generator & Water Pump	
			Total 1178972		\$4,300.86
			Total 21764		\$4,300.86
Total Washington Tractor					\$4,300.86
Grand Total		Vendor Count	36		\$334,064.96



Voucher Directory

Vendor	Number	Reference	Account Number	Description	Amount
Association of WA Cities	21765			2017 - January - 1st Council Meeting	
		122016-AWC			
			2017 Membership Fee		
			001-018-000-518-90-49-53	AWC Dues	\$6,178.00
		Total 122016-AWC			\$6,178.00
		47710			
			2017 Drug & Alcohol Consortium Membership		
			001-018-000-518-90-49-53	AWC Dues	\$204.00
		Total 47710			\$204.00
		47977			
			2017 Mayors Exchange-Daryl Eidinger		
			001-013-000-513-10-43-01	Travel/Training Costs	\$50.00
		Total 47977			\$50.00
	Total 21765				\$6,432.00
Total Association of WA Cities					\$6,432.00
Comcast	21766			2017 - January - 1st Council Meeting	
		8498 35 021 0458551			
			12/25/16-1/24/17 Services		
			001-018-000-518-30-42-01	Telecommunications Charges	\$101.26
				City Hall Internet	
		Total 8498 35 021 0458551			\$101.26
	Total 21766				\$101.26
Total Comcast					\$101.26
Department of Labor & Industries				2017 - January - 1st Council Meeting	
	EFT Payment 1/4/2017 4:09:10 PM - 1				
	204481				
			2017 Annual Operating Certificate		
			001-018-000-518-30-45-07	Operating Permits	\$129.00
		Total 204481			\$129.00
	Total EFT Payment 1/4/2017 4:09:10 PM - 1				\$129.00
Total Department of Labor & Industries					\$129.00

Vendor	Number	Reference	Account Number	Description	Amount
Drain-Pro	21767			2017 - January - 1st Council Meeting	
		29030			
			January Services		
			001-076-000-576-80-45-03	Operating Rentals	\$145.00
				Interurban Trail	
		Total 29030			\$145.00
		29031			
			January Services		
			001-076-000-576-80-45-03	Operating Rentals	\$145.00
				Nelson Farm	
		Total 29031			\$145.00
		29032			
			January Services		
			001-076-000-576-80-45-03	Operating Rentals	\$145.00
				Nelson Nature Park	
		Total 29032			\$145.00
	Total 21767				\$435.00
Total Drain-Pro					\$435.00
Public Finance Inc.	21768			2017 - January - 1st Council Meeting	
		0001970			
			Q1 2017 Services		
			411-000-000-535-10-41-01	Professional Services	\$1,834.55
		Total 0001970			\$1,834.55
	Total 21768				\$1,834.55
Total Public Finance Inc.					\$1,834.55
Verizon Wireless	21769			2017 - January - 1st Council Meeting	
		9777597954			
			12/24/16-1/23/17 Services		
			001-018-000-518-30-42-01	Telecommunications Charges	\$99.72
				PW Tech Cell Phone (CC)	
			001-058-000-558-60-42-01	Telephone Charges	\$56.21
				CD Director Cell Phone	
			001-076-000-576-80-42-01	Telephone Charges	\$199.44
				PW Tech Cell Phone (Pk)	
			101-000-000-542-90-42-01	Telephone	\$199.44
				PW Tech Cell Phone (St)	
			410-000-000-531-38-42-01	Telephone Charges	\$166.21
				PW Tech Cell Phone (SW)	
		Total 9777597954			\$721.02
	Total 21769				\$721.02
Total Verizon Wireless					\$721.02

Vendor	Number	Reference	Account Number	Description	Amount
Vision Municipal Solutions, LLC	21770			2017 - January - 1st Council Meeting	
		09-4987			
			2017 Supoort		
			001-014-000-518-80-49-03	Computer Subscriptions	\$4,167.45
				Software Maintenance	
		Total 09-4987			\$4,167.45
	Total 21770				\$4,167.45
Total Vision Municipal Solutions, LLC					\$4,167.45
Wa. Assoc. of Bldg. Officials	21771			2017 - January - 1st Council Meeting	
		WABO2017			
			2017 Dues		
			001-058-000-558-50-49-01	Memberships	\$0.00
		Total WABO2017			\$0.00
	Total 21771				\$0.00
Total Wa. Assoc. of Bldg. Officials					\$0.00
Wa. Cities Insurance Authority	21772			2017 - January - 1st Council Meeting	
		40039			
			2017 Insurance		
			001-018-000-518-90-46-50	WCIA Insurance Premium	\$46,377.00
		Total 40039			\$46,377.00
	Total 21772				\$46,377.00
Total Wa. Cities Insurance Authority					\$46,377.00
Wells Fargo Financial Leasing					
	EFT Payment 1/4/2017 4:09:10 PM - 2			2017 - January - 1st Council Meeting	
	5003584955				
			1/4/17-2/3/17 Lease		
			001-018-000-518-30-45-06	Copier Lease	\$85.53
				Lexmark Printers	
		Total 5003584955			\$85.53
	Total EFT Payment 1/4/2017 4:09:10 PM - 2				\$85.53
Total Wells Fargo Financial Leasing					\$85.53
Grand Total		Vendor Count	10		\$60,282.81



**CITY OF EDGEWOOD
REQUEST FOR COUNCIL ACTION
AGENDA BILL NO. : 17-0354**

Date Action Requested: January 10, 2017

Title: City Attorney Services Contract with Morris Law, P.C.

Attachments: Resolution No. 17-0354; City Attorney Services Contract

Submitted By: Dave Gray, ACA/Finance Director

Approved For Agenda By: Daryl Eiding, Mayor

Discussion: The City went out for RFQs for City Attorney Services on November 3, 2016. The panel consisting of the Mayor, Assistant City Administrators, Community Development Director, and City Clerk interviewed three firms the panel unanimously recommended Carol Morris of Morris Law, P.C. as a firm qualified and willing to provide the necessary services.

Recommendation: Authorize the Mayor to execute the Morris Law City Attorney Service Contract.

Fiscal Impact: After selection of the most qualified firm, in discussions with Carol Morris, the City Administration is confident the cost of City Attorney services will be reduced by approximately \$40,000 in the 2017 Fiscal Year. Services in 2016, while not finalized as of this date, are estimated to be \$180,000. One of the targets for the interview team was to determine if there were ways the staff could interact more efficiently with the contract City Attorney to decrease the cost while maintaining or improving the level of risk management provided.

RESOLUTION NO. 17-0354

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, PIERCE COUNTY, WASHINGTON AUTHORIZING THE MAYOR TO EXECUTE A CITY ATTORNEY SERVICES AGREEMENT WITH CAROL MORRIS, OF MORRIS LAW, P.C. AS CITY ATTORNEY

WHEREAS, the City determined its need to do its due diligence and submit a Request of Qualifications for City Attorney Services; and

WHEREAS, the City advertised for qualified firms and individuals to fill the position of City Attorney and a selection panel including the Mayor, Assistant City Administrators, Community Development Director and City Clerk reviewed the proposals and interviewed three firms; and

WHEREAS, the panel unanimously recommended Carol Morris of Morris Law, P.C. as a firm qualified and willing to provide the necessary services; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The Mayor is hereby authorized to execute an agreement for City Attorney Services with Carol Morris, of Morris Law, P.C. as City Attorney substantially in the form attached here to as Exhibit A.

PASSED BY THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 10TH DAY OF JANUARY 2017

Daryl Eidinger, Mayor

ATTEST:

Rachel Pitzel, City Clerk

AGREEMENT FOR CITY ATTORNEY SERVICES

THIS AGREEMENT is made between the City of Edgewood, a Washington municipal corporation (hereinafter the “City”) and Carol Morris of Morris Law, P.C. a corporation organized under the laws of the State of Washington, located and doing business at 3304 Rosedale Street, Suite 200, Gig Harbor, WA 98335 (hereinafter the “City Attorney”).

Section 1. Purpose. The purpose of this Agreement is to retain Carol Morris as the City Attorney, and to ensure that the City receives professional services from the City Attorney in an effective, timely and cost efficient manner while ensuring that the City Attorney is appropriately and fairly compensated for services rendered.

Section 2. Duties.

A. The City Attorney shall be principally responsible for performing all legal work for the City, consistent with chapter 2.20 of the Edgewood Municipal Code, except as set forth in subsection (B) below. The following list of duties is illustrative of the services to be performed by the City Attorney, but is not necessarily inclusive of all duties:

1. The City Attorney’s office is located at: 3304 Rosedale Street N.W., Suite 200, Gig Harbor, WA. (253) 851-5090. The City may schedule appointments with the City Attorney as needed, either in the Morris Law office or in City Hall in Edgewood. The City may ask the City Attorney to attend meetings on issues relating to City business in other locations.

2. The City Attorney shall review, and where directed, shall draft City ordinances, contracts, resolutions, interlocal agreements, correspondence and other legal documents as requested by the City;

3. At the Mayor’s and City Council’s discretion, and consistent with law, the City Attorney may be assigned to represent the City in lawsuits and other contested proceedings commenced by the City;

4. At the Mayor’s and City Council’s discretion, and consistent with law, the City Attorney may be assigned to represent the City in lawsuits and other contested proceedings in which the City is named as a defendant;

5. The City Attorney shall have the responsibility to review and approve all legal documents as to proper form and content;

6. Except for matters relating to employment, personnel or collective bargaining, the City Attorney shall advise the Mayor, Councilmembers, staff members, committee members, commission members and board members with regard to legal

matters relating to their respective duties being performed for the City, or by telephone, in person and/or by written memo, on routine City business;

7. The City Attorney shall be available on an as-needed basis to discuss City legal matters with citizens, and to respond to citizen inquiries in person, in writing or by telephone, involving City business;

8. The City Attorney will attend Council meetings, work sessions, and other meetings as required;

9. The City Attorney may be asked to attend board meetings, commission meetings, committee meetings or any other type of meeting on an as-needed basis, including meetings with other governmental agencies as necessary on matters involving the City; and

10. The City Attorney shall perform such other duties as are necessary and appropriate in order to provide the City with legal representation.

