



CITY OF ELKO  
CITY MANAGER  
1751 COLLEGE AVENUE  
ELKO, NEVADA 89801  
(775) 777-7110/FAX (775) 777-7119

The Elko City Council will meet in regular session on Tuesday, June 26, 2018

Elko City Hall, 1751 College Avenue, Elko, NV 89801, at 4:00 P.M., P.D.T.

Attached with this notice is the agenda for said meeting of the Council.

In accordance with NRS 241.020, the public notice and agenda was posted on the City of Elko Website, <http://www.elkocitynv.gov/>, the State of Nevada's Public Notice Website, <https://notice.nv.gov>, and in the following locations:

**ELKO COUNTY COURTHOUSE**

571 Idaho Street, Elko, NV 89801

Date/Time Posted: June 21, 2018 at 8:50 a.m.

**ELKO COUNTY LIBRARY**

720 Court Street, Elko, NV 89801

Date/Time Posted: June 21, 2018 at 9:00 a.m.

**ELKO POLICE DEPARTMENT**

1448 Silver, Elko NV 89801

Date/Time Posted: June 21, 2018 at 8:40 a.m.

**ELKO CITY HALL**

1751 College Avenue, Elko, NV 89801

Date: Time Posted: June 21, 2018 at 8:30 a.m.

Posted by: <u>Kim Wilkinson</u>	<u>Administrative Assistant</u>	<u><i>Kim Wilkinson</i></u>
Name	Title	Signature

The public may contact Kim Wilkinson by phone at (775)777-7110 or email at [kwilkinson@elkocitynv.gov](mailto:kwilkinson@elkocitynv.gov) to request supporting material for the meeting described herein. The agenda and supporting material is available at Elko City Hall, 1751 College Avenue, Elko, NV or on the City website at <http://www.elkocitynv.gov/>

*Dated this 21<sup>st</sup> day of June, 2018*

**NOTICE TO PERSONS WITH DISABILITIES**

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify the Elko City Council, 1751 College Avenue, Elko, Nevada 89801, or by calling (775) 777-7110.

*Scott A. Wilkinson*  
Scott Wilkinson, Assistant City Manager

**CITY OF ELKO**  
**CITY COUNCIL AGENDA**  
**REGULAR MEETING**  
**4:00 P.M., P.D.T., TUESDAY, JUNE 26, 2018**  
**ELKO CITY HALL, 1751 COLLEGE AVENUE, ELKO, NEVADA**

**CALL TO ORDER**

The Agenda for this meeting of the City of Elko City Council has been properly posted for this date and time in accordance with NRS requirements.

**ROLL CALL**

**PLEDGE OF ALLEGIANCE**

**COMMENTS BY THE GENERAL PUBLIC**

Pursuant to N.R.S. 241, this time is devoted to comments by the public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item on the agenda until the matter itself has been specifically included on a successive agenda and identified as an item for possible action. **ACTION WILL NOT BE TAKEN**

**APPROVAL OF MINUTES:**      June 12, 2018      **Regular Session**

**I.      PRESENTATIONS**

- A.      Administer Oath of Office to City Clerk Kelly Wooldridge, and matters related thereto. **INFORMATION ONLY-NON ACTION ITEM**
- B.      Presentation of a Retirement Plaque for City Clerk, Shanell Owen for her twenty-eight years of service to the City of Elko, and matters related thereto. **INFORMATION ONLY – NON ACTION ITEM**
- C.      Presentation by the Division of Child and Family Services (DCFS), Court Appointed Special Advocates (CASA), Attorneys, and Foster Parents, and matters related thereto. **INFORMATION ONLY – NON ACTION ITEM**
- D.      Brief Presentation of the Nevada Rural Housing Authority Program, by Deputy Director Bill Brewer, and matters related thereto. **INFORMATION ONLY-NON ACTION ITEM**

**II.     CONSENT AGENDA**

- A.      Review, consideration, and possible action to reappoint Planning Commission members John Anderson and Stefan Beck to an additional Four-Year Term to expire July 2022, and matters related thereto. **FOR POSSIBLE ACTION**

John Anderson and Stefan Beck's terms expire July 2018. Pursuant to City Code Section 3-4-1, Planning Commission members shall be eligible for reappointment, and the terms shall be four years or until his/her successor takes office. Mr. Anderson and Mr. Beck have indicated an interest to continue serving on the Planning Commission. CL

### III. PERSONNEL

#### A. Employee Introductions:

1.) Kelly Wooldridge, City Clerk, Clerk's Department

#### B. Review, consideration, and possible approval of an Agreement between the City of Elko, and the Elko Fire Fighters Association Local No. 2423 of the International Association of Fire Fighters, July 1, 2018 – June 30, 2020, and matters related thereto. **FOR POSSIBLE ACTION**

The City of Elko has concluded negotiations for FY 2018/2019 and FY 2019/2020. A redlined copy of the proposed Collective Bargaining Agreement has been included in the agenda packet for review. AB

**Note: This portion of the meeting may be closed pursuant to NRS 288.**

### IV. APPROPRIATIONS

#### A. Review and possible approval of Warrants, and matters related thereto. **FOR POSSIBLE ACTION**

#### B. Review and possible approval of Print n Copy Warrants, and matters related thereto. **FOR POSSIBLE ACTION**

#### C. Review and possible approval of Great Basin Engineering Warrants, and matters related thereto. **FOR POSSIBLE ACTION**

#### D. Review, consideration, and possible approval to solicit bids for the Well 36 Public Improvements Project, and matters related thereto. **FOR POSSIBLE ACTION**

This project was approved in this year's capital budget. The work consists of installing curb, gutter, and sidewalk on two frontages (Ruby Vista Drive and Statice Street). RL

#### E. Consideration to accept FAA AIP Grant Offer #49 Airport Improvement Program Project No. 3-32-0005-049-2018 includes Reconstruction of Security Perimeter Fencing and Electrical Vault Upgrade, and matters related thereto. **FOR POSSIBLE ACTION**

On May 22, 2018, Council awarded the bid for AIP-49 Security fence to Custom Fence Company in the amount of \$1,568,219.00 and Electrical Vault Upgrade to

NNE Construction, Inc., in the amount of \$410,723.00. The Grant Offer associated with this project was received on June 12, 2018 from the FAA. JF

- F. Review, consideration, and possible authorization for Staff to solicit bids for a Culvert Replacement at 6<sup>th</sup> Street and Douglas Street, and matters related thereto. **FOR POSSIBLE ACTION**

This culvert continues to fail due to deterioration and needs to be replaced. The plan is to replace approximately 110 feet of culvert with this project. DS

- G. Review, consideration, and possible approval of the Elko Police Department joining the Nevada State Purchasing/AXON Enterprises, Inc. for a Five (5) Year Contract for body worn cameras, digital storage audio / video footage known, as Evidence.com, and matters related thereto. **FOR POSSIBLE ACTION**

The Nevada State Legislature passed Senate Bill 176 in 2017, and the Governor signed it into law, requiring certain Peace Officers to wear a “portable event recording device while on duty.”

The FY2018/19 budget allotted funding from Capital Equipment and line-item budgets for the Elko Police Department to acquire the body worn cameras, storage, and software. This contract is for five (5) years, with the total cost breakdown as follows:

Year 1 - \$55,111.60  
Year 2 - \$42,232.40  
Year 3 - \$42,232.40  
Year 4 - \$42,232.40  
Year 5 - \$42,232.40

TOTAL - \$224,041.20 BR

## V. SUBDIVISIONS

- A. Review, consideration, and possible acceptance of public improvements for the Autumn Colors Phase 4 Subdivision, and matters related thereto. **FOR POSSIBLE ACTION**

Council approved the Final Map for Autumn Colors Phase 4 on May 9, 2017. The developer has substantially completed the public improvements in accordance with the approved plans; a final inspection of the subdivision was completed on December 8, 2017. Due to temperature constraints, some of the punchlist items could not be addressed until recently. The City is in receipt of the required certification of the project by the Engineer of Record. The developer shall post a maintenance bond for \$52,679.00 with the City for the twelve-month maintenance period upon acceptance of the public improvements. JD



- B. Review, consideration, and possible acceptance of public improvements for the Autumn Hills Subdivision, and matters related thereto. **FOR POSSIBLE ACTION**

Council approved the Final Map for Autumn Hills on December 8, 2015. The developer has substantially completed the public improvements in accordance with the approved plans; a final inspection of the subdivision was completed on September 15, 2017. Due to temperature constraints, some of the punchlist items could not be addressed until recently. The City is in receipt of the required certification of the project by the Engineer of Record. The developer shall post a maintenance bond for \$20,052.00 with the City for the twelve-month maintenance period upon acceptance of the public improvements. JD

## **VI. RESOLUTIONS AND ORDINANCES**

- A. Consideration and possible adoption of a Resolution No. 16-18 amending the Airport Tie Down Fees to include a monthly Tie Down Fee for Elko County Residents, and matters related thereto. **FOR POSSIBLE ACTION**

At the Airport Advisory Board meeting on March 23, 2018, a motion was made and passed to charge \$70.00 for a monthly Tie Down Fee. Staff feels this is a reasonable rate for a monthly Tie Down Fee. Currently, the Airport does not have a monthly rate, only a per day rate for Tie Downs. JF

- B. Review, consideration, and possible approval of Resolution No. 17-18, a resolution waiving the fee for Farmer Market Vendors at Farmer Markets, and matters related thereto. **FOR POSSIBLE ACTION**

- C. Review, consideration, and possible approval of Resolution No. 18-18, a resolution authorizing budget transfers for Fiscal Year 2017/2018 for various funds of the City pursuant to NRS 354.598005, and matters related thereto. **FOR POSSIBLE ACTION**

This is the annual year-end housekeeping item to transfer funds between functions, and funds as required to fund all budgetary changes that occurred during the fiscal year. JJ

- D. Review, consideration, and possible approval of Resolution No. 19-18, a resolution designating components of the fund balance of all required governmental funds pursuant to GASB Statement No. 54, and matters related thereto. **FOR POSSIBLE ACTION**

The Governmental Accounting Standards Board (GASB) issued Statement No. 54 Fund Balance Reporting and Governmental Fund Type Definitions, with the intent of improving financial reporting by providing fund balance categories that will be more easily understood. Resolution No. 19-18 further designates the components of all qualifying governmental fund balances. JJ

- E. Review, consideration, and possible approval of Resolution No. 20-18, a resolution authorizing augmentation of the 2017/2018 Fiscal Year Budget of the Youth Recreation Fund, increasing appropriations to \$238,906 to account for \$25,000 in unanticipated revenues, pursuant to NRS 354.598005, and matters related thereto. **FOR POSSIBLE ACTION**

The Youth Fund received \$25,000 in additional revenues from transfers in from the Recreation Fund. This revenue was not budgeted and was unanticipated during the budgeting process. In order to pay for the expenses associated with this revenue it is necessary to augment the budget. JJ

- F. Review, consideration, and possible approval of Resolution No. 21-18, a Resolution providing for the transfer of the City's 2018 Private Activity Bond Cap to the Nevada Rural Housing Authority, and other matters related thereto. **FOR POSSIBLE ACTION**

The City of Elko has previously transferred its portion of the tax-exempt private activity bond cap to the Nevada Rural Housing Authority. This year the Nevada Rural Housing Authority is requesting the City's allocation of the bonds for the purpose of providing a means of financing the costs of single family residential housing that will provide decent, safe and sanitary dwellings at affordable prices for persons of low and moderate income. A request letter from Nevada Rural Housing Authority and Resolution No. 21-18 have been enclosed in the agenda packet for review. CC

## **VII. 5:30 P.M. PUBLIC HEARINGS**

- A. Second reading, public hearing and possible adoption of Ordinance No. 831, an ordinance amending Title 4, Chapter 1, of the Elko City Code entitled "Business Regulations", and matters related thereto. **FOR POSSIBLE ACTION**
- B. Second reading, public hearing and possible adoption of Ordinance No. 832, an ordinance amending Title 4, Chapter 6, of the Elko City Code entitled "Transient Lodging Tax", amending Section 12 relating to the penalty for delinquent transient lodging tax, and matters related thereto. **FOR POSSIBLE ACTION**

City Staff is recommending changes in accordance with NRS 268.096. SO

## **VIII. REPORTS**

- A. Mayor and City Council  
B. City Manager  
C. Assistant City Manager  
D. Utilities Director-**WRF Emergency Repairs**  
E. Public Works  
F. Airport Manager  
G. City Attorney  
H. Fire Chief

- I. Police Chief
- J. City Clerk
- K. City Planner
- L. Development Manager
- M. Administrative Services Director
- N. Parks and Recreation Director
- O. Civil Engineer
- P. Building Official

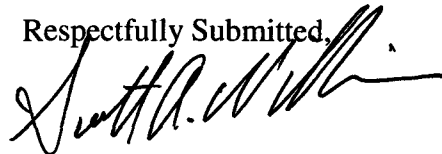
## COMMENTS BY THE GENERAL PUBLIC

Pursuant to N.R.S. 241, this time is devoted to comments by the public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item on the agenda until the matter itself has been specifically included on a successive agenda and identified as an item for possible action. **ACTION WILL NOT BE TAKEN**

**NOTE:** The Mayor, Mayor Pro Tempore, or other Presiding Officer of the City Council reserves the right to change the order of the agenda, and if the agenda has not been completed, to recess the meeting and continue on another specified date and time. Additionally, the City Council reserves the right to combine two or more agenda items, and/or remove an item from the agenda, or delay discussion relating to an item on the agenda at any time.

## ADJOURNMENT

Respectfully Submitted,



Scott Wilkinson  
Assistant City Manager

City of Elko           )  
County of Elko        )  
State of Nevada       )

SS     June 12, 2018

The City Council of the City of Elko, State of Nevada met for a regular meeting beginning at 4:03 p.m., Tuesday, June 12, 2018.

This meeting was called to order by Mayor Chris Johnson.

## **CALL TO ORDER**

## **ROLL CALL**

**Mayor Present:**       Chris J. Johnson

**Council Present:**    Councilman John Rice  
                          Councilwoman Simons  
                          Councilman Robert Schmidlein  
                          Councilman Reece Keener

**City Staff Present:**  Curtis Calder, City Manager  
                          Scott Wilkinson, Assistant City Manager  
                          Ryan Limberg, Utilities Director  
                          Shanell Owen, City Clerk  
                          Dennis Strickland, Public Works Director  
                          Jonnye Jund, Administrative Services Director  
                          Aubree Barnum, Human Resources Manager  
                          Cathy Laughlin, City Planner  
                          Ben Reed Jr., Police Chief  
                          Ty Trouten, Police Captain  
                          Jeremy Draper, Development Manager  
                          Matt Griego, Fire Chief  
                          John Holmes, Fire Marshal  
                          James Wiley, Parks and Recreation Director  
                          Jim Foster, Airport Manager  
                          Bob Thibault, Civil Engineer  
                          Dave Stanton, City Attorney  
                          Diann Byington, Recording Secretary

## **PLEDGE OF ALLEGIANCE**

## **COMMENTS BY THE GENERAL PUBLIC**

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Scott MacRitchie, 312 Four Mile Trail, Elko, asked that since there are now proposed changes to the Development Code, that a public forum be held for developers and the public to work out potential issues.