B. The City Attorney's duties shall not include the following:

1. Providing public defense services for indigent defendants;

2. Providing criminal prosecution services;

3. Providing legal services associated with union negotiations, collective bargaining, personnel or employment matters, or disciplinary proceedings;

4. Representing the City in any legal matter where the City Attorney is prohibited from doing so as a result of a conflict of interest under the Rules for Professional Conduct or other applicable law or regulation; and

5. Providing legal services where the City has insurance coverage that provides for legal services to the City, the City has tendered the defense of the lawsuit to the insurance carrier, and the insurance carrier has assigned the lawsuit to an attorney other than the City Attorney. Provided, however, that if the insurance carrier has assigned the lawsuit to an attorney other than the City Attorney, the City Attorney may monitor the lawsuit, as requested by the City, on a case-by-case basis. The City acknowledges that the insurance carrier may retain the City Attorney to provide legal services.

Section 3. Compensation. The City hereby agrees to pay Carol Morris, as City Attorney, for legal services at the rate of two hundred thirty dollars (\$230.00) per hour. Other attorneys within Morris Law or under contract with Morris Law may assist with the provision of services to the City, with permission of the Mayor. The hourly rate for any associate is two hundred twenty dollars (\$220.00) per hour. The hourly rate for Legal Assistants (non-attorneys) is seventy-five dollars (\$75.00) per hour. The City

Attorney agrees that the hourly rate charged for the City Attorney's services contracted for herein shall remain locked in at the negotiated rate for a period of one (1) year from the effective date of this Agreement. After that time, the parties may negotiate a different rate or decide to maintain the rates within this paragraph.

The charges for legal services provided will be based on actual time or based on increments which are no greater than 6 minutes. Computerized legal research services (Westlaw), will not be charged to the City. If the City Attorney is asked to attend a meeting for City business, whether it is a City Council meeting, City Council workshop meeting at City Hall, court hearing or otherwise, travel will be reimbursed for round trip actual travel time at the regular hourly rate, from the Morris Law Office to the place of the meeting, courthouse or other location. No separate charges shall be paid for the following ordinary costs of doing business: local and long distance telephone costs and charges, postage, meals, clerical staff work, supplies and word processing. The City agrees to reimburse the extraordinary expenses incurred by City Attorney, at cost with no mark-up as follows: legal messenger services, large volume photocopies prepared at the City Attorney's office shall be reimbursed at the rate of \$.15 per page, large volume photocopies prepared by outside reproduction service shall be reimbursed at cost; but only when approved in advance by the Mayor.

Section 4. Independent Contractor Status. It is expressly understood and agreed that the City Attorney, while engaged in carrying out and complying with any of the terms and conditions of this Agreement, is an independent contractor and is not an employee of the City. The City shall not be liable for, nor be under any obligation to pay to the City Attorney or any of her employees, sick leave, vacation pay, overtime or any other benefits applicable to employees of the City, nor to pay or deduct any social security, income tax or other tax from the payments made to the City Attorney which may arise as an incident of the City Attorney's performance of work for the City. The City shall not be obligated to pay industrial insurance for the services rendered by the City Attorney. The parties agree that the City Attorney has the ability to control and direct the performance and details of his work, the City being interested only in the results obtained.

Section 5. Billings. The City Attorney shall submit monthly bills to the City Finance Department (City of Edgewood, 2224 - 104th Ave. E., Edgewood, WA 98372), describing the legal services provided during the previous month. The City Attorney agrees to notify the City Clerk by e-mail when 45 hours have been spent on Edgewood matters in any one month. The City Attorney shall not bill for duplicate services performed by more than one person or for services to correct Attorney errors or oversights. The City Attorney shall bill for only one participant in a conference or consultation between members of the City Attorney's firm.

The City Attorney's monthly bills shall include, at a minimum, the following information for each specific matter to which such services or costs pertain: the name of the matter; a brief description of the legal services performed; the date that the services were performed; and the amount of time spent on each date services were performed and

by whom. In addition to providing copies of all documents as specified below, the City Attorney shall provide any information that will assist the City in performing a thorough review and/or audit of the billings, as may be requested by the City. The City Attorney shall ensure that no confidential information appears on invoices, and that no additional legal review of the City Attorney's invoices shall be required in order to respond to a request for disclosure under the Public Records Act.

Unless the City objects to all or any portion of the City Attorney's invoice, the City shall pay the full amount within thirty (30) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the City Attorney of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

Section 6. Book and Records. The City Attorney agrees to maintain books, records, and documents which sufficiently and properly reflect all direct and indirect costs related to the performance of the legal services and maintain such accounting procedures and practices as may be deemed necessary by the City to assure proper accounting of all funds paid pursuant to this Agreement. These records shall be subject, at all reasonable times, to inspection, review, or audit by the City, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.

Section 7. Advice and Status Reporting. The City Attorney shall provide the Mayor and City Council with timely notice and advice of all significant developments arising during performance of her services hereunder, orally or in writing, as appropriate or as requested. The City Attorney shall provide the Mayor and the appropriate department head with copies of all e-mails, pleadings, motions, discovery, correspondence, and other documents prepared by the City Attorney, including research memoranda, or received by the City Attorney unless they have been otherwise provided to the City.

Section 8. Indemnification. The City Attorney shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorneys' fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The City's inspection or acceptance of any of the City Attorney's work when completed shall not be grounds to avoid any of these covenants of indemnification. The provisions of this section shall survive the expiration or termination of this Agreement.

In the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the City Attorney and the City, its officers, officials, employees, agents and volunteers, the City Attorney's liability hereunder shall be only to the extent of the City Attorney's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CITY ATTORNEY WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER. THE CITY ATTORNEY'S WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS SECTION DOES NOT INCLUDE, OR EXTEND TO. ANY CLAIMS BY THE CITY ATTORNEY'S EMPLOYEES DIRECTLY AGAINST THE CITY ATTORNEY.

The provisions of this section shall survive the expiration or termination of this Agreement.

Section 9. Insurance. The City Attorney shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the City Attorney, its agents, representatives, or employees.

A. Minimum Scope of Insurance

City Attorney shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
2. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
3. Professional Liability insurance appropriate to the profession and as described below.

B. Minimum Amounts of Insurance. The City Attorney shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$2,000,000 policy aggregate limit.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability and Professional Liability insurance.

1. The City Attorney's insurance coverage shall be primary insurance as respect the City. Any insurance, self-insurance, or insurance pool

coverage maintained by the City shall be excess of the City Attorney's insurance and shall not contribute with it.

2. The City Attorney's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.
- C. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.
- D. Verification of Coverage. The City Attorney shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the City Attorney before execution of this Agreement.

Section 10. Equal Opportunity Employer. In all Attorney services, programs or activities, and all hiring and employment made possible by or resulting from this Agreement, there shall be no discrimination by City Attorney or by City Attorney's employees, agents, subcontractors or representatives against any person because of race, religion, color, gender, pregnancy, age (except minimum age and retirement provisions), marital status, military or veteran status, national origin, sensory, mental or physical disability, sexual orientation (including gender identity and gender expression), genetic information, or any other category protected by federal, state, or local law. This requirement shall apply, but not be limited to the following: employment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. City Attorney shall not violate any of the terms of Chapter 49.60 RCW, Title VII of the Civil Rights Act of 1964, the American With Disabilities Act, Section 504 of the Rehabilitation Act of 1973 or any other applicable federal, state, or local law or regulation regarding non-discrimination. Any material violation of this provision shall be grounds for termination of this Agreement by the City and, in the case of the City Attorney's breach, may result in ineligibility for further City agreements.

Section 11. Assignment. The City Attorney shall not assign, transfer, subcontract or encumber any rights, duties, or interests accruing from this Agreement without the express prior written consent of the City, which consent may be withheld in the sole discretion of the City.

Section 12. Licenses. The City Attorney warrants that she and every attorney in her firm or under contract with her firm is a member in good standing with the Washington State Bar, and that any license or licenses that are required in order to perform the legal services under this Agreement have been obtained and are valid.

Section 13. Duration of Agreement; Termination.

A. Duration. The term of this Agreement shall be for three years from the date this Agreement is executed by both parties. After the three year anniversary, this Agreement shall continue indefinitely, or until terminated by either party pursuant to the terms hereof.

B. Termination. This Agreement may be terminated by either party upon ten (10) days' written notice with or without cause. In the event of termination, the City Attorney shall be entitled to compensation as provided for in this Agreement, for services performed satisfactorily to the effective date of termination; provided, however, that the City may condition payment of such compensation upon the City Attorney's delivery to the City of any and all documents, photographs, computer software, video and audio tapes, and other materials provided to the City Attorney or prepared by or for the City Attorney or the City in connection with this Agreement.

Section 14. Notices. Notices required under this Agreement shall be personally delivered or mailed, postage prepaid, as follows:

City Attorney:

Carol Morris
Morris Law, P.C.
3304 Rosedale Street N.W., Suite 200
Gig Harbor, WA 98335

City of Edgewood:

City of Edgewood
2224 104th Avenue East
Edgewood, WA 98372

Attn: Mayor

Notices given by personal delivery shall be effective immediately. Notices given by mail shall be deemed to have been delivered forty-eight hours after having been deposited in the United States mail.

Section 15. Ownership of Materials. Any and all documents, including draft documents where completed documents are unavailable, or materials prepared or caused to be prepared by the City Attorney pursuant to this Agreement shall be the property of the City at the moment of their completed preparation.