Curtis Calder, City Manager, said they were planning some sort of public workshop and everyone will be notified.

**APPROVAL OF MINUTES:      May 22, 2018      Regular Session**

*The minutes were approved by general consent.*

**I.      PRESENTATIONS**

- A.      Reading of a proclamation by the Mayor in recognition of the month of June 2018 as Men's Health Month, and matters related thereto. **INFORMATION ONLY – NON-ACTION ITEM**

Mayor Johnson read the proclamation.

- B.      Brief presentation and possible acceptance of a renewal proposal from Nevada Public Agency Insurance Pool (POOL), and approval of invoice for payment from FY 2018/2019 Funds in the amount of \$423,448.56, and matters related thereto. **FOR POSSIBLE ACTION**

As a member of the Insurance Pool, the City of Elko owns a share of the equity that forms the basis for its financial strength.

Your agenda packet includes an overview of coverage offered for the following fiscal year. The City of Elko's total program costs for FY 2018/2019 are \$423,448.56, which now includes environmental liability coverage and represents a 1.5% increase over the current year. CC

Curtis Calder, City Manager, turned the time over to LP Insurance.

John Smales, LP Insurance, 555 5<sup>th</sup> Street, introduced Mike Rebaleati, COO of the POOL, who would like to explain how it all works.

Mike Rebaleati, 201 S. Roop Street, Carson City, NV, explained they were able to keep the rates basically flat for the City of Elko. It has been a challenging year, considering the impact the insurance market has had with the three big hurricanes that effected the Southeast. He went over the coverage. He offered to answer any questions.

Councilman Keener asked if their group has any plans to offer airport liability insurance.

Mr. Rebaleati answered yes. They do offer that as a separate policy.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Keener, to approve the renewal proposal from Nevada Public Agency Insurance Pool, aka POOL, and approve invoice for payment from Fiscal Year 2018/2018, in the amount of \$423,448.56.**

*The motion passed unanimously. (5-0)*

#### **IV. APPROPRIATIONS**

- F. Review and possible approval of Airport Liability Insurance Policy for FY 2018/2019, and matters related thereto. **FOR POSSIBLE ACTION**

LP Insurance Services, Inc. has competitively sought airport liability insurance for this coming fiscal year. Based on quotes received, the lowest quote was AIG Aerospace, who is also our current provider, with a premium of \$8,853/year for the same coverage we currently receive. Last year AIG Aerospace provided the same coverage amount for \$7,338.00/ year. JF

Jeff Foster, Airport Manager, explained this is their yearly insurance. There was an increase this year. Dain Uriarte was present and he was the one who obtained the quotes.

**\*\* A motion was made by Councilman Keener, seconded by Councilwoman Simons, to approve the quote provided by AIG Aerospace Insurance, in the amount of \$8,853 for the Airport liability insurance coverage at a level of \$20,000,000 for Fiscal Year 2018/2018.**

*The motion passed unanimously. (5-0)*

#### **III. PERSONNEL**

- A. Employee Introductions:

- 1.) Makayla Galindo, Police Records Technician I, Police Department  
*Present and introduced.*
- 2.) Mandiee Ferguson, Recreation Coordinator, Recreation Department  
*Present and introduced.*

- B. Appointment of Ms. Kelly Wooldridge as the City Clerk for the City of Elko, effective June 18, 2018, and matters related thereto. **FOR POSSIBLE ACTION**

During the May 22, 2018 Council Meeting, Council selected Ms. Kelly Wooldridge for the position of City Clerk and authorized a formal job offer to be made. Staff is pleased to report that the job offer was accepted. AB

Aubree Barnum, Human Resources Manager, explained Ms. Wooldridge was not able to be here today but she did confirm her availability.

**\*\* A motion was made by Councilman Rice, seconded by Councilwoman Simons, to appoint Ms. Kelly Wooldridge as the City of Elko City Clerk effective June 18, 2018.**

*The motion passed unanimously. (5-0)*

- C. Review, consideration, and possible approval of the City Clerk Department to overlap the City Clerk position for a maximum of three (3) weeks in order to train the new City Clerk, and matters related thereto. **FOR POSSIBLE ACTION**

Shanell Owen, the current City Clerk, has announced her retirement from the City of Elko effective July 6, 2018. Staff is seeking Council permission to start Ms. Owen's replacement in advance of her retirement date (maximum overlap of 3 weeks). Ms. Kelly Wooldridge has confirmed her availability to start her new position as City Clerk with the City of Elko, effective June 18, 2018. Staff is requesting approval to allow Ms. Wooldridge to be hired on June 18, 2018 to allow for training by Ms. Owen. AB

**\*\* A motion was made by Councilman Rice, seconded by Councilman Keener, to authorize to hire Ms. Kelly Wooldridge, new City Clerk, prior to the retirement date of Shanell Owen, the current City Clerk, for the maximum overlap of three weeks.**

*The motion passed unanimously. (5-0)*

#### **IV. APPROPRIATIONS (Cont.)**

- D. Review, consideration, and possible award of the Public Works Department Preventive Maintenance Project 2018, to apply Micro Slurry Seal to select City streets, and matters related thereto. **FOR POSSIBLE ACTION**

At the April 24, 2018 meeting, Council authorized Staff to solicit bids for the Preventive Maintenance Project 2018. Bids were received until 3:00 p.m. on June 7, 2018. DS

Dennis Strickland, Public Works Director, explained the bidding was very close. We have the funding to do the additive alternate. He recommended awarding the base bid and the additive alternate in the amount of \$532,007.

**\*\* A motion was made by Councilman Schmittlein, seconded by Councilman Rice, to award the bid to SNC, which is Sierra Nevada Construction, for the Public Works Department Street Maintenance Project 2018, in the amount of \$532,007.**

*The motion passed unanimously. (5-0)*

- E. Review, consideration, and possible issuance of final acceptance for the WRF Reuse Water Fill Station, and matters related thereto. **FOR POSSIBLE ACTION**

The project is complete. There were two change orders required. The first change order was \$14,224.92. The subgrade material was unsuitable to construct on and

had to be removed and replaced with suitable structural material and geotextile fabric. The second change order was \$1,339.84. This additional cost was for installing a drain on the fill stand, which was inadvertently missed when the project was bid. RL

**\*\* A motion was made by Councilman Schmidlein, seconded by Councilman Rice, to issue final acceptance for the WRF Reuse Water Fill Station.**

*The motion passed unanimously. (5-0)*

- G. Amendment No. Fifteen (15) to Contract Dated January 14, 2014 Between Jviation, Inc., and the City of Elko, Nevada, and matters related thereto. **FOR POSSIBLE ACTION**

This item is to amend the current contract between The City of Elko and Jviation, Inc., Jviation contract amendment No. 15 will cover fees associated with Airport Improvement project (AIP) 49, including engineering and design services. JF

Jim Foster, Airport Manager, explained this covers the construction of the new electrical vault. The fence project amendment was already approved.

**\*\* A motion was made by Councilman Keener, seconded by Councilman Rice, to accept Amendment No. 15 to the Contract between Jviation, Inc. and the City of Elko.**

*The motion passed unanimously. (5-0)*

- H. Review, consideration, and possible award of the bid for the Outfield Fencing associated with Elko Sports Complex Project, and matters related thereto. **FOR POSSIBLE ACTION**

Bids were received until 3:00 p.m. on June 8, 2018. A complete bid tabulation will be provided for consideration. JW

James Wiley, Parks and Recreation Director, explained this is for a portion of the fencing on the playing fields. There was a pre-bid meeting that had some good interest, however, at bid opening there was only one bid (Exhibit "A"). It is below the engineer's estimate. He recommended approval.

**\*\* A motion was made by Councilwoman Simons, seconded by Councilman Keener, to award the bid for the Outfield Fencing, a component of the Elko Sports Complex Project, to Lamoille Fencing, in the amount of \$96,624.**

*The motion passed unanimously. (5-0)*

- I. Review, consideration, and possible award of the bid or, in the alternative, direction to Staff to rebid the Comfort Station construction contract associated with Elko Sports Complex Project, and matters related thereto. **FOR POSSIBLE ACTION**



Bids were received until 3:00 p.m. on June 4, 2018. Two bids were received. A complete bid tabulation is provided in your packet. Both bids indicate that the General Contractor will be completing less than 50% of the work. Staff previously removed the standard clarifying language shown in Exhibit 4 – DESIGNATION OF SUBCONTRACTORS, stipulating that the prime contractor must perform at least 50% of the work, which is an Orange Book requirement. Although there is a reference to the Orange Book in the bid documents, the intention was to remove the “50% of the work” requirement for the prime contractor and nowhere in the bid documents is this requirement specifically stated. As an additional matter, with respect to the qualification requirement in the bid documents, despite not indicating experience with building construction projects specifically, Staff has determined that the apparent low bidder, Granite Construction, meets the qualification requirements. Staff believes that the project information submitted with the bid demonstrates significant experience in management of public works projects and elements of those projects, such as utility installation and structural work that are sufficiently similar to the Comfort Station project to satisfy the qualification requirement. SAW

Scott Wilkinson, Assistant City Manager, explained the issue of the orange book. The orange book applies to A license type work and not B license or vertical work. We would have this issue with any type of structure. He recommended award to Granite Construction with specific findings that Granite Construction would meet the experience qualifications to complete the work and that the contract does not specifically state that the prime contractor is required to perform 50% of the work.

Councilman Schmidlein agreed that the orange book is just a general A. All the general B is built under building code, fire code, electrical codes and everything else. He wasn't sure if the 50% requirement would have made a difference since there was a big difference in bid amounts.

**\*\* A motion was made by Councilman Keener, seconded by Councilman Schmidlein, to award the bid for the Comfort Station for the Elko Sports Complex to Granite Construction Company, in the amount of \$888,888, with specific findings that; 1) Granite Construction meets the experience qualifications to complete the work, and 2) the contract does not specifically state the prime contractor is required to perform 50% of the work.**

***The motion passed unanimously. (5-0)***

- J. Review, consideration, and possible approval of a Line Extension Agreement between Sierra Pacific Power Company, d/b/a NV Energy and the City of Elko, for the provision of electric facilities for the Elko Sports Complex, for a total contract amount of \$38,981, and matters related thereto. **FOR POSSIBLE ACTION**

A copy of the proposed Line Extension Agreement has been enclosed in the agenda packet for review. A credit of \$2,000 has been applied, leaving a balance of \$36,981, due and payable upon execution of the Agreement. BT

Bob Thibault, Civil Engineer, explained this will provide electrical service into the Sports Complex.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Schmidtlein, to approve a Line Extension Agreement between Sierra Pacific Power Company, dba NV Energy and the City of Elko, for the provision of electric facilities for the Elko Sports Complex, for a total contract amount of \$38,981.**

*The motion passed unanimously. (5-0)*

## **V. SUBDIVISIONS**

- A. Review, consideration, and possible action to conditionally approve Final Plat No. 2-18, filed by Autumn Colors, LLC., for the development of a subdivision entitled Autumn Colors Estates, Phase 5 involving the proposed division of approximately 5.85 acres of property into 21 lots for residential development within the R (Single Family and Multiple Family Residential) Zoning District and 20 lots for townhome development within the CT (Commercial Transitional) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

Subject property is located generally northeast of the intersection of Mountain City Highway and Cattle Drive (APN 001-01F-316). Preliminary Plat was recommended to City Council to conditionally approve by Planning Commission June 5, 2012 and conditionally approved by City Council June 26, 2012. Phase 5 is the final phase of Autumn Colors Estates. The Planning Commission considered this item on February 6, 2018 and took action to forward a recommendation to City Council to conditionally approve Final Plat 2-18. CL

Cathy Laughlin, City Planner, explained the background information and code review on the project. This is the final phase. Staff recommended approval.

Councilman Schmidtlein asked about the exemption for curb/gutter. What is NDOT's plan with curb/gutter that was poured some years ago? Will they tear it out? What are their plans going forward?

Scott Wilkinson, Assistant City Manager, answered there have been some management changes at NDOT. This entire subdivision and frontage was approved by NDOT but they have revisited things. It is still not determined if the curb/gutter will be removed or not. At some point they were requiring a deceleration and acceleration lane but until that is resolved there may be some issues on Cattle Drive. We are struggling through these issues. The curb/gutter may stay in place until NDOT figures out what they are doing.

Councilman Keener thought they should hold onto this letter because it states NDOT would put the curb/gutter in if the need for infrastructure arises.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Keener, to conditionally approve Final Plat No. 2-18 for Autumn Colors Estates, Phase 5 subdivision, subject to the conditions as recommended by the Planning Commission.**

***The motion passed unanimously. (5-0)***

- B. Title: Review, consideration, and possible action to conditionally approve Final Plat No. 8-18, filed by Parrado Partners LP., for the development of a subdivision entitled Great Basin Estates, Phase 2 involving the proposed division of approximately 13.907 acres of property into 19 lots for residential development and 1 remaining lot within the R (Single Family and Multiple Family Residential) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

Subject property is located generally northeast of Flagstone Drive between Opal Drive and Clarkson Drive (APN 001-633-030). Preliminary Plat was recommended to Council to conditionally approve by Planning Commission May 3, 2016 and conditionally approved by Council May 24, 2016. The Planning Commission considered this item on February 6, 2018, and took action to forward a recommendation to Council to conditionally approve Final Plat 2-18. CL

Ms. Laughlin recommended tabling the item because the performance agreement was not on the agenda for this subdivision.

**\*\* A motion was made by Councilwoman Simons, seconded by Councilman Schmittlein, to table this item to the next agenda.**

***The motion passed unanimously. (5-0)***

## **VI. NEW BUSINESS**

- A. Review, consideration, and possible approval of a First Amendment to the Lease Agreement with C-A-L Stores Companies, Inc., and matters related thereto. **FOR POSSIBLE**

The Lease Agreement was approved by Council on April 24, 2018, in accordance with the provisions of NRS 268.064, including adoption of Resolution No. 11-18, public noticing, and public hearing requirements.

Upon approval by Council, all parties signed the agreement. Thereafter, it was noticed by the City Finance Department that, through oversight, the prior lease agreements had listed a lease amount per year. The recently approved lease agreement had listed the correct lease amount dollar value (for the year) but had changed the lease terms from each year to each month, thereby increasing the rent over 12 times its previous amount. This was not the intent of the parties.

Staff seeks to resolve this inaccuracy by clarifying that the stated rental amount is annual rather than monthly. The corrected rental amount is shown on the

proposed First Amendment to Lease Agreement included in the agenda packet.  
RL

**\*\* A motion was made by Councilman Rice, seconded by Councilman Keener, to approve the First Amendment to the Lease Agreement with C-A-L Stores Companies, Inc.**

*The motion passed unanimously. (5-0)*

- B. Review, consideration, and possible approval of Revocable Permit 1-18, filed by McGinley & Associates on behalf of Elko Acquisitions LLC, to occupy a portion of the intersection of Ellis Way and Golf Drive right-of-way, to accommodate installation of one new monitoring well, and matters related thereto. **FOR POSSIBLE ACTION**

As part of an ongoing monitoring process being completed by McGinley and Associates, they would like to install, sample and maintain one new groundwater monitoring wells, which is proposed to be located in the City of Elko Right-of-Way. City Code requires they have a Revocable Permit to occupy the Right-of-Way. CL

Cathy Laughlin, City Planner, explained this is a continuation of the monitoring of the Red Lion Chevron Gas Station. Staff has reviewed this and have no issues. She recommended approval.