Section 16. Conflict of Interest. The City Attorney warrants and covenants that the City Attorney presently has no interest in, nor shall any interest be hereinafter acquired in, any matter which will render the services required under the provisions of

this Agreement a violation of any applicable state, local or federal law or any rule of professional conduct. In the event that any conflict of interest should nevertheless hereinafter arise, the City Attorney shall promptly notify the City of the existence of such conflict of interest.

Section 17. Time is of the Essence. The City Attorney agrees to diligently prosecute the services to be provided under this Agreement to completion and in accordance with any schedules specified herein. In the performance of this Agreement, time is of the essence.

Section 18. Confidentiality. The City Attorney agrees to maintain in confidence and not disclose to any person, association, or business, without prior written consent of the City, any secret, confidential information, knowledge or data relating to the products, process or operation of the City and/or any of its departments and divisions. The City Attorney further agrees to maintain in confidence and not disclose to any person, association, or business any data, information or material developed or obtained by City Attorney during the term of this Agreement. The covenants contained in this paragraph shall survive the termination of this Agreement for whatever cause.

Section 19. Rules of Professional Conduct. All services provided by the City Attorney and Morris Law, P.C. under this Agreement will be performed in accordance with the Rules of Professional Conduct for attorneys established by the Washington Supreme Court.

Section 20. Amendments. This Agreement is not subject to modification or amendment, except by a written authorization executed by both the City Attorney and the duly authorized representatives of the City, which written authorization shall expressly state that it is intended by the parties to amend the terms and conditions of this Agreement.

Section 21. Assignment. Any assignment of this Agreement by the City Attorney without the written consent of the City shall be void.

Section 22. Waiver. The waiver by either party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement.

Section 23. Severability. Should any part of this Agreement be declared by a final decision of a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of the Agreement, which shall continue in full force and effect, provided that the remainder of this Agreement, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the parties.

Section 24. Controlling Law and Resolution of Disputes. The laws of the State of Washington shall govern this Agreement and all matters relating to it. Should any

dispute, misunderstanding or conflict arise as to the terms and conditions contained in this Agreement, the matter shall be referred to the Mayor, whose decision shall be final. In the event of any litigation arising out of this Agreement, the prevailing party shall be reimbursed for its reasonable attorney's fees from the other party.

Section 25. Whole Agreement. This Agreement constitutes the entire understanding and agreement of the parties. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof.

Section 26. Public Records Disclosure. The City Attorney shall fully cooperate with and assist the City with respect to any request for public records received by the City and related to any public records generated, produced, created and/or possessed by the City Attorney and related to the services performed under this Agreement. Upon written demand by the City, the City Attorney shall furnish the City with full and complete copies of any such records within five business days.

The City Attorney's failure to timely provide such records upon demand shall be deemed a breach of this Agreement. To the extent that the City incurs any monetary penalties, attorneys' fees and/or any other expenses as a result of such breach, the City Attorney shall fully indemnify and hold the City harmless as set forth in this Agreement.

For purposes of this Agreement, the term "public records" shall have the same meaning as defined by Chapter 42.17 and 42.56 RCW, as said chapters have been construed by the Washington courts. The provisions of this Section shall survive the expiration or termination of this Agreement.

IN WITNESS WHEREOF, City Attorney and the City, by the signatures below, have executed this Agreement on the dates indicated below.

DATED this 10th day of January, 2017.

CITY OF EDGEWOOD

CITY ATTORNEY

By: _____
Daryl Eidinger, Mayor

By: _____
Carol Morris, President
Morris Law, P.C.

ATTEST:

By: _____
Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

By: _____



HOME OFFICE ADDRESS:
111 N. Higgins, Suite 200
Missoula, MT 59802

PHONE:
(800) 367-2577

MAILING ADDRESS:
PO Box 9169
Missoula, MT 59807-9169

**LAWYERS PROFESSIONAL LIABILITY INSURANCE
POLICY DECLARATIONS**

NOTICE: THE POLICY IS A CLAIMS MADE AND REPORTED POLICY. NO COVERAGE EXISTS UNDER THE POLICY FOR A CLAIM WHICH IS FIRST MADE AGAINST THE INSURED OR FIRST REPORTED TO THE COMPANY BEFORE OR AFTER THE POLICY PERIOD OR ANY APPLICABLE EXTENDED REPORTING PERIOD. PLEASE READ THE POLICY CAREFULLY AND DISCUSS THE COVERAGE UNDER THE POLICY WITH YOUR INSURANCE ADVISOR.

POLICY NUMBER: ALPS20792

Item 1 – Named Insured: Morris Law PC
Address: 3304 Rosedale Street, Suite 200
Gig Harbor, WA 98335

Item 2 – Name of Each Insured Attorney: Morris, Carol
Retroactive Date: 09/30/1998

Item 3 – Policy Period:
Effective Date: 09/30/2016 12:01 AM at the address stated in Item 1.
Expiration Date: 09/30/2017
Loss Inclusion Date: 09/30/1998

Item 4 – Limit of Liability: \$1,000,000 *Each Claim
\$2,000,000 Aggregate
*This means "all claims arising out of the same, related or continuing professional services."

Item 5 – Deductible: \$5,000 Each Claim

Item 6 – Annual Premium: \$3,156

Item 7 – Endorsements attached at inception of the policy form: LPL ENH (07-14)

Signature Page WA Amendatory First Dollar Defense Endorsement

All current and previously submitted application forms delivered to the Company are made a part of the policy. The Named Insured may obtain a copy of all application forms by submitting a written request to the Company.

Countersigned by: _____
Authorized Representative

Date: September 21, 2016



**CITY OF EDGEWOOD
REQUEST FOR COUNCIL ACTION
AGENDA BILL NO.: 17-0355**

Date Action Requested: January 10, 2017

Title: Sharp MX6240N Color MFP Copier as Surplus

Attachments: Resolution No. 17-0355 with Exhibit A- List of Item

Submitted By: Dave Gray, Assistant City Administrator/Finance

Approved For Agenda By: Daryl Eiding, Mayor

Prepared For Agenda By:

Discussion: Staff has been working to clean up and dispose of miscellaneous obsolete equipment and improve overall City performance, economy through efficiency and where possible redundancy (back up) for City business. This process will authorize the Mayor upon Council approval of a Resolution, to surplus the City owned Sharp Copier.

Once the Sharp copier is declared surplus, the Mayor will authorize staff to trade it for a used Kyocera copier to be utilized as a backup to the newly leased main Kyocera copier. The backup machine will improve overall City productivity by significantly reducing down time due to maintenance issues with our increasingly obsolescent Sharp copier as well as improve productivity at the Front Desk, where the backup machine will be located. The backup machine will also improve public access to high speed printing of planning, permitting, inspection and Council Packet documentation.

Recommendation: Move to adopt Resolution No. 17-0355, authorizing the Mayor to declare the Sharp MX6240N Color MFP Copier as surplus and administer the donation or sale of the item.

Alternatives: 1) Do not adopt. 2) Forward to Study Session for further review.

Fiscal Impact: The overall impact on the City budget is almost neutral in that the Kyocera machines are cheaper to operate overall. The cost savings on maintenance and supplies will be offset by additional maintenance for a backup machine. Overall copier use may also increase, as the availability of access to the public may induce more members of the public to purchase copies. Having a larger copier available at the Front Desk may help productivity, by keeping the Front Desk personnel in the Front Desk area, but may also be negligible. The financial impacts overall are likely negligible.

RESOLUTION NO. 17-0355

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, AUTHORIZING THE MAYOR TO DECLARE THE SHARP MX6240N COLOR MFP COPIER AS SURPLUS, AND ADMINISTER THE DONATION OR SALE OF THE ITEM

WHEREAS, the City recently contracted with Kyocera Document Solutions Northwest to provide a new leased and upgradeable Kyocera copier together with maintenance and supplies, at cost less than the current Sharp copier agreement; and

WHEREAS, the City owned Sharp copier, having become increasingly less reliable with multiple down days due to maintenance and increasing part scarcity has become necessary to replace as the City's primary copier; and

WHEREAS, the Sharp copier can be traded for a used Kyocera copier for the Sharp trade in value, that costs less to maintain and provides the City with a backup copier better utilized at the Front Desk; and

WHEREAS, the City Council desires to formally authorize the Mayor to surplus the City owned Sharp copier;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. Surplus Declaration. The City Council hereby declares this item as surplus and authorizes the Mayor to administer the sale of items with a value greater than the disposal cost or donation of item that serve the public interest but have nominal or no value to the City, as hereto attached as Exhibit A.

Section 2. Effective Date. This resolution will take effect immediately upon passage by the City Council.

ADOPTED THIS 10TH DAY OF JANUARY, 2017

Daryl Eiding, Mayor

ATTEST:

Rachel Pitzel, City Clerk

EXHIBIT A

City of Edgewood
Resolution No. 17-0355
Surplus Property List
January 10, 2017

Description of Item	Value- To be determined
SHARP MX6240n Color MFP Copier	Trade in for a used Kyocera Copier to standardize our copier maintenance.

- Values if any, to be determined upon sale of items, and will be attached to the Original Resolution.



**CITY OF EDGEWOOD
REQUEST FOR COUNCIL ACTION
AGENDA BILL NO.: 16-0485**

Date: January 10, 2017

Title: Franchise Agreement Ordinance with Mountain View/Edgewood Water Company

Attachments: Ordinance 16-0485, versions A & B

Submitted By: Aaron C. Nix, Assistant City Administrator – Municipal Services

Approved For Agenda By: Daryl Eiding, Mayor

Discussion: City Staff initiated discussions with the General Manager and the Operations Supervisor with Mountain View Edgewood Water Company (One of the City of Edgewood's Water Purveyors) in July of this year to begin discussions as it pertains to updating and renewing the existing Franchise Agreement that had previously been executed between the City of Edgewood and this water purveyor. Work appears completed in this regard and the Ordinance appears to be ready for adoption by the Edgewood City Council.

Recommendation: Move to adopt Ordinance No. 16-0485, an Ordinance granting Mountain View-Edgewood Water Company the right, privilege, authority and nonexclusive franchise to construct maintain operate replace and repair water system infrastructure in, across, over, along under, through and below the public rights of way of the city of Edgewood; providing for severability and establishing an effective date.

Alternatives: 1) Do not adopt. 2) Forward to Study Session for further review.

Fiscal Impact: City Staff have budgeted the costs for fees and rates associated with water consumption for City facilities that will be new to the City under this revised franchise agreement. This amount varies as water consumption fluctuates from year to year, but has been estimated for the City by the water company and budgeted for by City Staff. Future costs associated with new City connections to the Mountain View Edgewood Water Company's system will be budgeted within associated Capital Facility plans, based on the current rates established by MTVE. This figure may be modified based on the desires of the City Council in this regard.

VERSION A

ORDINANCE NO. 16-0485

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, GRANTING UNTO MT. VIEW-EDGEWOOD WATER COMPANY, A NONPROFIT CORPORATION OF THE STATE OF WASHINGTON, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, PRIVILEGE, AUTHORITY AND NONEXCLUSIVE FRANCHISE, TO CONSTRUCT, MAINTAIN, OPERATE, REPLACE AND REPAIR WATER SYSTEM INFRASTRUCTURE, IN, ACROSS, OVER, ALONG, UNDER, THROUGH AND BELOW THE PUBLIC RIGHTS-OF-WAY OF THE CITY OF EDGEWOOD, WASHINGTON; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, Mt. View-Edgewood Water Company, Inc., (hereinafter referred to as "MTVE") has requested that the City Council grant it a nonexclusive franchise; and

WHEREAS, MTVE has authority to contract with municipal corporations, and to construct, add to, maintain and supply water works; and

WHEREAS, the City Council has the authority to grant franchises for the use of its streets and other public properties pursuant to RCW 35A.47.040; and

WHEREAS, MTVE provides public drinking water to portions of citizens within the City of Edgewood, as a privately owned nonprofit municipal water corporation regulated by the Washington State Department of Health; and

WHEREAS, MTVE's public water system infrastructure and facilities are identified as critical infrastructure and its staff is classified as first responders by the Federal Government.

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

Section 1. Franchise Granted; Term. Pursuant to RCW 35A.47.040, the City of Edgewood, a Washington municipal corporation (hereinafter the "City"), hereby grants to MTVE, a non-profit public utility owned by City taxpayers and organized under the laws of the state of Washington, its heirs, successors, legal representatives and assigns, subject to the terms and conditions hereinafter set forth and all applicable City codes and regulations, a nonexclusive franchise beginning on the effective date set forth in Section 23 herein. The term of the franchise shall be five (5) years.

This franchise shall grant MTVE the right, privilege and authority to construct, operate, maintain, replace, and repair all necessary facilities for water delivery, in, under, on, across, over, through, along or below the public rights-of-way located in the City of Edgewood ("the Franchise Area"), as approved under City permits issued pursuant to this franchise. "Rights-of-way" as used herein

means all public streets, roads, alleys and highways of the City as now or hereafter laid out, platted, dedicated or improved.

Section 2. Non-Exclusive Franchise Grant. This franchise is granted upon the express condition that it shall not in any manner prevent the City from granting other or further franchises in, along, over, through, under, below or across any of said rights-of-way. Such franchise shall in no way prevent or prohibit the City and/or the public from using any of said roads, streets or other public properties or affect its jurisdiction over them or any part of them, and the City shall retain power to make all necessary changes, relocations, repairs, maintenance, establishment, improvement, dedication of same as the City may deem fit, including the dedication, vacation, establishment, maintenance, and improvement of all new rights-of-way, thoroughfares and other public properties of every type and description.

Section 3. Relocation of Water System Facilities.

3.1 MTVE agrees and covenants to, at MTVE's sole expense, protect, support, temporarily disconnect, relocate or remove from any rights-of-way any of MTVE's facilities when so required by the City by reason of traffic conditions, public safety, dedications of new rights-of-way and the establishment and improvement thereof, widening and improvement of existing rights-of-way, street vacations, road and walkway construction, change or establishment of street grade, and/or the construction of any public improvement or structure by any governmental agency acting in a governmental capacity (a "governmental project").

3.2 Any condition or requirement imposed by the City upon any person or entity (including without limitation any condition or requirement imposed pursuant to any contract or in conjunction with approvals for permit for zoning, land use, construction or development) which reasonably necessitates the relocation of MTVE's Facilities within the franchise area shall be a required relocation for purposes of subsection 3.1 above.

3.3 If the City determines that a government project or other event or condition, as defined in subsections 3.1 and 3.2, necessitates the relocation of MTVE's Facilities, the City shall, to the extent reasonably practicable:

- A. Notify MTVE during the planning phase to ensure collaborative effort is made to reduce project expense (to the City and MTVE), allow budgeting for the project and facilitate joint applications for grants and low-interest funding by the parties. The City will provide written notification requiring relocation of MTVE's Facilities at least ninety (90) days or additional days, approved by the Mayor or his/her designee prior to the commencement of the government project or other event or condition necessitating the relocation.
- B. Provide MTVE with copies of pertinent portions of the plans and specifications for such project and where possible propose an alternative location for MTVE's Facilities so that MTVE may relocate its facilities within the current right-of-way or to other rights-of-way.
- C. After receipt of such notice and such plans and specifications, MTVE shall complete relocation of its facilities at least ten (10) days prior to commencement of the project at no charge or expense to the City. Relocation shall be accomplished in such a manner as to accommodate the project, event or condition necessitating the

relocation.

3.4 Without limitation of the foregoing, MTVE shall specifically indemnify the City, its officers, employees, agents and representatives, for any damages, claims, additional costs or expenses assessed against, or payable by, the City related to, arising out of, or resulting, directly or indirectly, from MTVE's failure to timely remove, adjust or relocate any of its facilities in accordance with any requirement hereunder. The provisions of this subsection shall survive the expiration or termination of this franchise.

3.5 MTVE may, after receipt of written notice requesting relocation of its facilities, submit to the City written alternatives to such relocation. The City shall evaluate such alternatives in good faith and advise MTVE in writing if one or more of the alternatives are suitable to accommodate the work which would otherwise necessitate relocation of MTVE's Facilities. If so requested by the City, MTVE shall submit additional information to assist the City in making such evaluation. The City shall give each alternative proposed by MTVE full and fair consideration. In the event the City in its sole discretion ultimately determines that there is no other reasonable or feasible alternative, MTVE shall relocate its facilities as otherwise provided in this Section.

3.6 The provisions of this Section shall in no manner preclude or restrict MTVE from making any arrangements it may deem appropriate when responding to a request for relocation of its facilities by any person or entity other than the City or another governmental entity, where the facilities to be constructed by said person or entity are not or will not become governmentally-owned, operated or maintained facilities, provided that such arrangements do not unduly delay a governmental project.

Section 4. Maps and Records. After construction of any new facilities in the City rights-of-way, and as a condition of this franchise, MTVE shall make available to the City upon request and at no cost, a copy of all as-built plans, maps and records revealing the final location and condition of MTVE's facilities within the public rights-of-way. Said plans will be maintained at MTVE per Department of Homeland Security measures.

Section 5. Excavations. All construction work performed by MTVE or its contractors under or in relation to this franchise, specifically including without limitation any relocation, construction or maintenance of MTVE's facilities, shall be accomplished in a safe and workmanlike manner, so to minimize interference with the free passage of traffic and the free use of adjoining property, whether public or private, and shall comply with all applicable laws and regulations. MTVE shall at all times post and maintain proper barricades and comply with all applicable safety regulations during such period of construction as required by the ordinances of the City or the laws of the state of Washington, including RCW 39.04.180 for the construction of trench safety systems.

Excavation in City-owned rights-of-way shall be governed by the provisions of the Edgewood Municipal Code (EMC) Chapter 12.06 - "Right-of-Way Franchises and Permits for Public and Private Utilities". MTVE, at its own expense, shall secure any applicable permits required for excavating in any public right-of-way and shall give the City at least five (5) working days notice of its intent to commence work in the public right-of-way. In no case shall any work commence

on City-owned and maintained public road surfaces, without the required permit(s).

If either the City or MTVE shall at any time plan to make excavations in any area covered by this franchise and as described in this Section, the party planning such excavation shall afford the other, upon receipt of a written request to do so, a reasonable opportunity to share such excavation, PROVIDED THAT:

- A. Such joint use shall not unreasonably delay the work of the party causing the excavation to be made; and
- B. Such joint use shall be arranged and accomplished on terms and conditions satisfactory to both parties; and
- C. Either party may deny such request for safety reasons. The provisions of this Section shall survive the expiration or termination of this franchise.

Section 6. Restoration after Construction. MTVE shall, after abandonment, installation, construction, relocation, maintenance or repair of its facilities within the Franchise Area, restore the surface of the right-of-way to at least the same condition in which the property existed immediately prior to any such installation, construction, relocation, maintenance or repair. The City's Public Works Director shall have final approval of the condition of such rights-of-way after restoration. All concrete encased monuments which have been disturbed or displaced by such work shall be restored pursuant to all federal, state and local standards and specifications. MTVE agrees to promptly complete all such restoration work and to promptly repair any damage caused by such work at its sole cost and expense. The provisions of this Section shall survive the expiration, revocation or termination by other means of this franchise.

Section 7. WSDOT Standards. The parties expressly acknowledge that some rights-of-way within the franchise area, specifically including without limitation the Meridian Avenue / State Route 161 corridor, are part of the state highway system ("State Highways") and are governed by the provisions of Chapter 47.24 RCW and applicable Washington State Department of Transportation (WSDOT) requirements in addition to local ordinances and other regulations. Without limitation of any other provision of this franchise, MTVE agrees that:

- (1) any pavement trenching and restoration performed by MTVE within State Highways shall meet or exceed applicable WSDOT requirements;
- (2) any portion of a State Highway damaged or injured by MTVE shall be restored, repaired and/or replaced by MTVE to a condition that meets or exceeds applicable WSDOT requirements; and
- (3) without prejudice to any right or privilege of the City, WSDOT is authorized to enforce in an action brought in the name of the State of Washington any condition of this franchise with respect to any portion of a State Highway.