**\*\* A motion was made by Councilman Keener, seconded by Councilwoman Simons, to approve Revocable Permit No. 1-18, subject to execution of a standard license agreement between the applicant and the City of Elko.**

*The motion passed unanimously. (5-0)*

- C. Review, consideration, and possible authorization for the City of Elko to enter into an "Intrastate Interlocal Contract Between Public Agencies" with the State of Nevada, Department of Safety, State Fire Marshal, and matters related thereto. **FOR POSSIBLE ACTION**

Enclosed is a copy of the "Intrastate Interlocal Contract between Public Agencies." Interlocal Agreements between public agencies should result in mutual benefits for all of the parties involved. In essence, an interlocal agreement is a collaborative contract between public bodies aiming to provide more efficient, less costly public services. JH

John Holmes, Fire Marshal, explained nothing much has changed with this agreement. We are just upgrading the interlocal agreement.

Councilman Schmidtlein said he read through some of this and he noted a date of 2017.

Mr. Holmes said this should have been done some time ago and we can change that date to the end of this month.

Dave Stanton, City Attorney, said the right way to do this is to look at the proposed document, and if Council sees things that need to be changed in the final agreement, just point those changes out in the motion.

**\*\* A motion was made by Councilwoman Simons, seconded by Councilman Rice, to allow the City of Elko to enter into an agreement with Nevada State Fire Marshal's office to provide services outlined in the agreement, pending the update of the correct date, June 30, 2018.**

*The motion passed unanimously. (5-0)*

- D. Review, discussion, and possible reappointment of three members whose terms are set to expire back to the Arts and Culture Advisory Board, and matters related thereto. **FOR POSSIBLE ACTION**

Three member of the Arts and Culture Advisory Board terms are set to expire this summer, or have expired. Each of the members has expressed an interest in being reappointed to the board for an additional term. Those board members are:

Catherine Wines	4 Year Term
Bailey Billington Benson	4 Year Term
Mica Johnson	2 Year Term

**\*\* A motion was made by Councilman Rice, seconded by Councilman Schmidtlein, to appoint Catherine Wines for a 4-year term, Bailey Billington Benson for a 4-year term and Mica Johnson for a 2-year term to the Arts and Culture Advisory Board.**

*The motion passed unanimously. (5-0)*

- E. Review, consideration, and possible authorization to enter into an Agreement to Install Improvements and Performance/Maintenance Guarantees for subdivision improvements associated with the Autumn Colors Phase 5 Subdivision, and matters related thereto. **FOR POSSIBLE ACTION**

Elko City Code 3-3-44 requires the subdivider to have executed and filed an agreement between the subdivider and the City for the required subdivision improvements, included stipulations on the timeframe for when those improvements are to be completed, and to post a performance guaranty in accordance with Elko City Code 3-3-45. The subdivider has indicated that he would provide a performance bond to satisfy 3-3-45 of Elko City Code. The agreement has been drafted based on that assumption. JD

Jeremy Draper, Development Manager, said the agreement was in the packet and Mr. Bailey was present earlier. There is a provision in the agreement because they are still waiting for NDOT's approval on some of the improvements in that right-of-way.

**\*\* A motion was made by Councilman Rice, seconded by Councilwoman Simons, to approve the Agreement to Install Improvements and Performance Maintenance Guarantees for Autumn Colors Phase 5.**

*The motion passed unanimously. (5-0)*

- F. Review, consideration, and possible approval of Revocable Permit 2-18, filed by McGinley & Associates on behalf of Al Park Petroleum, Inc., to occupy a portion of the 11<sup>th</sup> Street Right-of-Way, to accommodate installation of one new monitoring well, and matters related thereto. **FOR POSSIBLE ACTION**

As part of an ongoing monitoring process being completed by McGinley and Associates, they would like to install, sample and maintain one new groundwater monitoring well, which is proposed to be located in the City of Elko Right-of-Way. City Code requires they have a Revocable Permit to occupy the Right-of-Way. CL

Cathy Laughlin, City Planner, explained this is a continuation of the monitoring of Al Park Petroleum. The license agreement was in the packet and she recommended approval.

**\*\* A motion was made by Councilman Keener, seconded by Councilman Schmidtlein, to approve Revocable Permit No. 2-18, subject to execution of the standard license agreement between the applicant and the City of Elko.**

*The motion passed unanimously. (5-0)*

- G. Review, consideration, and possible approval of the revised School Resource Officer Cooperative Agreement between the Elko County School District, the County of Elko, and the City of Elko, and matters related thereto. **FOR POSSIBLE ACTION**

The original Cooperative Agreement was entered into by all three parties in January 2015. The Program has been very successful. The previous financial arrangement within the agreement anticipated the Elko County School District assuming a larger portion annually. At times the verbiage within the agreement was difficult to interpret. The parties have recently collaborated to simplify the financial arrangement. An effort was also made to ensure the revised agreement reflects current practices in the field. All parties have met, conferred, and agreed to the conditions set forth in the revised Cooperative Agreement. BR

Ben Reed, Jr., Police Chief, explained the program has been successful. Some minor changes were made. He went over the financial changes to the agreement.

Curtis Calder, City Manager, commented when the old agreement was entered into, there was some uncertainty with the federal grant funding. This agreement, as written, is more equitable to the City taxpayer. He supported this agreement and he recommended approval.

Councilman Rice spoke in favor of the program.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Keener, to approve the Elko Police Department to enter into a Revised Cooperative Agreement for the School Resource Officer Program, between the Elko County School District, the County of Elko and the City of Elko.**

*The motion passed unanimously. (5-0)*

## **VII. RESOLUTIONS AND ORDINANCES**

- A. First reading of Ordinance No. 831, an ordinance amending Title 4, Chapter 1, of the Elko City Code entitled "Business Regulations", and matters related thereto. FOR POSSIBLE ACTION**

At its May 8, 2018 meeting, the Elko City Council directed Staff to review and suggest changes for farmer's market vendors. SO

Shanell Owen, City Clerk, explained the proposed ordinance changes.

Councilman Keener asked under Farmer's Market, he would like to see that definition expanded to include dairy products and non-alcoholic beverages.

Councilman Rice noted this is a great step and a great opportunity for farmers and consumers.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Keener, to conduct the First Reading of Ordinance No. 831, and direct staff to set the matter for Public Hearing, Second Reading and possible adoption, and also clarify the revisions suggested by Councilman Keener regarding dairy products and non-alcoholic beverages.**

*The motion passed unanimously. (5-0)*

- B. First reading of Ordinance No. 832, an ordinance amending Title 4, Chapter 6, of the Elko City Code entitled "Transient Lodging Tax", amending Section 12 relating to the penalty for delinquent transient lodging tax, and matters related thereto. FOR POSSIBLE ACTION**

City Staff is recommending changes in accordance with NRS 268.096. SO

Ms. Owen explained the proposed ordinance changes.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Schmidtlein, to conduct the First Reading of Ordinance No. 832, and direct staff to set the matter for Public Hearing, Second Reading and possible adoption.**

*The motion passed unanimously. (5-0)*

## VIII. PETITIONS, APPEALS, AND COMMUNICATIONS

- A. Review, consideration, and possible action to approve Curb, Gutter, and Sidewalk Waiver No. 2-18, filed by Swire Coca Cola USA, which waives the requirement for curb and gutter on the north side of West Idaho Street abutting APN 001-679-013, and matters related thereto. **FOR POSSIBLE ACTION**

Per Elko City Code Section 2-13-3, public improvements are required when vacant lots are developed. The applicant has submitted an application for a permit for development of the parcel. NDOT has reviewed the need for curb and gutter at this location, and has determined that it is not needed to control drainage in this area. Staff recommends approval of the waiver for curb and gutter with sidewalk still being required. JD

Jeremy Draper, Development Manager, explained there are backup documents and a staff memo included in the agenda packet. NDOT wants open drainage in this area for now. He recommended approval.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Keener, that Council finds from the advice of the Nevada Division of Transportation that there is no need for curb and gutter on this stretch of Idaho Street and NDOT wants to keep it as open drainage, that the City agrees with their finding, and with that finding in mind, Council will approve Curb, Gutter and Sidewalk Waiver No. 2-18 for the waiver of curb and gutter along West Idaho Street, abutting APN: 001-679-013, with the requirement that the sidewalk will still be installed.**

*The motion passed unanimously. (5-0)*

- B. Ratification of the Police Chief issuing a 60-day temporary retail beer and wine license and possible issuance of a regular retail beer and wine license to Caleb Tapia, Casey Parish, Kyle Ashley, and Severyn Immenschuh, dba XP Gaming LLC, located at 1250 Lamoille Highway #730, Elko, NV 89801, and matters related thereto. **FOR POSSIBLE ACTION**

Chief Reed explained he met with one of the representatives of the partnership. It took a while to get all the applicants processed through the background checks. This is a unique business model. They have a venue for board games, etc., and would like to include service of beer and possibly wine. They are good to go and he recommended approval.

Councilwoman Simons asked if it was a 21 and over establishment.

Caleb Tapia, 1050 Connolly #48, said it is family friendly but they wanted an option for people if they wanted to sit down, play a board game and have a beer. They have an espresso bar. They will not serve until after 4pm and at that time no one under the age of 21 cannot sit at the bar.



**\*\* A motion was made by Councilman Rice, seconded by Councilman Keener, to ratify a 60-day temporary retail beer and wine license and issue a regular retail beer and wine license to Caleb Tapia, Casey Parish, Kyle Ashley and Severyn Immenschuh, dba XP Gaming LLC, located at 1250 Lamoille Highway #730, Elko, NV 89801.**

*The motion passed unanimously. (5-0)*

- C. Ratification of the Police Chief issuing a 30-day temporary Retail Liquor License and possible issuance of a regular Retail Liquor License to Acela Ceja, dba Cabo, located at 449 Railroad Street, Elko, NV 89801, and matters related thereto. **FOR POSSIBLE ACTION**

Chief Reed explained at the last meeting he asked council to take no action. The water issue was addressed the very next day. Ms. Ceja was present in the audience. Staff is satisfied that she has done everything she needed to do. She is good to go and he recommended approval.

**\*\* A motion was made by Councilman Keener, seconded by Councilman Schmidtlein, to ratify a 30-day temporary retail liquor license and approve the issuance of a regular Retail Liquor License to Acela Ceja, dba Cabo, located at 449 Railroad Street, Elko, NV 89801.**

*The motion passed unanimously. (5-0)*

- D. Review, consideration, and possible action to accept a petition for the vacation of a portion of the Jennings Way Right-of-Way consisting of an area approximately 7,036 sq. ft., filed by DDS Properties, LLC. and processed as Vacation No. 1-18, and matters related thereto. **FOR POSSIBLE ACTION**

The property was annexed into the city in 2017. The property owner is proposing to align the property boundary parallel with the centerline of the street for a proposed subdivision entitled Humboldt Hills. CL

Cathy Laughlin, City Planner, explained this property was recently annexed in and it was rezoned. We would enter into an agreement with the new property owners as part of this vacation. It will straighten up the area. She recommended accepting the petition and referring the matter to the Planning Commission for review.

Councilman Schmidtlein asked if they had a grading permit up there. (yes)

**\*\* A motion was made by Councilman Rice, seconded by Councilman Schmidtlein, to accept a petition for vacation and direct staff to commence the vacation process by referring the matter to the Planning Commission, in regards to Vacation No. 1-18.**

*The motion passed unanimously. (5-0)*

#### **IV. APPROPRIATIONS (Cont.)**

- B. Review and possible approval of Print n Copy Warrants, and matters related thereto. **FOR POSSIBLE ACTION**

**\*\* A motion was made by Councilwoman Simons, seconded by Councilman Schmidtlein, to approve the Print N' Copy warrants.**

*The motion passed. (4-0 Councilman Keener abstained.)*

- C. Review and possible approval of Great Basin Engineering Warrants, and matters related thereto. **FOR POSSIBLE ACTION**

**\*\* A motion was made by Councilwoman Simons, seconded by Councilman Rice, to approve the Great Basin Engineering warrants.**

*The motion passed. (4-0 Councilman Schmidtlein abstained.)*

- A. Review and possible approval of Warrants, and matters related thereto. **FOR POSSIBLE ACTION**

**\*\* A motion was made by Councilwoman Simons, seconded by Councilman Schmidtlein, to approve the regular warrants.**

*The motion passed unanimously. (5-0)*

## **II. CONSENT AGENDA**

- A. Review, consideration, and possible approval of the revised Sick Leave Policy, Chapter 6.3 of the City of Elko Personnel Policy Manual and matters related thereto. **FOR POSSIBLE ACTION**

The Sick Leave Policy has been revised to include additional family members in the list of eligible criteria for sick leave usage. AB

- B. Review, consideration, and possible approval of the revised position description for WRF Operator in Training, and matters related thereto. **FOR POSSIBLE ACTION**

The WRF Operator in Training position description has been revised and updated to more accurately reflect the requirements and qualifications of the position, and to comply with updated position description standards as recommended by POOL/PACT. AB

- C. Review, consideration, and possible ratification of the Elko Police Department's application for the 2018 Bullet Proof Vest Partnership Grant through the Department of Justice, Office of Justice Program. The grant, a 50/50 match grant, is valued at four-thousand, five hundred dollars (\$4,500.00), and matters related thereto. **FOR POSSIBLE ACTION**

On May 25, 2018, the Elko Police Department applied for the 2018 Bulletproof Vest Partnership Grant. The grant funds would be used to replace expired bulletproof vests and supply bulletproof vests to newly hired officers. This grant had an application deadline of May 31, 2018.