Section 8. Emergency Work. Permit Waiver. In the event of any emergency in which any of MTVE's Facilities located in or under any right-of-way breaks, becomes damaged, or if MTVE's construction area is otherwise in such a condition as to immediately endanger the property, life, health or safety of any individual, MTVE shall immediately take the proper emergency measures to repair its facilities, and to cure or remedy the dangerous condition(s) for the protection of property, life, health or safety of individuals without first applying for and obtaining a permit as required by this franchise. However, this shall not relieve MTVE from the

requirement of obtaining any permits necessary for this purpose, and MTVE shall apply for all such permits not later than the next succeeding day during which the Edgewood City Hall is open for business.

Section 9. Dangerous Conditions. Authority for City to Abate. Whenever the construction, installation or excavation of facilities authorized by this franchise has caused or contributed to a condition that appears to substantially impair the lateral support of the adjoining street or public place, or otherwise endangers the public, an adjoining public place, street utilities or City property, the Mayor may direct MTVE, at MTVE's own expense, to take actions to protect the public, adjacent public places, City property or street utilities, and such action may include compliance within a prescribed time.

In the event that MTVE fails or refuses to promptly take the actions directed by the City, or fails to fully comply with such directions, or if emergency conditions exist which require immediate action, before the City can timely contact MTVE to request MTVE affect the immediate repair, the City may enter upon the property and take such actions as are necessary to protect the public, the adjacent streets, or street utilities, or to maintain the lateral support thereof, or actions regarded as necessary safety precautions. The provisions of this Section shall survive the expiration, revocation or termination of this franchise.

Section 10. Indemnification. MTVE hereby releases, covenants not to bring suit and agrees to indemnify, defend and hold harmless the City, its officers, employees, agents and representatives from any and all claims, costs, judgments, awards or liability to any person, including attorneys' fees and including claims by MTVE's own employees for which MTVE might otherwise be immune under Title 51 RCW, for injury or death of any person or damage to property caused by or arising, in whole or in part, out of the acts or omissions of MTVE, its agents, contractors, subcontractors, servants, officers or employees in the performance of this franchise, and any rights granted hereunder. The above waiver of immunity under Title 51 RCW has been mutually negotiated by the parties.

Inspection or acceptance by the City of any work performed by MTVE at the time of completion of construction shall not be grounds for avoidance by MTVE of any of its obligations under this Section. Said indemnification obligations shall extend to claims which are not reduced to a suit and any claims which may be compromised prior to the culmination of any litigation or the institution of any litigation.

In the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of MTVE and the City, MTVE's liability hereunder shall be only to the extent of MTVE's negligence. The provisions of this Section shall survive the expiration or termination of this franchise.

Section 11. Insurance. MTVE shall procure and maintain for the duration of the franchise the following liability insurance policies, insuring both MTVE and naming the City, and its elected and appointed officers, officials, agents, representatives, and employees as additional insureds:

- A. Comprehensive general liability insurance with limits not less than:
 - 1. \$2,000,000 for bodily injury or death to each person;

2. \$2,000,000 for property damage resulting per occurrence; and
 3. \$2,000,000 for all other types of liability.
- B. Automobile liability for owned, non-owned and hired vehicles with a limit of \$1,000,000 for each person and \$3,000,000 for each accident.
 - C. Worker's compensation within statutory limits and employer's liability insurance with limits of not less than \$1,000,000.
 - D. Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed operation hazard policies with limits of not less than \$2,000,000.
 - E. The liability insurance policies required by this Section shall be maintained at all times by the MTVE. Each such insurance policy shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until 90 days after receipt by the City, by registered mail, of a written notice addressed to the City Risk Manager of such intent to cancel or not to renew."

MTVE may satisfy the requirements of this section by a self-insurance program or membership in an insurance pool providing substantially the same coverage as set forth above and approved by the City.

Section 12. Restoration Bond. In lieu of a restoration bond pursuant to EMC 12.06.218, MTVE hereby warrants all work performed under this franchise and further specifically represents and warrants that all required restoration of the right-of-way shall be performed timely, in a workmanlike manner, and in full compliance with all applicable regulatory standards.

Section 13. Modification. The City and MTVE hereby reserve the right to mutually alter, amend or modify the terms and conditions of this franchise upon written agreement of both parties to such alteration, amendment or modification. No such alteration, amendment or modification shall be effective without a writing signed by both parties.

Section 14. Forfeiture and Revocation. If MTVE willfully violates or fails to comply with any of the provisions of this franchise, or through willful misconduct or negligence fails to heed or comply with any notice given by the City under the provisions of this franchise, then MTVE shall forfeit all rights conferred hereunder and this franchise may be revoked or annulled by the Edgewood City Council after a hearing held upon notice to MTVE.

Section 15. Remedies to Enforce Compliance. The City may elect, in lieu of revocation and without any prejudice to any of its other legal rights and remedies, to obtain an order from the superior court having jurisdiction compelling MTVE to comply with the provisions of this franchise. In addition to any other remedy provided herein, the City reserves the right to pursue any remedy to compel or force MTVE and/or its successors and assigns to comply with the terms hereof, and the pursuit of any right or remedy by the City shall not prevent the City from thereafter declaring a forfeiture or revocation for breach of the conditions herein.

Section 16. Legal Compliance. City Ordinances and Regulations. MTVE shall comply

with applicable federal, state and local laws, rules and regulations, unless otherwise modified as part of this franchise, at all times relevant to this franchise. Nothing herein shall be deemed to restrict the City's ability to adopt and enforce all necessary and appropriate ordinances regulating the performance of the conditions of this franchise, including any valid ordinance made in the exercise of its police powers in the interest of public safety and for the welfare of the public. In the event of a conflict between the provisions of this franchise and any other ordinance(s) enacted under the City's police power authority, such other ordinance(s) shall take precedence over the provisions set forth herein.

Section 17. Planning Coordination.

17.1 Growth Management, The parties agree, as follows, to participate in the development of, and reasonable updates to, the each other's planning documents:

17.1.1 For MTVE's service within the City limits, MTVE will participate in a cooperative effort with the City of Edgewood to develop a Comprehensive Plan Utilities Element that meets the requirements described in RCW 36.70A.070(4).

17.1.2 MTVE will participate in a cooperative effort with the City to ensure that the Utilities Element of Edgewood's Comprehensive plan is accurate as it relates to the MTVE's operations and is updated to ensure continued relevance at reasonable intervals.

17.1.3 MTVE shall submit information relates to the general location, proposed location, and capacity of all existing and proposed facilities within the City as requested by the Public Works Director within a reasonable time frame, not exceeding sixty (60) days from receipt of a written request for such information, provided that such information is in the MTVE's possession, or can be reasonably developed from the information in MTVE's possession.

17.1.4 MTVE will update information provided to the City under Section 17 – Planning Coordination, whenever there are major changes in MTVE's system plans for the City of Edgewood.

17.1.5 The City will provide information relevant to MTVE's operations within a reasonable period of written request to assist MTVE in the development or update of its Comprehensive Water System Plan, provided that such information is in the City's possession, or can be reasonably developed from the information in the City's possession.

17.2 System Development Information. MTVE and the City

will each assign a representative whose responsibility shall be to coordinate planning for CIP projects including those that involve undergrounding. At a minimum, such coordination shall include the following:

17.2.1 By February 1st of each year, MTVE shall provide the City with a schedule of its planned capital improvements, which may affect the right of way for that year.

17.2.2 By February 1st of each year, the City shall provide MTVE with a schedule of its planned capital improvements which may affect the right of way for that year including, but not limited to street overlays and repairs, storm drainage improvements and construction, and all other right of way activities that could affect MTVE's capital improvements and infrastructure.

17.2.3 MTVE shall meet with the City, other franchises and users of the right of way, as necessary, to schedule and coordinate construction activities.

17.2.4 MTVE shall ensure that all MTVE's construction locations, activities, and schedules shall be coordinated, to minimize public inconvenience, disruption, or damages.

17.3 Emergency Management. The City and MTVE agree to cooperate in emergency management planning, emergency operations response procedures, and recover activity strategies, including identifying potential hazards and risks in the MTVE's facilities so that they can be either mitigated or minimized. Provided, that nothing herein shall be construed as altering or otherwise reducing MTVE's obligations under this franchise, specifically including without limitation MTVE's obligations under Section 10.

Section 18. Acceptance. Within sixty (60) days after the passage and approval of this Ordinance, this franchise may be accepted by MTVE by its filing with the City Clerk an unconditional written acceptance thereof. Failure of MTVE to so accept this franchise within said period of time shall be deemed a rejection thereof by MTVE, and the rights and privileges herein granted shall be of no effect whatsoever, unless extended by Ordinance.

Section 19. Survival. All of the provisions, conditions and requirements of Sections 3 (Relocation of Water Facilities); Section 5 (Excavation); Section 6 (Restoration after Construction); Section 9 (Dangerous Conditions); and Section 10 (Indemnification); of this franchise shall be in addition to any and all other obligations and liabilities MTVE may have to the City at common law, by statute, or by contract, and shall survive the expiration or termination

of this franchise. All of the provisions, conditions, regulations and requirements contained in this franchise shall further be binding upon the heirs, successors, executors, administrators, legal representatives and assigns of MTVE and all privileges, as well as all obligations and liabilities of MTVE shall inure to its heirs, successors and assigns equally as if they were specifically mentioned wherever MTVE is named herein.