Bulletproof vests are mandatory personal protective equipment (PPE) for all police officers. The vests have an approximate life span of five (5) years. In 2018/19 the Elko Police Department intends to replace ten (10) expired vests and issue vests to newly hired officers, at a cost of approximately nine thousand dollars (\$9,000.00). The Elko Police Department has applied for and utilized this half-match grant for over fifteen (15) years. BR

**\*\* A motion was made by Councilman Rice, seconded by Councilwoman Simons, to approve the Consent Agenda.**

*The motion passed unanimously. (5-0)*

## **X. REPORTS**

### **A. Mayor and City Council**

*Councilman Keener recognized new Webelo Casen Thomas attending tonight. The Broadband Action Committee will be meeting tomorrow night at the Police Station. It is terrific to see the paving completed on Ruby Vista. He congratulated the Mayor for running an upstanding campaign.*

### **B. City Manager**

*Curtis Calder said everyone had an invite to Shanell Owen's going away retirement party on the 29<sup>th</sup> at the new Cowboy Gear Museum on Commercial Street.*

### **C. Assistant City Manager**

*Scott Wilkinson mentioned mud-bogging activities at the Sport Complex.*

### **D. Utilities Director-BLM Station Failed-Emergency Repair**

*Ryan Limberg reported on an emergency repair at the pressure reducing station behind BLM for a total of \$10,781.36. The river seems to be dropping roughly an inch every day. We are below three feet and below the long-term average flow. It looks good completing the project this year.*

### **E. Public Works**

### **G. City Attorney**

### **H. Fire Chief**

### **I. Police Chief**

*Chief Reed reported the 911 Grant Application looks like it will be recommended for funding. If this money comes through it will allow this area to purchase the equipment outright. The PD, Sheriff's Office and NDI have been working on a major case involving a juvenile victim, a registered sex offender and another adult. There are very serious charges and a press release will go out tomorrow. Body cameras are moving forward. They are organizing, in conjunction with Elko Fire, a presentation from First Net, the National Public Safety Communication System being built by the Feds, on June 28 in the community room. He also invited everyone to Flag Day Ceremony put on by the Elks Lodge, June 14<sup>th</sup> at 6pm at Lamoille Grove.*

### **J. City Clerk**

*Shanell Owen reported she is working on a significant update to the City website.*

### **K. City Planner**

L. Development Manager  
P. Building Official

## **IX. 5:30 P.M. PUBLIC HEARINGS**

- A. Review, consideration and possible approval of Preliminary Plat No. 3-18, filed by Robert E. Morley on behalf of Riverside Villas Nevada LLC., for the development of a subdivision entitled Riverside Villas a Condominium Development involving the proposed division of approximately 7.872 acres of property into 97 lots for residential development within the C (General Commercial) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

The Planning Commission considered the preliminary plat on May 1, 2018, and took action to forward a recommendation to Council to conditionally approve Preliminary Plat No. 3-18. CL

Cathy Laughlin, City Planner, explained the background and code analysis of this project. Planning Commission recommended conditional approval. The applicant was present to answer questions.

Councilman Keener asked, when this was originally permitted, there was an agreement regarding the green scaping. It doesn't appear to be irrigated right now. Is that agreement enforceable?

Ms. Laughlin answered it is a condition listed in the CUP. She will continue to enforce that.

Scott Wilkinson, Assistant City Manager, said he has had some concerns regarding the landscaping. He suggested the applicant explain.

Branson Brinton, 1319 E. Iron Boberg Circle, Draper, Utah, said last year the landscaping was really bad. We tried to figure out what the issue was. The company that originally installed the irrigation system put in too many sprinkler heads and the pressure was not sufficient to cover it all. They worked out that issue and now they are getting good coverage. It looks better than last year. Some trees have died and they are working on getting those replaced.

Jeremy Draper, Development Manager, said this will be going from a rental property to a ownership property. He requested that they provide copies of the notifications to the City as they go through this process.

Mayor Johnson called for public comment without a response.

**\*\* A motion was made by Councilman Rice, seconded by Councilman Keener, to conditionally approve Preliminary Plat No. 3-18 for the Riverside Villas, a condominium development, subject to the conditions as recommended by the Planning Commission.**

***The motion passed unanimously. (5-0)***

## **X. REPORTS (Cont.)**

### **E. Airport Manager**

*Jim Foster reported that they were awarded the FAA grant. There is omnibus bill out there for about \$1 billion of AIP funding available nationwide for airports. For the State of Nevada, they have designated eleven airports to which the funds would be available. Elko is one of those airports. They haven't come out with a final rule yet but as it is now, the AIP grants will be funded 100%. They like equipment and land acquisition projects. He should find out at the end of the month. Councilman Keener asked where things were with the Master Plan. Mr. Foster answered the FAA has the ALP. He is not sure if Aviation has submitted that yet.*

### **M. Administrative Services Director**

*Aubree Barnum reminded Council that she sent an email regarding the City Manager's performance evaluation that is due July 1. Anyone who is enrolled in the City's health program, open enrollment is ongoing now.*

### **N. Parks and Recreation Director**

*James Wiley reported on the mud bogging at the Sports Complex. They continue to have weekly progress meetings with Granite Construction. They are getting ready to start laying out sewer lines and the concrete wall will be started soon.*

### **O. Civil Engineer**

*Councilman Keener asked Bob Thibault, when NV Energy did the Police Station, it seems they came back with a higher cost than what he saw for the Sports Complex. Bob Thibault said that is their estimate so the actual costs could go either way.*

## **BREAK**

**Council went to a closed session for the following agenda item:**

## **XII. LABOR NEGOTIATIONS**

- A. Closed session to discuss labor negotiations with the Elko Fire Fighters Association, Local 2423, IUPA – AFL/CIO Local 233, and matters related thereto. INFORMATION ONLY – NO ACTION REQUIRED**

**Note: This portion of the meeting may be closed pursuant to NRS 288; therefore the Council may move to adjourn the meeting prior to consideration of this item.**

**The closed session was adjourned and the Council Meeting continued.**

## **COMMENTS BY THE GENERAL PUBLIC**

Pursuant to N.R.S. 241, this time is devoted to comments by the public, if any, and discussion of those comments. No action may be taken upon a matter raised under this

item on the agenda until the matter itself has been specifically included on a successive agenda and identified as an item for possible action. **ACTION WILL NOT BE TAKEN**

*There were no public comments.*

There being no further business, Mayor Chris Johnson adjourned the meeting.

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Mayor Chris Johnson

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Shanell Owen, City Clerk

**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible action to reappoint Planning Commission members John Anderson and Stefan Beck to an additional Four-Year Term to expire July 2022, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 26, 2018**
3. Agenda Category: **CONSENT**
4. Time Required: **15 Minutes**
5. Background Information: **John Anderson and Stefan Beck's terms expire July 2018. Pursuant to City Code Section 3-4-1, Planning Commission members shall be eligible for reappointment, and the terms shall be four years or until his/her successor takes office. Mr. Anderson and Mr. Beck have indicated an interest to continue serving on the Planning Commission. CL**
6. Budget Information:  
    Appropriation Required: **N/A**  
    Budget amount available: **N/A**  
    Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Email from Mr. Anderson, email from Mr. Beck**
9. Recommended Motion: **Reappoint John Anderson and Stefan Beck to the Planning Commission for an additional Four-Year Term to expire July 2022.**
10. Prepared By: **Cathy Laughlin, City Planner**
11. Committee/Other Agency Review:
12. Council Action:
13. Agenda Distribution: **Mr. John Anderson  
673 Juniper Street  
Elko, NV 89801  
  
Stefan Beck  
532 9<sup>th</sup> Street  
Elko, NV 89801**

## Cathy Laughlin

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**From:** stefan beck <beck\_stefan@hotmail.com>  
**Sent:** Tuesday, May 15, 2018 9:43 PM  
**To:** Cathy Laughlin  
**Subject:** Re: PC Term

Cathy,

I would like to be reappointed to my position on the Planning Commission. I will stop by this week to say hello.

Stefan

---

**From:** Cathy Laughlin <claughlin@elkocitynv.gov>  
**Sent:** Monday, May 14, 2018 4:39 PM  
**To:** Stefan Beck  
**Subject:** PC Term

Stefan,

Just a quick email to follow up on the report I provided at the last PC meeting. Your 4 year term that you filled is up this July so I will need to know if you would like to be reappointed or retire from the Planning Commission so I can take it to City Council in June.

Thanks,

*Cathy Laughlin*  
*City Planner*

(775)777-7160 ph  
(775)777-7219 fax  
[claughlin@elkocitynv.gov](mailto:claughlin@elkocitynv.gov)

City of Elko  
1751 College Avenue  
Elko, NV 89801



## Cathy Laughlin

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**From:** tejra@citlink.net  
**Sent:** Monday, May 14, 2018 6:09 PM  
**To:** Cathy Laughlin  
**Subject:** Re: Planning Commission Term

Cathy,

Thank you. I will be honored to serve one more term.

John Anderson

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**From:** Cathy Laughlin <claughlin@elkocitynv.gov>  
**To:** "John Anderson - PC member (tejra@citlink.net)" <tejra@citlink.net>  
**Sent:** Monday, May 14, 2018 9:38 AM  
**Subject:** Planning Commission Term

John,

Just a quick email to follow up on the report I provided at the last PC meeting. Your 4 year term is up this July so I will need to know if you would like to be reappointed or retire from the Planning Commission so I can take it to City Council in June.

Thanks,

Cathy Laughlin  
City Planner

(775)777-7160 ph  
(775)777-7219 fax  
[claughlin@elkocitynv.gov](mailto:claughlin@elkocitynv.gov)

City of Elko  
1751 College Avenue  
Elko, NV 89801

**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval of an Agreement between the City of Elko, and the Elko Fire Fighters Association Local No. 2423 of the International Association of Fire Fighters, July 1, 2018 – June 30, 2020, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 26, 2018**
3. Agenda Category: **PERSONNEL**
4. Time Required: **10 Minutes**
5. Background Information: **The City of Elko has concluded negotiations for FY 2018/2019 and FY 2019/2020. A redlined copy of the proposed Collective Bargaining Agreement has been included in the agenda packet for review. AB**

**Note: This portion of the meeting may be closed pursuant to NRS 288.**

6. Budget Information:  
  
    Appropriation Required: **NA**  
    Budget amount available: **NA**  
    Fund name: **NA**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Collective Bargaining Agreement Fiscal Impact Disclosure (NRS 288.153) Elko Fire Fighters Association Local No. 2423**
9. Recommended Motion: **Pleasure of the Council**
10. Prepared By: **Aubree Barnum, Human Resources Manager**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution:

Collective Bargaining Agreement Fiscal Impact Disclosure (NRS 288.153)  
Elko Fire Fighters Association Local No. 2423 of the International Association of Fire Fighters

Article 32

<u>2019</u>	<u>2020</u>	<u>Total</u>	
41,092.27	42,498.46	83,590.73	3.3% increase on gross wages per year (max exposure)
595.84	616.23	1,212.07	Medicare Increase (1.45%)
16,642.37	17,211.87	33,854.24	PERS Increase (40.50 %)
17,238.21	17,828.10	35,066.31	Total Benefits Increase
<u>58,330.48</u>	<u>60,326.56</u>	<u>118,657.04</u>	Annual cost of Salary and Benefits

We are not aware of any PERS increases at this time however, the rate could change on legislative years.

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Article 31

59,192.71	Comp Payout - 96 hour maximum (1655 hours total payout)
<u>858.29</u>	Medicare Increase (1.45%)
<u>60,051.00</u>	One time cost of Comp Buyout to 96 hours

Option to sell back 40 hours of comp time twice annually - payout is optional. Financial impact is unknown at this time.

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Article 42

<u>2019</u>	<u>2020</u>	<u>Total</u>	
<u>800.00</u>	<u>800.00</u>	<u>1,600.00</u>	Bi-Lingual Incentive Pay - Currently 2 eligible to test
		<u>\$ 180,308.04</u>	Total Estimated Financial Impact to the City of Elko through 2020

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**Collective Bargaining Agreement Summary**  
**Elko Fire Fighters Association Local No. 2423 of the International Association**  
**of Fire Fighters, FY 2018-2020**

- **Article 1 – Preamble:** Allows the Fire Chief to appoint a designee for administrative and clerical duties in the absence of both the Fire Chief and the Deputy Fire Chief.
- **Article 2 – Recognition and Application:** Provides updates to listed classifications within the bargaining unit to clarify Suppression vs. Non-suppression job classifications
- **Article 7 – Hours of Work:** Clarifies that a suppression employee may be assigned to work a forty (40) hour per week schedule due to a light duty assignment; the employee's base salary will not be affected as a result of this.
- **Article 8 – Overtime:** Allows the company officer to require a suppression employee to remain on duty as a mandatory hold over if needed, in order to meet minimum staffing requirements.
- **Article 10 – Annual Leave:** Allows employees who have reached their maximum Annual Leave accrual hours to be paid straight time pay for all accrued leave above the max, in the event their leave is denied due to staffing requirements.
- **Article 11 – Sick Leave:** Clarifies authorized use of FMLA, sick leave, and family sick leave. Addition of bereavement leave eligibilities.
- **Article 19 – Performance Evaluation and Probationary Employees:** Provides an extension of a new hire employee's probationary period for six (6) months, upon recommendation of the Fire Chief. Clarifies the frequency of performance evaluations.
- **Article 31 – Compensatory Time:** Clarifies eligible usage of compensatory time. No longer allows comp time accrued to be taken for holidays; no longer allows comp time to be payable to employees who participate in voluntary training. Provides a maximum compensatory time off accrual of ninety-six (96) hours; allows employees to cash out up to 40 hours of comp time twice a year.
- **Article 32 – Compensation:** Provides for a 3.3% cost-of-living adjustment (COLA) effective July 1, 2018. For the subsequent year, effective July 1, 2019, provides for a 3.3% COLA if CPI is above 3.3%; if CPI is below 3.3%, the COLA will be equal to the January 2019 CPI percentage increase.
- **Article 33 – Duration of Agreement:** Two (2) year collective bargaining agreement.
- **Article 34 – Layoff Procedure:** Addition of a Layoff Procedure article

- **Article 38 – Repair or Replacement of Personal Property:** Allows reimbursement of authorized items of up to \$1500 in the department's aggregate.
- **Article 42 – Incentive Pay:** Addition of Bi-Lingual Pay – provides for \$400 of annual incentive pay for those employees who pass a department approved language proficiency exam; employees are required to re-test every two (2) years to continue receiving incentive pay.

AGREEMENT  
BETWEEN  
CITY OF ELKO  
AND THE ELKO FIRE FIGHTERS ASSOCIATION  
LOCAL NO. 2423 OF THE  
INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS  
JULY 1, 201~~8~~<sup>6</sup> THROUGH JUNE 30, 20~~20~~<sup>18</sup>

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## ARTICLE I

### PREAMBLE

This agreement is entered into between the City of Elko, Nevada, hereinafter referred to as the "City" and the International Association of Firefighters, Local 2423 hereinafter referred to as the "Association". Members of the Association, employed by the City are covered by this agreement and will hereinafter be referred to as "employees".

It is the intent and purpose of this agreement to assure sound and mutually beneficial working and economic relationships between the parties hereto and to provide an orderly and peaceful means of resolving any misunderstandings or differences which may arise.

It is recognized by both the City and Association and its member employees that the City is engaged in rendering public services to the general public and that there is an obligation on each party for the continuous rendition and availability of such services.

All member employees shall perform loyal and efficient work and service; shall use their influence and best efforts to protect the properties of the City and its service to the public; and shall cooperate in promoting and advancing the welfare of the City at all times.

The full agreement between the parties, other than those portions of public employment agreements that are expressly provided for, or excluded by State Statute or the Elko City Municipal Code, is set forth herein.

All City of Elko rules and regulations that are inconsistent with this agreement shall not be applicable to employees covered hereunder.

NOTE: Where the word designee is used in this agreement a designee is defined as an individual who has been officially designated by the Fire Chief or Deputy Fire Chief to act in his/her behalf during their absence of one or more full shifts. During the absence of the Fire Chief the Deputy Fire Chief shall be the designee and in the absence of both the Fire Chief and Deputy Fire Chief, the Chief may appoint a designee for administrative and clerical duties ~~Captain on duty shall be the designee.~~

## ARTICLE 2

### RECOGNITION AND APPLICATION

- A. The City of Elko (hereinafter called the "City") recognizes the International Association of Firefighters, Local Number 2423, (hereinafter called the "Union") as the exclusive bargaining agent for the Fire Department employees listed below for the purpose of collective bargaining as set forth in NRS 288.
- B. Persons in the following classifications are included within the bargaining unit.
1. Suppression Fire Captain
    - a. Captain
    - b. Driver Operator II
    - c. Driver Operator I
    - d. Firefighter
  - ~~2. Assistant Fire Marshal~~
  - ~~3. Driver Operator II~~
  - ~~4. Fire Prevention Officer~~
  - ~~5. Driver Operator I~~
  2. Non-suppression 6. Firefighter/EMT-I
    - a. Assistant Fire Marshal
    - b. Fire Prevention Officer
- C. All other provisions of this agreement notwithstanding, ~~administrative and non-line, non-staff~~, temporary employees are excluded from the bargaining unit of the Association and this agreement shall not apply to temporary employees except as may be expressly provided hereafter. Temporary employees are defined as those employees who are hired for a position which is not intended to exist for more than 6 months in a year and which will be designated as a temporary position at the time the offer of employment is made.

### ARTICLE 3

#### STRIKES AND LOCKOUTS

- A. The Association and the employees covered by this Agreement will not promote, sponsor or engage in, or against the City, any strike, slow down, interruption of operation, stoppage of work, absences from work upon any pretext or excuse not founded in fact, or any other intentional interruption of the City, regardless of the reason for so doing. Further, the Association will use its best efforts to induce all employees covered by this Agreement to comply with this pledge.
- B. The City will not lock out any employees covered by this Agreement during the term of this agreement as a result of a labor dispute with the Association.

#### ARTICLE 4

##### RIGHTS OF MANAGEMENT

As stated in Local Government Employee-Management Relations Act at NRS 288.150, subsection 3, those subject matters which are not within the scope of mandatory bargaining and which are reserved to the City without negotiation include:

- A. The right to hire, direct, assign, or transfer an employee, but excluding the right to assign or transfer an employee as a form of discipline.
- B. The right to reduce in force or lay off any employee because of lack of work or lack of funds, subject to paragraph (t) of subsection 2, NRS 288.150.
- C. The right to determine:
  - 1. Appropriate staffing levels and work performance standards, except for safety consideration;
  - 2. The content of the workday, including without limitation workload factors except for safety considerations;
  - 3. The quality and quantity of services to be offered to the public; and
  - 4. The means and methods of offering those services.
- D. Safety of the Public.
- E. Notwithstanding the provisions of any collective bargaining agreement negotiated pursuant to this chapter, the city is entitled to take whatever actions may be necessary to carry out its responsibilities in situation of emergency such as a riot, military action, natural disaster or civil disorder. Such actions may include the suspension of any collective bargaining agreement for the duration of the emergency. Any action taken under the provisions of this subsection shall not be construed as a failure to negotiate in good faith.



## ARTICLE 5

### NON-DISCRIMINATION

- A. The City will not interfere with, or discriminate in respect to any term or condition of employment against, any employee because of membership or non-membership in the Association, or because of any legitimate activity pursuant to this Agreement by the individual employee or the Association on behalf of its members, nor will the City encourage or discourage membership in any employee bargaining organization.
- B. Weingarten Rights give the employee the right to have union representation at all investigatory meetings, which the employee reasonably believes may result in disciplinary actions. A Union representative(s) of the employees choosing may attend all investigatory meetings. The association representative(s) may meet in private with the employee prior to the start of any questioning. A Union representative(s) can speak and object to questioning during the meeting. A Union representative(s) will be given equal rights as management in that they may raise a voice, gesture, challenge management's claim of truthfulness, threaten legal action. Management cannot label this behavior as insubordinate and impose discipline as long as the representative acts in his/her representational capacity and the actions are not considered to be outrageous and indefensible.
- C. The Association recognizes its responsibilities as the exclusive negotiation agent and agrees to represent all employees in the bargaining unit without discrimination, interference, restraint or coercion.
- D. The Provision of the agreement shall be applied equally to all employees in the fire department without any discrimination consistent with federal and Nevada law as to age, sex, sexual orientation, gender identity or expression, marital status, race, color, religion, national origin, political affiliation, personal reasons or membership or non-membership in the Association. The Association shall share equally with the City the responsibility for applying provision of the agreement.

## ARTICLE 6

### ASSOCIATION DUES AND PAYROLL DEDUCTION PRIVILEGES

- A. Member employees may authorize payroll deductions for the purpose of paying Association dues. Upon the execution of the proper personnel payroll document filed with the City Clerk, and coinciding with the commencement of a payroll period, the city agrees to deduct from the wages of an employee on a monthly basis association dues, the City's approved group health insurance, the City's approved credit union, and other city approved deductions.
- B. The Association will indemnify, defend and hold the City harmless against any claims made and against any suits instituted against the City on account of any action taken or not taken by the City in good faith under the provisions of this Article. The Association agrees to refund to the City any amount paid to it in error on account of the payroll deduction provision upon presentation of proper evidence thereof.
- C. The employee's earnings must be sufficient after other legal and required deductions are made to cover the amount of the appropriated Association dues. When a member in good standing of the Association is in a non-pay status for an entire pay period, no withholding will be made to cover the pay period from future earnings. In the case of any employee who is in non-pay status during only part of the pay period, and the wages are not sufficient to cover the full withholding no deductions shall be made. In this connection, all other legal and required deductions have priority over Association dues.

## ARTICLE 7

### HOURS OF WORK

- A. Except for the Assistant Fire Marshal and Fire Prevention Officer, the hours of work for employees of the Fire Department will continue to be 24-hour shifts, and average on an annual basis 56 hours per week.
- B. Suppression employees will work two (2) consecutive twenty-four (24) hour shifts for a total of forty-eight (48) hours and have ninety-six (96) hours off.
- C. Hours of work for the Assistant Fire Marshal and Fire Prevention Officer shall be Monday through Friday, forty (40) hours per week.
- D. With the consent of employee, the Fire Chief or his designee may alter the work schedules and shifts of suppression employees to accommodate multi-day training seminars. During the multi-day seminars, employees may be assigned to work shifts which are consistent with the class times for the seminars. Training time shall only be considered as compensable hours of work if it is required by the City and mandated as compensable under the Fair Labor Standards Act and its related regulations. An Employee's compensation shall not be reduced as a result of his or her participation in training, even if the hours worked during the 24 day work period are less than the employee's regularly scheduled hours during the work period.

Employees will complete and sign an approved training request form prior to attending seminars or trainings. The form will be used to establish the amount of overtime the employee may be entitled to.

- E. Upon approval of the Fire Chief and Human Resources, and on a case-by-case basis, a suppression employee may be assigned to work a forty (40) hour per week schedule due to a light duty assignment. That employee will continue to be paid at the same bi-weekly base salary, and will accrue leave at the same rate as s/he would accrue while assigned to his/her regular 48/96 hour schedule.

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## ARTICLE 8

### OVERTIME

- A. The salary set forth in Exhibits A and B of this Agreement for suppression employees shall include straight time pay for 192 hours of work during each 24 day work period. A premium payment of one-half times the regular hourly rate shall be paid for all hours worked between 182 hours and 192 hours in a 24 day work period to the extent required by the Fair Labor Standards Act and related regulations ("FLSA").
- B. Except as otherwise set forth in this Article 8, any hours of work or training officially ordered in excess of the Employee's basic work period shall constitute overtime or call-back and shall be paid on a time-and-one-half basis. Furthermore, any overtime or call-back required to be worked shall be paid in accordance with the provisions of the Official Policies of the Public Employees' Retirement System of Nevada.
- C. Any overtime work required of an employee on a day when no work is scheduled or for which s/he is required to return to his/her place of employment, shall be considered to be at least two (2) hours in duration.
- D. Training scheduled pursuant to paragraph D of Article 7 shall not trigger eligibility for overtime or premium pay unless the time actually worked on the changed schedule creates overtime eligibility under the provisions of the FLSA.
- E. When an incoming shift is short personnel and does not meet minimum staffing requirements, and the company officer is unable to find an employee to fill-in on overtime, the company officer on duty may require a suppression employee to remain on duty as a mandatory hold over.



ARTICLE 9

HOLIDAYS AND HOLIDAY PAY

- A. The following is a list of legal holidays which will be observed:

New Year's Day  
President's Day  
Memorial Day  
Independence Day  
Labor Day  
Nevada Day  
Veteran's Day  
Thanksgiving Day  
Christmas Day  
Martin Luther King Day  
Day Following Thanksgiving

and any other day that may be declared a holiday or part of a holiday by the City Council, the Legislature of the State of Nevada or the Governor of the State of Nevada.

- B. Holidays are considered to be eight (8) hours in duration and will commence at 7:00 am on the day the holiday is observed,
- C. Any employees working a holiday will receive in addition to their regular wages, one and one half (1 - ½) times their regular rate of pay for eight (8) hours. This applies to that employee working a majority of hours that holiday. Any employees not working a majority of the holiday will receive in addition to their regular wages, eight (8) hours of pay.
- D. If pursuant to Nevada law, the holiday is observed on the Monday following or on the Friday preceding the actual day of the legal holiday, the provisions of paragraph C of this Article shall apply to those employees who work the shift which commences at or about 7:00 a.m. on the day the holiday is observed.

## ARTICLE 10

### ANNUAL LEAVE

- A. Eligibility: For the purpose of determining eligibility for annual leave allowance, the term "Continuous Service" shall be that service commencing with appointment to a position with the City and continuing until resignation or discharge.

For the purpose of determining annual leave earned, the term "Actual Service" shall mean the number of days actually worked on the job; provided however, that the absence from work due to sick leave with pay, annual leave with pay, injury or illness incurred in the City service and the absence on temporary military duty shall be deemed actual service.

- B. Qualifying Period: An employee may earn, but is not entitled to take annual leave until s/he has completed six (6) months service with the City.
- C. A regular, full time employee will be granted annual leave benefits as follows:

#### Years of Continuous Service

From 0 - 60 months: Sixteen (16) hours per month to a maximum of two hundred eighty eight (288) accumulated hours.

61 to 240 months: Twenty two and 4/tenths (22.4) hours per month to a maximum of four hundred thirty two (432) accumulated hours.

241 Months or more: Twenty five and 2/tenths (25.2) hours per month to a maximum of four hundred thirty two (432) accumulated hours.

#### Assistant Fire Marshal & Fire Prevention Officer

From 0 - 60 months: Ten hours (10) per month to a maximum of one hundred sixty (160) accumulated hours.

61 or more months: Fourteen hours (14) per month to a maximum of two hundred forty (240) accumulated hours.

Unless the Fire Chief, or designee, agrees to a shorter time, an employee shall give not less than two (2) weeks advance written notice to take annual leave of ninety six (96) hours or more; and not less than one (1) week advance written notice to take annual leave of less than ninety six (96) hours. The notice requirements of this paragraph shall not apply when a portion of a shift is taken as provided in paragraph D(2).

If a holiday falls on or during an employee's annual leave, that day will not be charged as a leave day.

Annual leave credits shall accrue throughout and be accounted for at the end of each pay period during which the employee is in full pay status during his/her regularly scheduled duty assigned hours.

Seasonal, temporary, part-time or intermittent employees are ineligible for annual leave benefits.

An employee shall be paid his/her regular hourly rate for each hour of annual leave time taken.

If an employee reaches his/her maximum Annual Leave Accrual hours, and is denied leave due to minimum staffing requirements, the employee shall be paid straight time pay for all accrued leave above the stated maximum during that current pay period.

D. Annual Leave Charge Back (suppression employees):

1. Except as provided in Article 13, "Injury Leave," when an employee takes annual leave it shall be charged on an hour per hour basis.
2. Annual leave of less than a full day may be approved by a shift captain, provided there is adequate staffing.

E. Approval of Annual Leave: Once the employee has fulfilled the obligation of Article 10 Paragraph C, the Fire Chief or designee will have three (3) "business days" to approve or disapprove any written request that is less than sixty (60) calendar days in advance; and ten (10) business days to approve or disapprove any written request that is more than sixty-one (61) calendar days in advance. Once the annual leave requested dates have been approved by the Fire Chief or designee, the employee will be guaranteed the dates requested without exception, unless mutually agreed upon by both parties to reschedule requested annual leave. Where more employees than can be spared request a particular period, preference will be in order of seniority in grade, provided the remaining employees are qualified to do the work. Except with the written approval of the Fire Chief, or designee, and the City Manager, not more than two hundred sixteen (216) consecutive hours may be taken off in any period of annual leave.

F. Resignation and/or Retirement:

1. A person about to resign or about to retire and under the provisions of the State Retirement Act or who is to be laid off without fault in his part, and who has earned annual leave, may be granted annual leave for the time so earned not to exceed four hundred thirty two hours (432). Such annual leave must be taken prior to the effective date of any such resignation or layoff; or, in lieu of such annual leave an employee may elect to receive a lump sum payment for annual leave time accrued to his credit.
2. An employee nearing retirement will be required to provide the City at least a minimum of six months' notice in order to allow the City sufficient lead time in hiring a successor. Exceptions may be granted upon written request by the retiring employee through the Fire Chief, or designee, to the City Manager.

G. Death of Employee: Upon the death of a person presently on the employment records of this City, a lump sum payment for annual leave time accrued to their credit will be made to the employee's beneficiaries or estate, upon receipt of proof of death and beneficiary(ies). The City Manager shall instruct the City Clerk on the disposition of such cases.

H. For purposes of this Article 10, the following definitions shall apply.

~~1. "Suppression employees": Fire Captains, Driver/Operators and~~

~~Firefighters.~~

~~1.2.~~ "Shift (suppression employees)": Twenty-four (24) hours.

~~2.3.~~ "Shift (Assistant Fire Marshal & Fire Prevention Officer)": Eight (8) hours.

~~3.4.~~ "Day" (Suppression employees) Twenty-Four (24) hours.

~~4.5.~~ "Day" (Assistant Fire Marshal & Fire Prevention Officer) Eight (8) hours.

I. Annual Leave Charge Back (Assistant Fire Marshal & Fire Prevention Officer)

Except as provided in Article 13, "Injury Leave", when the Assistant Fire Marshal and Fire Prevention Officer takes annual leave it shall be charged on an hourly basis by hours of leave taken.



## ARTICLE 11

### SICK LEAVE

- A. Eligibility: For the purpose of determining eligibility for sick leave allowance, the term "continuous service" shall be that service commencing with appointment to a position with the City and continuing until resignation or discharge.

For the purpose of determining such leave earned, the term "Actual service" shall mean the number of days actually worked on the job; provided, however, that absence from work due to sick leave with pay, vacation with pay, injury or illness incurred in City service and absence on temporary military duty shall be deemed actual service.

- B. Qualifying Period: An employee shall not be entitled to accrue sick leave until after s/he has been employed three (3) full months continuous regular employment. At the beginning of an employee's fourth month of regular employment, a twenty-four hour shift employee shall be entitled to 90 hours sick leave credit and an eight hour shift employee shall be entitled to 30 hours of sick leave credit.

- C. Accrual of Sick Leave.

1. Employees, after completing three (3) full months of continuous regular employment, and working on a full time basis shall earn sick leave credits at the rate of thirty (30) hours per month, computed on a basis of calendar days of actual service.
2. Assistant Fire Marshal and Fire Prevention Officer shall earn sick leave credits at the rate of ten (10) hours per month, computed on a basis of calendar days of actual service.