Section 20. Assignment. This franchise may not be assigned or transferred without the written approval of the City, except MTVE may freely assign this franchise in whole or in part to a parent, subsidiary, or affiliated corporation or as part of any corporate financing, reorganization or refinancing. In the case of transfer or assignment as security by mortgage or other security instrument in whole or in part to secure indebtedness, such consent shall not be required unless and until the secured party elects to realize upon the collateral. MTVE shall provide prompt, written notice to the City of any such assignment.

Section 21. Notice. Any notice or information required or permitted to be given to the parties under this franchise may be sent to the following addresses unless otherwise specified:

CITY OF EDGEWOOD
Mayor
2224 104th Avenue East
Edgewood, Washington 98372

MT. VIEW-EDGEWOOD WATER CO.
General Manager
11610 32nd Street East
Edgewood, Washington 98372

Section 22. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance unless such invalidity or unconstitutionality materially alters the rights, privileges, duties, or obligations hereunder, in which event either party may request renegotiation of those remaining terms of this franchise materially affected by such court's ruling.

Section 23. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect (5) days after passage and publication of an approved summary thereof consisting of the title. Provided, that the franchise granted by this ordinance shall not take effect until the City's receipt of MTVE's signed acceptance of the terms set forth herein in accordance with Section 18.

Section 24. Regulatory Authority Reserved; Water Utility Service. The parties mutually acknowledge that the City is a municipal corporation organized under the Optional Municipal Code of Title 35A RCW. Nothing herein shall be construed as a waiver, abridgement or other limitation of the City's regulatory authority and/or police power, which the City hereby expressly reserves in full. Without limitation of the forgoing, MTVE shall be required to apply for and obtain all applicable City permits, licenses and/or approvals and otherwise operate in full compliance with the requirements thereof. Any water utility service provided by MTVE to City-owned properties shall be governed by a separate contract between the parties.

Section 25. Nonwaiver of Breach. The failure of either party at any time to require performance by the other of any provision hereof shall in no way affect the right of the other party hereafter to enforce the same. Nor shall the waiver by either party of any breach of any

provision hereof be taken or held to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself or any other provision.

Section 26. Entire Agreement. This franchise represents the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and shall supersede all prior oral negotiations and written agreements between the parties.

Section 27. No Third Party Beneficiary. This franchise has been negotiated and executed for the exclusive benefit of the signatory parties and is enforceable only by the same. Nothing herein shall be construed as creating any rights in or for any third parties.

Section 28. Governing Law. Venue. This franchise shall be governed in all respects by the laws of the state of Washington. The exclusive venue for any dispute related to this franchise shall be the Pierce County Superior Court. The substantially prevailing party in any such dispute shall be entitled to an award of its reasonable attorney fees.

Section 29. Abandonment. If MTVE abandons any or all of its facilities during the franchise term, the City, at its option, may operate said facilities or designate another entity to operate the same temporarily until MTVE restores service under conditions acceptable to the City, or until the franchise is revoked and a new franchisee is selected by the City. If the City designates another entity to operate the water utility system, MTVE shall reimburse the City for all reasonable costs, expenses and damages incurred, including reasonable attorney fees, court expenses and attributed expenses for work conducted by the City's staff or agents.

Section 30. Taxes and Fees. Nothing contained in this franchise shall exempt MTVE from MTVE's obligation to pay any applicable utility tax, business tax, or ad valorem property tax, now or hereafter levied against real or personal property within the City, or against any local improvement assessment imposed on MTVE. Any fees, charges and/or fines provided for in the Edgewood Municipal Code or any other City ordinance, and any compensation charged and paid for the Public Rights-of-Way, whether pecuniary or in-kind, are separate from, and additional to, any and all federal, state, local, and City taxes as may be levied, imposed or due from MTVE .

**Presented to Council for first reading on October 4th, 2016
Presented to Council for second reading on November 15th, 2016**

ADOPTED BY THE CITY COUNCIL ON JANUARY 10TH, 2017

Daryl Eidinger, Mayor

ATTEST/AUTHENTICATED:

Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

Carol Morris, City Attorney

Published: January 12, 2017

Effective: January 17, 2017

ACCEPTANCE OF FRANCHISE

The undersigned authorized representative of Mt.View-Edgewood Water Company hereby declares on behalf of Mt.View-Edgewood Water Company, the acceptance of the nonexclusive franchise to Mt. View-Edgewood Water Company approved by the Edgewood City Council on the 10th day of January 2017 by the adoption of Edgewood City Ordinance No. 16-0485.

Dated: _____

MT. VIEW-EDGEWOOD WATER COMPANY

By: _____

Its: _____

LEGAL NOTICE

NOTICE OF ORDINANCE ADOPTED BY EDGEWOOD CITY COUNCIL

The following is a summary of an Ordinance adopted by the City of Edgewood City Council on the 10th day of January 2017, and shall take effect and be in full force on the 17th day of January 2017.

ORDINANCE NO. 16-0485

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, GRANTING UNTO MT. VIEW-EDGEWOOD WATER COMPANY, A NONPROFIT CORPORATION OF THE STATE OF WASHINGTON, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, PRIVILEGE, AUTHORITY AND NONEXCLUSIVE FRANCHISE, TO CONSTRUCT, MAINTAIN, OPERATE, REPLACE AND REPAIR WATER SYSTEM INFRASTRUCTURE, IN, ACROSS, OVER, ALONG, UNDER, THROUGH AND BELOW THE PUBLIC RIGHTS-OF-WAY OF THE CITY OF EDGEWOOD, WASHINGTON; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

The full text of the Ordinance is available at the City Clerk's office, Edgewood City Hall, 2224 104th Avenue East, Edgewood, WA 98372 (253) 952-3299.

Rachel Pitzel, City Clerk

VERSION B

ORDINANCE NO. 16-0485

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, GRANTING UNTO MT. VIEW-EDGEWOOD WATER COMPANY, A NONPROFIT CORPORATION OF THE STATE OF WASHINGTON, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, PRIVILEGE, AUTHORITY AND NONEXCLUSIVE FRANCHISE, TO CONSTRUCT, MAINTAIN, OPERATE, REPLACE AND REPAIR WATER SYSTEM INFRASTRUCTURE, IN, ACROSS, OVER, ALONG, UNDER, THROUGH AND BELOW THE PUBLIC RIGHTS-OF-WAY OF THE CITY OF EDGEWOOD, WASHINGTON; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, Mt. View-Edgewood Water Company, Inc., (hereinafter referred to as "MTVE") has requested that the City Council grant it a nonexclusive franchise; and

WHEREAS, MTVE has authority to contract with municipal corporations, and to construct, add to, maintain and supply water works; and

WHEREAS, the City Council has the authority to grant franchises for the use of its streets and other public properties pursuant to RCW 35A.47.040; and

WHEREAS, MTVE provides public drinking water to portions of citizens within the City of Edgewood, as a privately owned nonprofit municipal water corporation regulated by the Washington State Department of Health; and

WHEREAS, MTVE's public water system infrastructure and facilities are identified as critical infrastructure and its staff is classified as first responders by the Federal Government.

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

Section 1. Franchise Granted; Term. Pursuant to RCW 35A.47.040, the City of Edgewood, a Washington municipal corporation (hereinafter the "City"), hereby grants to MTVE, a non-profit public utility owned by City taxpayers and organized under the laws of the state of Washington, its heirs, successors, legal representatives and assigns, subject to the terms and conditions hereinafter set forth and all applicable City codes and regulations, a nonexclusive franchise beginning on the effective date set forth in Section 23 herein. The term of the franchise shall be five (5) years.

This franchise shall grant MTVE the right, privilege and authority to construct, operate, maintain, replace, and repair all necessary facilities for water delivery, in, under, on, across, over, through, along or below the public rights-of-way located in the City of Edgewood ("the Franchise Area"), as approved under City permits issued pursuant to this franchise. "Rights-of-way" as used herein

means all public streets, roads, alleys and highways of the City as now or hereafter laid out, platted, dedicated or improved.

Section 2. Non-Exclusive Franchise Grant. This franchise is granted upon the express condition that it shall not in any manner prevent the City from granting other or further franchises in, along, over, through, under, below or across any of said rights-of-way. Such franchise shall in no way prevent or prohibit the City and/or the public from using any of said roads, streets or other public properties or affect its jurisdiction over them or any part of them, and the City shall retain power to make all necessary changes, relocations, repairs, maintenance, establishment, improvement, dedication of same as the City may deem fit, including the dedication, vacation, establishment, maintenance, and improvement of all new rights-of-way, thoroughfares and other public properties of every type and description.

Section 3. Relocation of Water System Facilities.

3.1 MTVE agrees and covenants to, at MTVE's sole expense, protect, support, temporarily disconnect, relocate or remove from any rights-of-way any of MTVE's facilities when so required by the City by reason of traffic conditions, public safety, dedications of new rights-of-way and the establishment and improvement thereof, widening and improvement of existing rights-of-way, street vacations, road and walkway construction, change or establishment of street grade, and/or the construction of any public improvement or structure by any governmental agency acting in a governmental capacity (a "governmental project").

3.2 Any condition or requirement imposed by the City upon any person or entity (including without limitation any condition or requirement imposed pursuant to any contract or in conjunction with approvals for permit for zoning, land use, construction or development) which reasonably necessitates the relocation of MTVE's Facilities within the franchise area shall be a required relocation for purposes of subsection 3.1 above.

3.3 If the City determines that a government project or other event or condition, as defined in subsections 3.1 and 3.2, necessitates the relocation of MTVE's Facilities, the City shall, to the extent reasonably practicable:

- A. Notify MTVE during the planning phase to ensure collaborative effort is made to reduce project expense (to the City and MTVE), allow budgeting for the project and facilitate joint applications for grants and low-interest funding by the parties. The City will provide written notification requiring relocation of MTVE's Facilities at least ninety (90) days or additional days, approved by the Mayor or his/her designee prior to the commencement of the government project or other event or condition necessitating the relocation.
- B. Provide MTVE with copies of pertinent portions of the plans and specifications for such project and where possible propose an alternative location for MTVE's Facilities so that MTVE may relocate its facilities within the current right-of-way or to other rights-of-way.
- C. After receipt of such notice and such plans and specifications, MTVE shall complete relocation of its facilities at least ten (10) days prior to commencement of the project at no charge or expense to the City. Relocation shall be accomplished in such a manner as to accommodate the project, event or condition necessitating the

relocation.