- D. Maximum Accumulation: Accumulation of sick leave accruing to a twenty-four hour shift employee's credit which is not used during the year in which earned may accumulate from year to year to a maximum of two thousand eight hundred eighty (2880) hours. Accumulation of sick leave accruing to a forty-hour per week employee's credit which is not used during the year in which earned may accumulate from year to year to a maximum of two thousand eighty (2080) hours.

1. After an employee has accumulated two thousand eight hundred eighty (2880) hours of sick leave credit, or two thousand eighty (2080) for a forty-hour per week employee, the remaining sick leave accrual over two thousand eight hundred eighty

hours (2880), or two thousand eighty (2080) for a forty-hour per week employee, shall be credited as follows: one-half of the hours shall be added to regular sick leave and one half shall be placed in an extra sick leave account to be used by an employee under the following conditions:

- (a) The employee is suffering from a long term or chronic illness. ("Long term or chronic illness is defined as a disease or ailment that is a lasting condition for a period of months or years. It cannot be easily corrected within a short period of time and generally is not of a temporary disabling or incapacitating nature"); and
- (b) The employee has used all sick leave otherwise available to him/her; and,
- (c) Approval of the City Manager.

E. Authorized Use of Sick Leave: Sick leave with pay can be granted only upon approval of the City Manager or Fire Chief, or designee, in the case of a bona-fide illness of an employee (those cases which do not qualify under FMLA). The purpose of sick leave is to allow employees who are injured, ill, or attending an appointment with a doctor or dentist, continuation of pay while obtaining medical treatment or recuperating from illness/injury. If an employee does not have sick leave available, the employee may use compensatory time, annual leave, or time without pay in that order, or a member of their immediate family or for the purpose of maternity as limited in paragraph (H) of this section. Family sick leave may be granted upon receipt of proof of death of a relative of the employee's family defined as a husband, wife, parents, grandparents, brother, sister, child, grandchild, or corresponding relation by affinity.

F. Family Sick Leave: Use of Family sick leave for immediate family related illness (non-FMLA) shall be limited to a maximum of one hundred forty four (144) hours per calendar year; no more than ninety-six (96) hours at a time. Immediate family is defined as spouse, parents, grandparents, brother, sister, child, grandchild, or corresponding relation by affinity, except that in the case of the death or serious illness of any of the relatives of the employee's family defined above, the City Manager may approve additional sick leave at his/her discretion up to the limits then accrued in an individual instance.

G. Regular and family sick leave shall be charged on an hour per hour basis from sick leave accrued for each one (1) hour taken.

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H. Bereavement Leave: In the event of the death of a member of the immediate family, an employee may request up to forty-eight (48) consecutive hours of sick leave, or up to twenty-four (24) hours of sick leave for eight (8) hour per day employees. Immediate family is defined as spouse, parents, grandparents, brother, sister, child, grandchild, or corresponding relation by affinity. Additional time may be approved by the City Manager, or designee, up to the limits then accrued in an individual instance.

IF. Certificate of Illness: Substantiating evidence in the form of a physician's certificate of illness may be furnished as proof of the adequacy of the reason for the employee's absence during the time when sick leave was requested. Certificates ~~shall~~ may be required by the City Manager, Fire Chief, or designee, when there is (1) absence in excess of two (2)~~three (3)~~ days, and (2) whenever there is reason to believe sick leave is being abused.

J.G. Forfeiture of Sick Leave: No employee shall be entitled to sick leave while absent from duty on account of any of the following:

1. Disability arising from any sickness or injury purposely self-inflicted or caused by any of his/her willful misconduct.
2. Disability arising from any conduct which is in violation of federal state, or local statute, written City or departmental policy.
3. Sickness or disability sustained while on leave without pay.

K.H. Fraudulent Sick Leave Claims: Any person claiming sick leave with pay, where it is shown that such a claim was made or approved by such claimant knowing that such claimant was in fact not sick or otherwise entitled thereto, shall forfeit all accumulated sick leave and shall not be allowed to receive or accumulate sick leave for a period of twelve (12) pay periods thereafter. The employee is subject to termination if such fraudulent claim was made and accepted, however, such employee's rights to a subsequent hearing shall still be in accordance with the Nevada Revised Statutes.

~~L. Sick Leave for Maternity Benefits: Absence from work due to maternity shall be specifically defined as illness of a member of the immediate family and any leave will be limited to 144 hours of family sick leave per calendar year as authorized in paragraph (D).~~

L.J. Sick Leave and Payment Upon Retirement: Upon retirement, an employee shall be paid accrued sick leave accrued during employment with the City of Elko up to nine hundred sixty (960) hours based on the same percentage as the percentage of the employee's



retirement determined pursuant to the Nevada Public Employees Retirement Act.

M.K. Death of an Employee: Upon the death of a person presently on the employment records of the City, a lump sum payment for sick leave accrued to the employee's credit up to nine hundred sixty (960) hours will be made to the employee's beneficiary(ies) or estate, upon receipt of proof of death by beneficiary(ies). The City Manager shall instruct the City Clerk on the disposition of such cases.

N.L. Definitions: For purposes of this Article 11, the following definitions shall apply.

~~1. "Suppression employees": Fire Captains, Driver/Operators and Firefighter.~~

~~12. "Shift (suppression employees)": Twenty-four (24) hours.~~

~~23. "Shift (Assistant Fire Marshal & Fire Prevention Officer)": Eight (8) hours.~~

O.M. Family and Medical Leave Act Leave:

- a. Family and medical leave for employees shall be governed by the provisions of the federal Family and Medical Leave Act (FMLA), as may be amended from time to time. Nothing in this section is intended to extend to the City employee's rights or benefits not extended in this law. Where there is a conflict between this section and the FMLA, the FMLA governs.
- b. ~~All Male and female~~ employees who have one year (52 weeks) of service and have worked at least 1,250 hours during the preceding 12-month period in the past year, are eligible to take up to 12 weeks of unpaid leave concurrent with paid leave, in a 12-month period during a calendar year as family or medical leave as defined in the FMLA. Eligible employees may request leave for their own serious health condition, for the serious health condition of the employee's spouse, child or parent, for the birth and care of a newborn child, for placement of a child for adoption or foster care, or to provide military caregiver leave or exigency leave, as defined in the FMLA. Family members are those persons who are so defined in the FMLA. The 12-month period calendar year shall be a "rolling" 12-month period measured backward from the date an employee uses any FMLA leave. (Example: if an employee has taken eight weeks of leave during the past 12 months, an additional four weeks of leave could be taken. If an employee used four weeks beginning February 1, 1994, four weeks



beginning June 1, 1994 and four weeks beginning December 1, 1994, the employee would not be entitled to any additional leave until February 1, 1995. However, beginning on February 1, 1995, the employee would be entitled to four weeks of leave, and on June 1, 1995, the employee would be entitled to an additional four weeks, etc.) Employees shall utilize all sick leave, compensatory time, and/or annual leave in that order, to be taken in conjunction with FMLA leave. Employees shall comply with the application process and various provisions of the FMLA. The City may require appropriate medical information and certifications as allowed by the FMLA when requesting leave for the employee or family member.

- c. The employee must provide reasonable advance notice if the need for the leave is foreseeable. The department head shall not deny leave to any eligible employee who requests family or medical leave pursuant to the provisions of the FMLA. The employee has the right to reinstatement to the same or a comparable position unless the employee is exempted from such right under the provisions of the FMLA.
- d. The City shall maintain coverage under any group health plan for the duration of the leave at the level and under conditions that would have been provided had the employee been working. However, the City shall only maintain such group health plan coverage for such employee for up to 12 weeks within a 12 month period commencing with the start of the FMLA leave.

## ARTICLE 12

### LEAVE FOR MILITARY AND UNIFORMED SERVICE MEMBERS (MILITARY LEAVE)

- A. Definition: The Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. § 4301, et seq., together with Nevada Revised Statute (NRS) 281.145 (to the extent it creates rights or benefits that are more beneficial to or in addition to rights or benefits provided under USERRA), set forth the respective rights and duties of the City and its employees in connection with service in the uniformed services. The rights and benefits for Military Leave extend to firefighters who are called to active duty and who are deployed under the National Disaster Medical System of the U.S. Department of Health and Human Services. Upon the commencement of a period of service which is subject to USERRA and/or NRS 281.145, the firefighter shall be entitled to regular compensation for a period not to exceed 120 hours in any one (1) calendar year. An absence due to a period of service shall not count against the firefighter's annual vacation or sick leave. Pursuant to 20 CFR § 1002.41, USERRA rights are not diminished because an employee holds a temporary, part-time, probationary, or seasonal employment position. However, the City is not required to reemploy a temporary, part-time, probationary, or seasonal employee if the employment he or she left to serve in the uniformed services was for a brief, non-recurrent period and there is no reasonable expectation that the employment would have continued indefinitely or for a significant period.

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ARTICLE 13  
INJURY LEAVE

ABSENCE DUE TO EMPLOYMENT-CONNECTED TEMPORARY DISABILITY

- A. In the event an employee is absent due to an employment-connected temporary disability s/he may receive compensation as determined by the City of Elko's worker's compensation insurance carrier plus an amount from the city which would cause the total amount received by the employee to equal their salary at the time of his disability. Such payments from the city shall not extend beyond an employee's accumulated sick leave and annual leave. In the event compensation is not immediately established by the worker's compensation insurance carrier and the employee draws full sick leave pay from the city and subsequently receives worker's compensation, s/he shall repay the city the amount of such compensation pay received to cover the period which was covered by city sick leave.
- B. For each scheduled shift the employee does not work while on worker's compensation leave as a result of a temporary disability, sick or annual leave accumulated shall be charged at 33 1/3%. Therefore, as an example, when an employee on worker's compensation takes 24 hours off, eight (8) hours sick leave shall be charged.
- C. For purposes of this Article 13, accrued sick leave shall be exhausted prior to accrued annual leave being used.
- D. After six (6) months during which an employee is unable to work because of an employment-connected temporary disability, the employee may elect not to continue the provisions set forth in paragraphs A and B above, and to be provided only with payments for employment-connected temporary disability as determined by the City of Elko's worker's compensation carrier. Upon the employee's election to receive only worker's compensation payments, sick and annual leave shall cease to be deducted from the employee's leave accrual, and the employee shall earn service credits in respect to sick leave, annual leave, longevity pay, and retirement benefits.
- E. The provisions of this Article apply only to employment connected temporary disabilities which do not permit the employee to work. In that regard, should the City of Elko's worker's compensation carrier determine that an employment connected disability is or becomes permanent the provisions of the Article shall cease to apply as of the date of the permanent disability.

ARTICLE 14  
COURT LEAVE

- A. An employee appearing in any court, or before the Grand Jury, as a party to an action arising out of their City employment; or as a witness to either a civil or criminal case for the purpose of giving testimony as to facts or knowledge that s/he has received in the course of their City employment, shall receive full compensation as though s/he were actually on the job during such times.
- B. The employee shall claim any jury, witness, or other fee to which s/he may be entitled by reasons of such appearance and forthwith pay the same over to the City Clerk to be deposited in the General Fund of the City. In all cases, however, the employee shall retain mileage allowances.



## ARTICLE 15

### ASSOCIATION ACTIVITIES

- A. The Association shall be allowed to hold monthly meetings at the Fire Department so long as such meetings are held after the day's work is completed and does not interfere with the Department schedules, business, or training. Any other meetings must receive the approval of the City Manager or Fire Chief, or designee.
- B. In order to ensure that the Association's meetings do not conflict with the Department schedules, business or training, the Association whenever possible shall give the City Manager, Fire Chief, or designee at least one (1) week's prior written notice of the time and date which the meetings will be held.
- C. Once meeting approval has been given, the date and time will be added to the calendar and the department will not schedule business, trainings, or activities that interfere or conflict with the scheduled meeting.

ARTICLE 16  
RETIREMENT

- A. The retirement rights of the employees shall be the same as those provided by Chapter 286 of the Nevada Revised Statutes ("Public Employees' Retirement Act"). This agreement shall be interpreted consistent with the provisions and requirements of the Public Employees' Retirement Act. In the event of inconsistency, the terms of the Public Employees' Retirement Act shall govern.
- B. Pursuant to the Public Employees' Retirement Act, the Public Employees' Retirement System ("PERS"), by and through its board, arranges for actuarial valuations and reports on the soundness of the system and establishes the required contribution rate.
- C. The City has an employer-paid contribution plan and pays the entire contribution for employees who contribute to the police and firefighter's retirement fund, pursuant to NRS 286.421.9, to permit the entire contribution (including the employee's share) to be made on a pre-tax basis.
- D. Pursuant to NRS.421.3, employees' salaries must be adjusted to reflect employees' portion of the contributions by either reducing employees' salary or in lieu of an equivalent salary or cost-of-living increase. City and employees are each responsible for equal dollar amounts of the contributions.
- E. Effective July 17, 2005, the contribution rate for the police and firefighter's retirement fund was increased by 3.5% from 28.50% to 32.00%. Pursuant to NRS 286.421, the City paid the entire increase in the retirement fund contributions in lieu of granting employees an equivalent salary or cost-of-living increase.
- F. If the contribution rate increases or decreases in the future, employees' salaries shall be adjusted as required pursuant to NRS 286.421.3. If the contribution rate decreases then, the employees' salaries shall be increased by their one-half share of the contribution decrease. If the contribution rate increases, then employees' salaries shall be reduced by the employees' one-half share of the contribution increase.
- G. An employee about to retire is required to provide the City a minimum of six months advance written notice in order to allow the City sufficient lead time in hiring a successor. Exceptions may be granted upon written request by the retiring employee through the Fire Chief, to the City Manager.

ARTICLE 17  
LONGEVITY PAY

- A. Upon completion of eight (8) years of continuous employment with performance reviews of standard or better, employees hired before July 1, 2011 will receive the following longevity pay, with the maximum years of service being twenty-five (25):

Years of Completed Service	Semi-Annual Amount	Total Annual
8	\$ 100	\$ 200
9	125	250
10	150	300
11	200	400
12	225	450
13	250	500
14	275	550
15	300	600
16	375	750
17	400	800
18	425	850
19	450	900
20	475	950
21	600	1200
22	625	1250
23	650	1300
24	675	1350
25	700	1400

Longevity pay shall be payable on the first payroll in June and December of each year. An employee will receive the first check during the year following the employee's eighth (8th) anniversary year of employment with the City. If the employment anniversary date falls between January 1 and June 30 of that year, the first check will be on the first payroll in June. If the anniversary date falls between July 1 and December 31 of that year, the first check will be on the first payroll in December.

ARTICLE 18

PAY RESOLUTIONS

- A. Pay Periods: The pay periods and dates of payment shall be established by the city.
- B. Initial Appointment: Firefighters hired after July 1, 1996 shall be hired at the start rate reflected in Exhibits A.
- C. Promotions: When a firefighter is promoted to Driver Operator I or a Driver Operator I is promoted to a Driver Operator II, s/he shall receive the qualified rate of the respective classification. The promoted employee shall serve a twelve (12) month probation period as outlined in Article 19.
- D. Demotions: When an employee is demoted to a lower position class, the pay rate shall be commensurate with where the employee would have been on the salary schedule if the promotion had not occurred. The Fire Chief or designee, with the approval of the City Manager, may demote an employee to a lesser paid salary classification upon failure of the employee to maintain a standard of work set forth in the job classification description. Nothing in this section prohibits the employee from future promotions.
- E. Full Time Service: For the purpose of determining eligibility for probationary period salary increases, promotion and accrual of benefits, the term "full-time service" shall mean the number of days actually worked on the job, including absences with pay. Leaves of absence without pay, including military leave to the extent permitted by applicable federal and/or Nevada law, shall not be credited as full time.
- F. Direct Deposit: The City of Elko will provide direct deposit of payroll to any local bank or credit union. Each employee will have the option of participating in the direct deposit program. Those employees who wish to participate in the direct deposit program will complete all the appropriate forms authorizing the City and/or bank or credit union to deposit their check electronically.

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Any member who does not elect to take advantage of the direct deposit program may have their payroll checks mailed to them, or will be able to pick up their payroll check at the firehouse. The checks to be picked up at the firehouse will be sealed by the payroll clerk in individual envelopes.



## ARTICLE 19

### PERFORMANCE EVALUATION AND PROBATIONARY EMPLOYEES

#### A. Probationary Employees:

1. Newly-hired full-time employees shall serve a twelve (12) month probationary period from the date of hire. The probationary period for new hires may be extended for a period of six (6) months, based on the recommendation of the Fire Chief or his designee. After six (6) months of employment, a new hire shall receive a performance review. Thereafter, performance evaluations will be conducted biannually on the anniversary date, and every twelve (12) months after the employee reaches the qualified rate for the current position occupied. Upon successful completion of the probationary period, the newly hired employee shall be granted a merit increase to Step 1, in accordance with Exhibit A. Thereafter, the employee's rate will be increased to successive steps in accordance with Exhibit A, after completing six (6) months service between each step, and upon receiving an acceptable performance evaluation, with an "At Target" or higher evaluation rating.  
i. After six (6) months of employment a new hire shall receive a performance review. A performance evaluation will be conducted after six (6) full months of employment, and every twelve (12) full months after the employee reaches the qualified rate for the current position occupied. After completion of a successful performance evaluation, the newly hired employees shall be granted a step increase in accordance with Exhibit A. Increases thereafter will be in accordance with the schedules outlined in Exhibit A.
2. Employees promoted into any higher paid classification shall serve a twelve (12) month probationary period from the date effective of the promotion to the higher classification. Employees promoted to Driver Operator I and Driver Operator II shall receive a performance evaluation after six (6) months full-time service in the position, and again after twelve (12) months full-time service in the position. Thereafter, performance evaluations will be conducted annually.
3. Employees promoted to Assistant Fire Marshal, or Captain shall receive the probationary rate for the first twelve (12) months of full-time service from the effective date

of promotion. Upon the successful completion of this probationary period, the promoted employee shall receive the qualified rate as outlined in Exhibit A, provided the employee's job performance so warrants as established in the performance evaluation process. Performance evaluations shall occur bi-annually on the anniversary date of the effective promotion until the employee reaches the qualified rate. After the qualified rate is reached, performance evaluations will be conducted annually.

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- 4.i. An employee promoted to a higher classification may be returned to his/her former position if management determines s/he is unable to satisfactorily perform the job. In that event all promotions, regardless of the number of employees affected, which occurred as a result of the returning employees back to their former position, shall be reversed, returning those employees back to their former position and any employee hired at an entry level position as a result of the aforesaid promotions shall be terminated if no other openings exist.

~~3. Employees promoted to Assistant Fire Marshal, or Captain shall receive the probationary rate for the first twelve (12) months of full-time service from the effective date of the promotion. Upon the successful completion of this probationary period, the promoted employee shall receive the qualified rate as outlined in Exhibit A, provided the employee's job performance so warrants as established in the performance evaluation process.~~

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~~B. Performance Evaluations: Performance evaluations shall occur bi-annually on the anniversary date the employee clears probation, for both newly hired employees and employees promoted to a higher classification until the employee reaches the qualified rate. After the qualified rate is reached, performance evaluations will be conducted annually. Employees who receive a "Meets Standards" or higher evaluation rating have successfully completed the evaluation for the time period designated for that evaluation and are eligible for a merit increase.~~

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~~C. Disapproval: Should all or part of a salary increase be disapproved and approved at a later date in the same year due to the employee demonstrating improved performance, the salary increase shall be paid from the date of approval. After that year, no part of the~~

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salary increase not granted in that year may be given. Granting a salary increase does not affect the employee's anniversary date or subsequent eligibility.



## ARTICLE 20

### ASSIGNMENT TO HIGHER CLASSIFICATION

- A. An employee covered by this agreement who is required to work in a higher classification shall receive an additional 6% of his/her current rate of pay for all hours worked in this capacity.
- B. An employee shall not be removed from a temporary assignment for the purpose of avoiding payment of the above premium.
- C. Distribution of work in a higher classification shall be rotated among all employees in the lower classification; provided however that this clause shall not be interpreted to require that firefighters be permitted to work as fire captains.
- D. New hire firefighters will have to complete eighteen (18) months of service and satisfactorily complete the Driver/Operator I test to qualify for temporary assignment to Driver/Operator I. Out-of-classification pay for firefighters will be in accordance with paragraph (2) in Exhibit A.
- E. When a Captain has been designated by the Fire Chief or Deputy Fire Chief to act as the temporary Fire Chief during his/her absence of a full shift or more, the Captain shall receive an additional six percent (6%) over his/her base hourly rate for all hours worked in this capacity.

ARTICLE 21

GROUP LIFE INSURANCE

- A. The City shall pay 100% of the premium cost for:
1. A \$30,000 policy of Group Term Life Insurance for each of the employees of the fire department;
  2. A \$5,000 policy of Group Term Life Insurance for each unit employee's spouse; and
  3. A \$3,000 policy of Group Term Life Insurance for the dependent children of each unit employee, over 6 months to 19 years. However, if the dependent child is a full-time student, the life insurance set forth in this subparagraph 3 shall be until the dependent is 24 years of age.
  4. A \$500 policy Group Term Life Insurance for dependent children age 14 days to 6 months.

## ARTICLE 22

### GROUP HEALTH INSURANCE

- A. All fire department employees regularly working a forty (40) hour week or more may, after initial employment, following a thirty (30) day waiting period from the first day of their employment and pursuant to the eligibility requirements of the current Benefits Program, enroll in the City's group health, dental and vision insurance plans; provided, however such employee is not excluded from enrollment by conditions of the insurance contracts.
- B. City Share of Premium.
1. The City shall pay 100% of the cost of premium for group health, dental and vision insurance coverage for the employee.
  2. To the extent provided by law, the employee shall have the option of converting the health, dental and vision insurance coverage upon their separation of employment at the City of Elko.
- C. Employee Dependent Share of the Premium.
- All provisions of employee and dependent health insurance shall be in accordance with the effective current Master Plan Document and premiums established and approved, effective at the beginning of each new plan year. The employee shall have the right to enroll all eligible dependents in the plan and shall have the respective premiums for dependents deducted through a payroll deduction.
- D. All employees covered by this Agreement shall be given advance notice of any changes in the group insurance coverage's.
- E. Insurance Committee.
- Contingent upon approval by the Elko Police Department Employees Association and the International Union of Operating Engineers, Local 3, it is agreed that an Insurance Committee is established. The purpose of the Committee is to discuss group health insurance plan selection options and to make recommendations to the City Council and the respective bargaining units.

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ARTICLE 23

PHYSICAL EXAMS

- A. The City will pay for the physical exams required by NRS 617.457 or any other Nevada law if the employee gets their exam from the physician chosen by the City. However, if the exam is done by another physician of the employee's choice, the City will reimburse the employee in the amount of the standard amount paid by the City and the employee shall pay the physician directly.
- B. Physical exams shall be taken annually in accordance with law and shall be scheduled by the Fire Chief, or designee.
- C. When there is a question of fitness for duty as a result of a required annual physical, the City shall pay for one additional diagnostic test deemed necessary by the physician to confirm or dispel a fitness for duty issue indicated as a result of an employee's annual physical exam. The City shall not pay for any additional testing for diagnosis or treatment of any health problem as a result of the physical.

## ARTICLE 24

### UNIFORMS AND ALLOWANCE

- A. This city shall furnish to newly hired employees
  - 1. Class B Uniform
    - a. One (1) dress shirt.
    - b. Two (2) badges.
    - c. Two (2) name tags.
    - d. Two (2) pair of collar brass.
    - e. One (1) black leather belt.
  - 2. Class C Uniform
    - a. Three (3) red tee shirts.
    - b. Three (3) blue tee shirts.
    - c. One (1) sweat shirts.
    - d. One (1) sweat pants.
    - e. One (1) shorts
    - f. Three (3) pants
    - g. One (1) light coat.
    - h. One (1) winter coat.
    - i. One (1) pair station boots
  - 3. Helmet shield
    - a. One (1) Helmet Shield designating rank and ID number
- B. The City shall furnish each promoted employee with:
  - 1. Class B Uniform
    - a. Two (2) badges
    - b. Two (2) name tags
    - c. Two (2) pair of collar brass.



2. Helmet Shield

- a. One (1) Helmet shield designating promoted rank and ID number.
- C. The City shall furnish each employee a uniform allowance for maintenance and replacement of One Hundred-Fifty Dollars (\$150) per month.
- D. The uniform allowance shall be paid on the first payroll in December and June of each year.
- E. The Assistant Fire Marshal and Fire Protection Officer shall be provided with five (5) pants and five (5) shirts, boots or shoes, belt, badge, patches, light coat, and winter coat. If promoted through the ranks, the City shall buy two (2) pants and four (4) dress shirts plus all patches and badges as required.
- F. Class A Uniform package shall be purchased by new hire employees upon successful completion of probationary period and prior to swearing in ceremony. Employees will notify the chief upon receipt of their Class A uniform, so the pinning ceremony can be scheduled. \*Current employees shall have Class A uniforms package purchased prior to December 31, 2014.

ARTICLE 25

LINEN SERVICE

- A. A linen service of the City's choosing shall be furnished. This service shall include cleaning of blankets, bedspreads, sheets and pillow cases.
- B. The City will provide each firefighter with two (2) winter blankets for use at the station.

## ARTICLE 26

### GRIEVANCE PROCEDURE

- A. The purpose of the following grievance procedure shall be to settle, as quickly as possible, any disputes arising out of the interpretation or application of this agreement.
- B. An Association grievance committee shall be established consisting of three members. Such committee shall be selected in a manner to be determined by the Association membership. The purpose of the Association grievance committee is to aid the Association and employee in resolution of grievances or to determine whether in fact, cause exists for pursuing the matter through the grievance procedure.
- C. An employee who feels aggrieved over the interpretation or application of this agreement shall take up the matter with the Deputy Fire Chief within ten (10) working days unless otherwise mutually agreed after the employee is aware or should have been aware of the event giving rise to the dispute. The employee shall further advise his/her supervisor of the matter giving rise to the dispute.
- D. The Deputy Fire Chief shall make a reasonable effort to reach an acceptable solution to the problem within ten (10) business days after it has been submitted to the Deputy Fire Chief. Any grievance settlement shall be approved in writing by the Fire Chief.
- E. If the grievance is not settled during this informal discussion and the employee wishes to proceed with the matter, s/he shall within ten (10) business days after the matter is submitted to the Deputy Fire Chief, file the matter in writing with the chairman of the Association grievance committee and provide the following information:
  - a. the employee's name;
  - b. the employee's position classification;
  - c. department;
  - d. a brief statement of the nature of the grievance;
  - e. any attempts to resolve the problem;
  - f. a proposed solution to the grievance;
  - g. signature of the employee;
  - h. the date the employee signed the statement;

The Association grievance committee and Deputy Fire Chief shall attempt to adjust the

matter at that time and shall render their decision in writing within ten (10) business days from the date said grievance is received. Any grievance settlement shall be approved in writing by the Fire Chief or designee.

- F. If the employee is not satisfied with the decision of the Association grievance committee, s/he shall, within ten (10) business days after the Association grievance committee renders its decision submit their grievance with the data as outlined above in writing to the Fire Chief. The Fire Chief shall arrange for such meetings and investigations that are necessary to enable him to respond in writing to the employee who has filed the grievance within ten (10) business days from the date the Fire Chief received said grievance.
- G. Within ten (10) business days after receipt of the written response from the Fire Chief, or designee, the employee may present the grievance in writing to the City Manager accompanied by all correspondence, transcripts, documents, tape recordings and all other data accumulated regarding the grievance. The City Manager shall review all of the relevant evidence and other data submitted. After consultation with the aggrieved employee and any other persons that the City Manager deems to have pertinent information in regard to such grievance, s/he shall within ten (10) business days from the receipt of said grievance render a decision.
- H. In the event the employee is not satisfied with the decision rendered by the City Manager, the matter may be submitted to arbitration in accordance with the following procedure:
  - 1. The Association shall within ten (10) business days of receipt of the City Manager's decision, notify the City Manager that the Association desires to refer the dispute to arbitration.
  - 2. The City and the Association shall attempt to agree on an impartial arbitrator within three (3) business days of the receipt of the notice to arbitrate. Should the City and Association be unable to agree on an arbitrator, they shall ask the American Arbitration Association (AAA) to submit to each party the names of seven (7) arbitrators, qualified to hear the matter.
  - 3. Within seven (7) days of receipt of the AAA panel, the parties shall agree to one of the arbitrators set forth in the panel to hear the dispute. Should the parties be unable to agree on one of the seven (7) AAA arbitrators submitted, the parties shall



alternately strike names of an arbitrator until one remains who shall hear and decide the matter. The party who seeks arbitration shall strike the first name.

4. The arbitrator shall have no authority to add to, subtract from, or modify any of the terms of this Agreement, or to hear, rule, or award on any matter, except while this Agreement, is in effect.
5. Consistent with the provisions of the Nevada Uniform Arbitration Act (NRS 38.015 and the following), the decision of the arbitrator shall be final and binding on the parties. The cost of the arbitrator shall be divided equally by the parties.
- I. The time limits specified in the preceding sections may be extended by the mutual agreement of the parties.
- J. The Association shall furnish the City with the names of the members of the Association grievance committee.
- K. Any employee, informally seeking or formally filing a request to have his grievance reviewed, shall not be discriminated against during recruitment, examination, appointment, training, promotion, retention, classification, or any other personnel action while doing so or testifying on behalf of another employee or assisting another employee to prepare a grievance report or acting as a representative of any employee requesting a grievance review.
- L. In the event the City schedules a grievance meeting while members of the grievance committee or the aggrieved is on a shift, the City shall grant time off with pay for those employees affected.
- M. For purposes of this Article, the term "business day" means any day Monday through Friday excluding holidays.
- N. No non-probationary employee shall be disciplined or discharged without just cause. Newly hired employees serving a probationary period may be disciplined or discharged in the discretion of the City with or without cause.