3.4 Without limitation of the foregoing, MTVE shall specifically indemnify the City, its officers, employees, agents and representatives, for any damages, claims, additional costs or expenses assessed against, or payable by, the City related to, arising out of, or resulting, directly or indirectly, from MTVE's failure to timely remove, adjust or relocate any of its facilities in accordance with any requirement hereunder. The provisions of this subsection shall survive the expiration or termination of this franchise.

3.5 MTVE may, after receipt of written notice requesting relocation of its facilities, submit to the City written alternatives to such relocation. The City shall evaluate such alternatives in good faith and advise MTVE in writing if one or more of the alternatives are suitable to accommodate the work which would otherwise necessitate relocation of MTVE's Facilities. If so requested by the City, MTVE shall submit additional information to assist the City in making such evaluation. The City shall give each alternative proposed by MTVE full and fair consideration. In the event the City in its sole discretion ultimately determines that there is no other reasonable or feasible alternative, MTVE shall relocate its facilities as otherwise provided in this Section.

3.6 The provisions of this Section shall in no manner preclude or restrict MTVE from making any arrangements it may deem appropriate when responding to a request for relocation of its facilities by any person or entity other than the City or another governmental entity, where the facilities to be constructed by said person or entity are not or will not become governmentally-owned, operated or maintained facilities, provided that such arrangements do not unduly delay a governmental project.

Section 4. Maps and Records. After construction of any new facilities in the City rights-of-way, and as a condition of this franchise, MTVE shall make available to the City upon request and at no cost, a copy of all as-built plans, maps and records revealing the final location and condition of MTVE's facilities within the public rights-of-way. Said plans will be maintained at MTVE per Department of Homeland Security measures.

Section 5. Excavations. All construction work performed by MTVE or its contractors under or in relation to this franchise, specifically including without limitation any relocation, construction or maintenance of MTVE's facilities, shall be accomplished in a safe and workmanlike manner, so to minimize interference with the free passage of traffic and the free use of adjoining property, whether public or private, and shall comply with all applicable laws and regulations. MTVE shall at all times post and maintain proper barricades and comply with all applicable safety regulations during such period of construction as required by the ordinances of the City or the laws of the state of Washington, including RCW 39.04.180 for the construction of trench safety systems.

Excavation in City-owned rights-of-way shall be governed by the provisions of the Edgewood Municipal Code (EMC) Chapter 12.06 - "Right-of-Way Franchises and Permits for Public and Private Utilities". MTVE, at its own expense, shall secure any applicable permits required for excavating in any public right-of-way and shall give the City at least five (5) working days notice of its intent to commence work in the public right-of-way. In no case shall any work commence

on City-owned and maintained public road surfaces, without the required permit(s).

If either the City or MTVE shall at any time plan to make excavations in any area covered by this franchise and as described in this Section, the party planning such excavation shall afford the other, upon receipt of a written request to do so, a reasonable opportunity to share such excavation, PROVIDED THAT:

- A. Such joint use shall not unreasonably delay the work of the party causing the excavation to be made; and
- B. Such joint use shall be arranged and accomplished on terms and conditions satisfactory to both parties; and
- C. Either party may deny such request for safety reasons. The provisions of this Section shall survive the expiration or termination of this franchise.

Section 6. Restoration after Construction. MTVE shall, after abandonment, installation, construction, relocation, maintenance or repair of its facilities within the Franchise Area, restore the surface of the right-of-way to at least the same condition in which the property existed immediately prior to any such installation, construction, relocation, maintenance or repair. The City's Public Works Director shall have final approval of the condition of such rights-of-way after restoration. All concrete encased monuments which have been disturbed or displaced by such work shall be restored pursuant to all federal, state and local standards and specifications. MTVE agrees to promptly complete all such restoration work and to promptly repair any damage caused by such work at its sole cost and expense. The provisions of this Section shall survive the expiration, revocation or termination by other means of this franchise.

Section 7. WSDOT Standards. The parties expressly acknowledge that some rights-of-way within the franchise area, specifically including without limitation the Meridian Avenue / State Route 161 corridor, are part of the state highway system ("State Highways") and are governed by the provisions of Chapter 47.24 RCW and applicable Washington State Department of Transportation (WSDOT) requirements in addition to local ordinances and other regulations. Without limitation of any other provision of this franchise, MTVE agrees that:

- (1) any pavement trenching and restoration performed by MTVE within State Highways shall meet or exceed applicable WSDOT requirements;
- (2) any portion of a State Highway damaged or injured by MTVE shall be restored, repaired and/or replaced by MTVE to a condition that meets or exceeds applicable WSDOT requirements; and
- (3) without prejudice to any right or privilege of the City, WSDOT is authorized to enforce in an action brought in the name of the State of Washington any condition of this franchise with respect to any portion of a State Highway.

Section 8. Emergency Work. Permit Waiver. In the event of any emergency in which any of MTVE's Facilities located in or under any right-of-way breaks, becomes damaged, or if MTVE's construction area is otherwise in such a condition as to immediately endanger the property, life, health or safety of any individual, MTVE shall immediately take the proper emergency measures to repair its facilities, and to cure or remedy the dangerous condition(s) for the protection of property, life, health or safety of individuals without first applying for and obtaining a permit as required by this franchise. However, this shall not relieve MTVE from the

requirement of obtaining any permits necessary for this purpose, and MTVE shall apply for all such permits not later than the next succeeding day during which the Edgewood City Hall is open for business.

Section 9. Dangerous Conditions. Authority for City to Abate. Whenever the construction, installation or excavation of facilities authorized by this franchise has caused or contributed to a condition that appears to substantially impair the lateral support of the adjoining street or public place, or otherwise endangers the public, an adjoining public place, street utilities or City property, the Mayor may direct MTVE, at MTVE's own expense, to take actions to protect the public, adjacent public places, City property or street utilities, and such action may include compliance within a prescribed time.

In the event that MTVE fails or refuses to promptly take the actions directed by the City, or fails to fully comply with such directions, or if emergency conditions exist which require immediate action, before the City can timely contact MTVE to request MTVE affect the immediate repair, the City may enter upon the property and take such actions as are necessary to protect the public, the adjacent streets, or street utilities, or to maintain the lateral support thereof, or actions regarded as necessary safety precautions. The provisions of this Section shall survive the expiration, revocation or termination of this franchise.

Section 10. Indemnification. MTVE hereby releases, covenants not to bring suit and agrees to indemnify, defend and hold harmless the City, its officers, employees, agents and representatives from any and all claims, costs, judgments, awards or liability to any person, including attorneys' fees and including claims by MTVE's own employees for which MTVE might otherwise be immune under Title 51 RCW, for injury or death of any person or damage to property caused by or arising, in whole or in part, out of the acts or omissions of MTVE, its agents, contractors, subcontractors, servants, officers or employees in the performance of this franchise, and any rights granted hereunder. The above waiver of immunity under Title 51 RCW has been mutually negotiated by the parties.

Inspection or acceptance by the City of any work performed by MTVE at the time of completion of construction shall not be grounds for avoidance by MTVE of any of its obligations under this Section. Said indemnification obligations shall extend to claims which are not reduced to a suit and any claims which may be compromised prior to the culmination of any litigation or the institution of any litigation.

In the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of MTVE and the City, MTVE's liability hereunder shall be only to the extent of MTVE's negligence. The provisions of this Section shall survive the expiration or termination of this franchise.

Section 11. Insurance. MTVE shall procure and maintain for the duration of the franchise the following liability insurance policies, insuring both MTVE and naming the City, and its elected and appointed officers, officials, agents, representatives, and employees as additional insureds:

- A. Comprehensive general liability insurance with limits not less than:
 - 1. \$2,000,000 for bodily injury or death to each person;

2. \$2,000,000 for property damage resulting per occurrence; and
 3. \$2,000,000 for all other types of liability.
- B. Automobile liability for owned, non-owned and hired vehicles with a limit of \$1,000,000 for each person and \$3,000,000 for each accident.
 - C. Worker's compensation within statutory limits and employer's liability insurance with limits of not less than \$1,000,000.
 - D. Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed operation hazard policies with limits of not less than \$2,000,000.
 - E. The liability insurance policies required by this Section shall be maintained at all times by the MTVE. Each such insurance policy shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until 90 days after receipt by the City, by registered mail, of a written notice addressed to the City Risk Manager of such intent to cancel or not to renew."

MTVE may satisfy the requirements of this section by a self-insurance program or membership in an insurance pool providing substantially the same coverage as set forth above and approved by the City.

Section 12. Restoration Bond. In lieu of a restoration bond pursuant to EMC 12.06.218, MTVE hereby warrants all work performed under this franchise and further specifically represents and warrants that all required restoration of the right-of-way shall be performed timely, in a workmanlike manner, and in full compliance with all applicable regulatory standards.

Section 13. Modification. The City and MTVE hereby reserve the right to mutually alter, amend or modify the terms and conditions of this franchise upon written agreement of both parties to such alteration, amendment or modification. No such alteration, amendment or modification shall be effective without a writing signed by both parties.

Section 14. Forfeiture and Revocation. If MTVE willfully violates or fails to comply with any of the provisions of this franchise, or through willful misconduct or negligence fails to heed or comply with any notice given by the City under the provisions of this franchise, then MTVE shall forfeit all rights conferred hereunder and this franchise may be revoked or annulled by the Edgewood City Council after a hearing held upon notice to MTVE.

Section 15. Remedies to Enforce Compliance. The City may elect, in lieu of revocation and without any prejudice to any of its other legal rights and remedies, to obtain an order from the superior court having jurisdiction compelling MTVE to comply with the provisions of this franchise. In addition to any other remedy provided herein, the City reserves the right to pursue any remedy to compel or force MTVE and/or its successors and assigns to comply with the terms hereof, and the pursuit of any right or remedy by the City shall not prevent the City from thereafter declaring a forfeiture or revocation for breach of the conditions herein.

Section 16. Legal Compliance. City Ordinances and Regulations. MTVE shall comply

with applicable federal, state and local laws, rules and regulations, unless otherwise modified as part of this franchise, at all times relevant to this franchise. Nothing herein shall be deemed to restrict the City's ability to adopt and enforce all necessary and appropriate ordinances regulating the performance of the conditions of this franchise, including any valid ordinance made in the exercise of its police powers in the interest of public safety and for the welfare of the public. In the event of a conflict between the provisions of this franchise and any other ordinance(s) enacted under the City's police power authority, such other ordinance(s) shall take precedence over the provisions set forth herein.

Section 17. Planning Coordination.

17.1 Growth Management, The parties agree, as follows, to participate in the development of, and reasonable updates to, the each other's planning documents:

17.1.1 For MTVE's service within the City limits, MTVE will participate in a cooperative effort with the City of Edgewood to develop a Comprehensive Plan Utilities Element that meets the requirements described in RCW 36.70A.070(4).

17.1.2 MTVE will participate in a cooperative effort with the City to ensure that the Utilities Element of Edgewood's Comprehensive plan is accurate as it relates to the MTVE's operations and is updated to ensure continued relevance at reasonable intervals.

17.1.3 MTVE shall submit information relates to the general location, proposed location, and capacity of all existing and proposed facilities within the City as requested by the Public Works Director within a reasonable time frame, not exceeding sixty (60) days from receipt of a written request for such information, provided that such information is in the MTVE's possession, or can be reasonably developed from the information in MTVE's possession.

17.1.4 MTVE will update information provided to the City under Section 17 – Planning Coordination, whenever there are major changes in MTVE's system plans for the City of Edgewood.

17.1.5 The City will provide information relevant to MTVE's operations within a reasonable period of written request to assist MTVE in the development or update of its Comprehensive Water System Plan, provided that such information is in the City's possession, or can be reasonably developed from the information in the City's possession.

17.2 System Development Information. MTVE and the City

will each assign a representative whose responsibility shall be to coordinate planning for CIP projects including those that involve undergrounding. At a minimum, such coordination shall include the following:

17.2.1 By February 1st of each year, MTVE shall provide the City with a schedule of its planned capital improvements, which may affect the right of way for that year.

17.2.2 By February 1st of each year, the City shall provide MTVE with a schedule of its planned capital improvements which may affect the right of way for that year including, but not limited to street overlays and repairs, storm drainage improvements and construction, and all other right of way activities that could affect MTVE's capital improvements and infrastructure.

17.2.3 MTVE shall meet with the City, other franchises and users of the right of way, as necessary, to schedule and coordinate construction activities.

17.2.4 MTVE shall ensure that all MTVE's construction locations, activities, and schedules shall be coordinated, to minimize public inconvenience, disruption, or damages.

17.3 Emergency Management. The City and MTVE agree to cooperate in emergency management planning, emergency operations response procedures, and recover activity strategies, including identifying potential hazards and risks in the MTVE's facilities so that they can be either mitigated or minimized. Provided, that nothing herein shall be construed as altering or otherwise reducing MTVE's obligations under this franchise, specifically including without limitation MTVE's obligations under Section 10.

Section 18. Acceptance. Within sixty (60) days after the passage and approval of this Ordinance, this franchise may be accepted by MTVE by its filing with the City Clerk an unconditional written acceptance thereof. Failure of MTVE to so accept this franchise within said period of time shall be deemed a rejection thereof by MTVE, and the rights and privileges herein granted shall be of no effect whatsoever, unless extended by Ordinance.

Section 19. Survival. All of the provisions, conditions and requirements of Sections 3 (Relocation of Water Facilities); Section 5 (Excavation); Section 6 (Restoration after Construction); Section 9 (Dangerous Conditions); and Section 10 (Indemnification); of this franchise shall be in addition to any and all other obligations and liabilities MTVE may have to the City at common law, by statute, or by contract, and shall survive the expiration or termination

of this franchise. All of the provisions, conditions, regulations and requirements contained in this franchise shall further be binding upon the heirs, successors, executors, administrators, legal representatives and assigns of MTVE and all privileges, as well as all obligations and liabilities of MTVE shall inure to its heirs, successors and assigns equally as if they were specifically mentioned wherever MTVE is named herein.

Section 20. Assignment. This franchise may not be assigned or transferred without the written approval of the City, except MTVE may freely assign this franchise in whole or in part to a parent, subsidiary, or affiliated corporation or as part of any corporate financing, reorganization or refinancing. In the case of transfer or assignment as security by mortgage or other security instrument in whole or in part to secure indebtedness, such consent shall not be required unless and until the secured party elects to realize upon the collateral. MTVE shall provide prompt, written notice to the City of any such assignment.

Section 21. Notice. Any notice or information required or permitted to be given to the parties under this franchise may be sent to the following addresses unless otherwise specified:

CITY OF EDGEWOOD
Mayor
2224 104th Avenue East
Edgewood, Washington 98372

MT. VIEW-EDGEWOOD WATER CO.
General Manager
11610 32nd Street East
Edgewood, Washington 98372

Section 22. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance unless such invalidity or unconstitutionality materially alters the rights, privileges, duties, or obligations hereunder, in which event either party may request renegotiation of those remaining terms of this franchise materially affected by such court's ruling.

Section 23. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect (5) days after passage and publication of an approved summary thereof consisting of the title. Provided, that the franchise granted by this ordinance shall not take effect until the City's receipt of MTVE's signed acceptance of the terms set forth herein in accordance with Section 18.

Section 24. Regulatory Authority Reserved; Water Utility Service. The parties mutually acknowledge that the City is a municipal corporation organized under the Optional Municipal Code of Title 35A RCW. Nothing herein shall be construed as a waiver, abridgement or other limitation of the City's regulatory authority and/or police power, which the City hereby expressly reserves in full. Without limitation of the forgoing, MTVE shall be required to apply for and obtain all applicable City permits, licenses and/or approvals and otherwise operate in full compliance with the requirements thereof. Any water utility service provided by MTVE to City-owned properties shall be governed by a separate contract between the parties.

Section 25. Nonwaiver of Breach. The failure of either party at any time to require performance by the other of any provision hereof shall in no way affect the right of the other party hereafter to enforce the same. Nor shall the waiver by either party of any breach of any

provision hereof be taken or held to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself or any other provision.

Section 26. Entire Agreement. This franchise represents the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and shall supersede all prior oral negotiations and written agreements between the parties.

Section 27. No Third Party Beneficiary. This franchise has been negotiated and executed for the exclusive benefit of the signatory parties and is enforceable only by the same. Nothing herein shall be construed as creating any rights in or for any third parties.

Section 28. Governing Law. Venue. This franchise shall be governed in all respects by the laws of the state of Washington. The exclusive venue for any dispute related to this franchise shall be the Pierce County Superior Court. The substantially prevailing party in any such dispute shall be entitled to an award of its reasonable attorney fees.

Section 29. Taxes and Fees. Nothing contained in this franchise shall exempt MTVE from MTVE's obligation to pay any applicable utility tax, business tax, or ad valorem property tax, now or hereafter levied against real or personal property within the City, or against any local improvement assessment imposed on MTVE. Any fees, charges and/or fines provided for in the Edgewood Municipal Code or any other City ordinance, and any compensation charged and paid for the Public Rights-of-Way, whether pecuniary or in-kind, are separate from, and additional to, any and all federal, state, local, and City taxes as may be levied, imposed or due from MTVE .

**Presented to Council for first reading on October 4th, 2016
Presented to Council for second reading on November 15th, 2016**

ADOPTED BY THE CITY COUNCIL ON JANUARY 10TH, 2017

Daryl Eiding, Mayor

ATTEST/AUTHENTICATED:

Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

Carol Morris, City Attorney

Published: January 12, 2017

Effective: January 17, 2017

ACCEPTANCE OF FRANCHISE

The undersigned authorized representative of Mt.View-Edgewood Water Company hereby declares on behalf of Mt.View-Edgewood Water Company, the acceptance of the nonexclusive franchise to Mt. View-Edgewood Water Company approved by the Edgewood City Council on the 10th day of January 2017 by the adoption of Edgewood City Ordinance No. 16-0485.

Dated: _____

MT. VIEW-EDGEWOOD WATER COMPANY

By: _____

Its: _____

LEGAL NOTICE

NOTICE OF ORDINANCE ADOPTED BY EDGEWOOD CITY COUNCIL

The following is a summary of an Ordinance adopted by the City of Edgewood City Council on the 10th day of January 2017, and shall take effect and be in full force on the 17th day of January 2017.

ORDINANCE NO. 16-0485

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, GRANTING UNTO MT. VIEW-EDGEWOOD WATER COMPANY, A NONPROFIT CORPORATION OF THE STATE OF WASHINGTON, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, PRIVILEGE, AUTHORITY AND NONEXCLUSIVE FRANCHISE, TO CONSTRUCT, MAINTAIN, OPERATE, REPLACE AND REPAIR WATER SYSTEM INFRASTRUCTURE, IN, ACROSS, OVER, ALONG, UNDER, THROUGH AND BELOW THE PUBLIC RIGHTS-OF-WAY OF THE CITY OF EDGEWOOD, WASHINGTON; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

The full text of the Ordinance is available at the City Clerk's office, Edgewood City Hall, 2224 104th Avenue East, Edgewood, WA 98372 (253) 952-3299.

Rachel Pitzel, City Clerk