## ARTICLE 27

### ADOPTION OF AGREEMENT AND AMENDING PROCEDURE

- A. Adoption: This agreement will be deemed adopted and of binding effect, terminating negotiations during its term, upon approval and subscription of the Association and the City.
- B. Copies of Agreement: Upon adoption of this agreement, the City shall furnish the Association with two (2) copies of the Agreement. Additional copies of the Agreement may be requested either by the Association or its members and the City will be required to furnish said requested copies; however, the City shall be entitled to charge the current prevailing rate for each copy over and above the two (2) initially furnished the Association.
- C. Bulletin Boards: The City shall permit all reasonable use of Bulletin Boards located in the respective fire houses of the City. All materials posted by the Association shall be in good taste and shall not contain information which would embarrass or coerce any employee or official of the City.
- D. Politics on Bulletin Boards: No political displays, comments or suggestions shall be permitted on Bulletin Boards.
- E. Rules and Regulations:
  - 1. The City may adopt and amend Fire Department Rules and Regulations and Standard Operating Procedures consistent with N.R.S. and this Agreement. These shall be rules and policies by which the City administers the Fire Department and to which all employees covered by this agreement are bound.
  - 2. The City and the Union further recognize that the matters covered by the Fire Department Rules and Regulations and Standard Operating Procedures include subject matter which is subject and which is not subject to mandatory bargaining under the provisions of Nevada Revised Statutes 288. The City and the Union also recognize that these Fire Department Rules and Regulations and Standard Operating Procedures are subject to change by the Fire Chief or designee in accordance with the procedure outlined below.
  - 3. The City and the Union recognize and understand that the Fire Department Rules and Regulations and Standard Operating Procedures are general in nature and shall not

be considered as all inclusive. No inference will be drawn from the absence of a rule in the Fire Department Rules and Regulations.

4. The following procedure for adopting or changing Fire Department Rules and Regulations and Standard Operating Procedures will be as follows:
  - A. Except in the event of an emergency and except those which are currently in effect, no rule, regulation or standard operating procedure, nor amendment or cancellation thereof shall become effective until notice thereof has been posted in each fire station for a period of ten (10) consecutive days.
  - B. The City or the Union may request meetings to discuss their views relative to work rules and standard operating procedures and proposed changes therein. Except in the case of an emergency, upon timely request, such meetings shall be convened prior to the implementation of the rule, regulation, standard operating procedure, amendment or cancellation.
  - C. The Fire Chief will issue a written response to all written questions raised by the Union. The Union will do the same. These responses are due within three (3) days of the meeting with copies to the City Manager.
5. Any dispute arising between the City and the Union concerning any proposed or implemented modification or interpretation of Fire Department Rules and Regulations or Standard Operating Procedures which are the subject matter of mandatory bargaining shall be subject to the provisions of the Grievance Procedure, including arbitration.
6. Any dispute as to whether or not the subject matter of a proposed or adopted rule or regulation or standard operating procedure is a mandatory subject of bargaining shall be submitted to the Local Government Employee Management Relations Board in accordance with procedures outlined by the rules of that Board and N.R.S. 288 prior to it being submitted to arbitration.
7. Except in the event of an emergency, no disputed rule or standard operating procedure which is the subject of mandatory bargaining will go into effect prior to settlement of the dispute or arbitration award, whichever is earliest.
8. The parties agree that the Fire Department shall provide a copy of the current Fire



Department Rules and Regulations and Standard Operating Procedures, and a copy of any changes or amendments thereto, to each member of the Bargaining Unit.

- F. The use of the masculine pronoun with respect to employees shall refer to both male and female employees.

ARTICLE 28

SAFETY PROCEDURE

AND SAFETY EQUIPMENT AND CLOTHING

- A. It is in the best interests of the Association, the employees covered by this agreement, and the City that suggestions for improving and encouraging safety in fire department operations be seriously considered. In this context, the Association shall appoint a Safety Committee which may submit safety recommendations and report safety violations to the Fire Chief or designee, or the City Manager. Upon receipt of the Associations recommendations and/or report, the Fire Chief or designee, or the City Manager will within ten (10) calendar days acknowledge receipt of the report/recommendation and shall respond in writing within thirty (30) calendar days to the Association addressing those matters contained in the Association's recommendation and/or report.
- B. The City shall furnish and maintain at no cost to the employee all respiratory apparatus, gloves, helmets, and protective clothing.
- C. All protective clothing and equipment shall meet the highest requirements provided by Nevada or federal OSHA.

## ARTICLE 29

### TRADING TIME

Employees will be allowed practices of "trading time" and/or "early relief" with approval of the Fire Chief or Deputy Fire Chief. In the event the Chief or Deputy Fire Chief are not available, the Shift Captain shall have the authority to give the approval. The application of this Article shall not result in the payment of overtime compensation to employees who trade time or are provided early relief.

ARTICLE 30

SAVINGS CLAUSE

- A. This agreement is the entire Agreement of the parties, terminating all prior arrangements and practices and concluding all negotiations during the terms of this Agreement.
- B. Should any provisions of this Agreement be found to be in contravention of any Federal or State law, the Elko Charter or by a court of competent jurisdiction, such particular provisions shall be null and void, but all other provisions of this Agreement shall remain in force and effect until otherwise canceled or amended.

ARTICLE 31  
COMPENSATORY TIME

~~A. Annual Leave:~~

~~1. Compensatory time ("comp time") will be given for any accumulated leave that has not been taken because of departmental scheduling.~~

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~~1. Overtime compensation may be paid in cash or in compensatory time off under the following restrictions:~~

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- ~~a. Compensatory time off at the standard overtime rate may be granted at the discretion of the Fire Chief or Deputy Fire Chief in lieu of cash payment and may be allowed to accrue as compensatory time off, up to a maximum of ninety-six (96) hours. Any hours in excess of ninety-six (96) hours will be paid at the applicable rate.~~
- ~~b2. An employee will be eligible to use his/her their comp time provided there is adequate staffing as long as their shift is covered. In the event the Chief or Deputy Fire Chief are not available, the Captain shall have authority to grant the requested comp time.~~
- ~~c. An employee may cash out up to 40 hours of compensatory time on the second pay period in June and on the second pay period in December. The compensatory time will be paid out at the employee's regular hourly rate of pay.~~

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~~B. Holidays. Comp time accrued as compensation for holidays may be taken at any time throughout the entire calendar year.~~

~~C. Voluntary Training. At the discretion of the Fire Chief, or designee, comp time payable at time and one-half (1 1/2) the straight time rates may be given to employees who participate in voluntary training.~~

~~D. Definition. The parties acknowledge that the term "comp time" as used in this Article is not intended to apply to comp time within the meaning of the Fair Labor Standards Act, as amended.~~



## ARTICLE 32

### SALARY INCREASES

1. Effective July 1, 201~~8~~6, the monthly salaries of the employees covered by this Agreement shall be adjusted as set forth in Exhibit A, representing a ~~3.3~~ 2.6% increase from the year prior ending June 30, 201~~8~~6. The increase will be retroactive back to July 1, 201~~8~~6.
2. Effective July 1, 201~~9~~7, the monthly salaries for all employees covered by this Agreement shall be adjusted to match the change in the Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers West for the year ending January, 2019. If the CPI percentage change is above 3.3%, employees shall receive a 3.3% salary increase. If the CPI percentage change is below 3.3%, employees shall receive a salary increase equal to the CPI percentage increase, ~~as set forth in Exhibit A, shall represent a 1.4% increase from the prior year ending June 30, 2017.~~
3. Pursuant to N.R.S. 286.421.3 any PERS rate increase shall be shared equally by the employer and employee.

### ARTICLE 33

#### DURATION OF AGREEMENT

This Agreement shall be effective as of the 1<sup>st</sup> day of July 201~~8~~<sup>6</sup>, and shall remain in full force and effect until June 30, 2020~~18~~<sup>8</sup>. Except as otherwise provided in NRS 288.155, this Agreement ~~H~~ shall automatically be renewed from year to year thereafter, unless either party shall have notified the other in writing, on or before February 1, 2020~~18~~<sup>8</sup>, or by February 1 of any year thereafter that it desires to modify and/or terminate the Agreement. The parties shall promptly meet to set a date for the first negotiation session.



## ARTICLE 34

### LAYOFF PROCEDURE PROBATIONARY PERIOD

The probationary period for newly hired employees and employees who have been promoted to a higher classification shall be one year continuous full-time employment.

- A. If a layoff or reduction in force occurs, seniority shall apply regardless of rank. All probationary firefighters within the bargaining unit will be laid off before any other classification. If any further layoffs are necessary, layoffs will progress in reverse order of seniority. The least senior employee first, progressing as necessary to the most senior employee last.
- B. All employees to be laid off shall be given written notice of such layoff at least 60 calendar days prior to the effective date of the layoff.
- C. Upon being laid off, an employee with City Manager approval, may elect demotion temporarily to any classification covered by the Agreement.
- D. In the event of an increase in the working force following a reduction, employees laid off or demoted shall be placed on the reemployment list within the department in which the layoff or emotion occurred in reverse order of demotion or termination.
- E. Employees who are reemployed within one (1) calendar year after they are laid off will be entitled to the reinstatement of accrued and unused sick leave remaining to their credit at the time of their layoff.
- F. No employee returning after a reduction in force shall lose any seniority they accrued prior to the layoff.
- G. Layoffs or reduction in force due to City budgetary constraints or considerations must consider all departments within the City, not solely the Fire Department.

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#### ARTICLE 35

##### LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS ACT

Each party reserves all rights as set forth in the Local Government Employee-Management Relations Act (the "Act") (N.R.S. 288.010 and following). In this context the parties acknowledge that in respect to any non-mandatory subject of bargaining as defined in the Act which may be included in this Agreement, the City is not waiving or in any way limiting its right pursuant to the Act to refuse to bargain over non-mandatory subjects in future negotiations.

## ARTICLE 36

### EDUCATIONAL INCENTIVES

When educational incentive pay is budgeted, the budget amount shall be equally distributed in the approved school periods for the fiscal year. Fiscal Year educational reimbursement funds not used in a grading period shall roll to the next grading period. Notification to the Fire Chief or designee is required prior to the start of the class to be eligible for reimbursement. The City shall pay full tuition and books for courses taken by an employee at an accredited college or university or for correspondence courses completed from an accredited school, college or university. Reimbursements will be divided evenly from the available funds and distributed among all professional firefighters who apply for educational reimbursement for that grading period. Such reimbursements shall not exceed two courses per grading period. A grading period is considered to be the Fall, Spring, and Summer semesters as defined by the dates used by Great Basin College. Reimbursement upon completion of the approved course will be as follows:

1. Tuition and books will be paid at:
  - 100% for a grade of A or B
  - 85% for a grade of C
  - 0% for a grade of D or F
  - 100% for a grade of "Pass"
  - 0% for a grade of "Fail"
2. Upon completion of registration, the employee shall provide the City with receipts for registration and books. All approved requests, and receipts for books and fees shall be forwarded to the Human Resources Manager. Copies of the final grade (s) shall be submitted to the Human Resources Manager for policy compliance prior to reimbursement

#### ARTICLE 37

##### PREVENTION MEASURES

The employee shall be provided with reasonable preventive measures as determined by the Fire Chief designed to protect the employee against communicable diseases. These measures shall include, but are not limited to, medical procedures such as hepatitis and other vaccines and blood tests, and medical equipment, such as gloves, masks and other products, equipment and procedures that are intended to detect, prevent, or impede communicable disease. The use of protective equipment may be required by the Fire Chief if it appears the non-use of this equipment may endanger the employee or another employee. Participation in any medical procedures, such as vaccination and testing, shall be at the discretion of the employee, and the City of Elko shall not be held responsible for any consequences to the employee as a result of the employee having or not having received any vaccinations or tests. This does not waive the employee's rights under Worker's Compensation.

## ARTICLE 38

### REPAIR OR REPLACEMENT OF PERSONAL PROPERTY

- A. The City shall reimburse the employee for the cost of repairing or replacing authorized personal property, which is damaged or destroyed and is not covered by worker's compensation insurance, or if such personal property is lost at any emergency. The reimbursement shall be made within thirty (30) days from approval of the claim. The list of authorized personal property shall include and be limited to eye-glasses, watches, contact lenses and knives.
- B. Any claims will first be submitted to Local 2423 for review, and approval or denial.
- C. Reimbursement amounts will be replacement cost on all prescription eyewear. All other authorized items will be limited to ~~one hundred fifty dollars (\$150.00) per claim and~~ one thousand five hundred dollars (\$1,500.00) in the departments aggregate, ~~including prescription eyewear,~~ each year, July 1<sup>st</sup> to June 30<sup>th</sup>, for employees in the bargaining unit.



ARTICLE 39

40 HOUR PERSONNEL - ASSISTANT FIRE MARSHAL & FIRE PREVENTION OFFICER

Hours of work are to be from 0800 to 1700, including a one (1) hour lunch break. Hours worked over the forty (40) hours per week will be compensated at the rate of one-and-one-half (1 ½) times the employee's regular straight-time hourly rate.

The employee may elect to take either comp time or overtime.

For non-mandatory training, the employer may offer comp time only.

Any hours of work or training officially ordered in excess of the Employee's basic work period shall constitute overtime or call-back and shall be paid on a time-and-one-half basis. Furthermore, any overtime or call-back required to be worked shall be paid in accordance with the provisions of the Official Policies of the Public Employees' Retirement System of Nevada.

## ARTICLE 40

### PHYSICAL FITNESS INCENTIVE

- A. Parties agree to a voluntary physical fitness-testing program to be administered each spring by an authorized independent third party using a national testing/scoring standard (PACK TEST) established by the Federal Department of the Interior and the Bureau of Land Management. Employees that elect to take the Pack Test will be afforded three (3) opportunities to pass the PACK TEST annually, which must be completed each year no later than June 30<sup>th</sup> of each calendar year. Scheduling for the PACK TEST will be the responsibility of the employee. Employees must attain a passing score, at the arduous level, in order to receive a \$275.00 annual payment; such payment shall be made on the second payday in July of each year. There will be no reprisal or punitive action taken against an employee scoring less than the passing score on the test, or not participating in the PACK TEST.

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## ARTICLE 41

### FISCAL EMERGENCY

Upon notification by the City to the Association that a fiscal emergency exists, the parties shall meet within 10 working days to commence negotiations. The City shall include with its notification all financial data and other information which shows a fiscal emergency does exist.

A fiscal emergency exists for local government, when the following events exist:

1. Contractual agreements (not just labor agreements) are in jeopardy of default, including but not limited to: vendors, consultants, construction, private services, etc.
2. Default on bond payments and other financial obligations by local government are imminent.

A fiscal emergency does not exist if raises and/or benefit increases are being given to any employee or elected official of the local government, consultant or consulting firm etc. The Association, in a timely fashion, will be allowed to audit any and all documents to ensure that a financial emergency does exist and meets the criteria and definition as set forth above. Non-Monetary articles cannot be opened by the City as a part of this process and will not be a part of this process.

If the parties are unable to reach an agreement within 20 working days, from the first day of negotiation then either party may submit to fact-finding arbitration. Once the recommendation of the fact finder is rendered, the parties shall commence negotiations within 10 working days. If the parties do not reach an agreement within 20 working days, then either party may submit to expedited binding arbitration. The decision of the binding arbitrator shall be binding on both parties.

The City cannot use the fiscal emergency process as a tool to impede or frustrate the normal collective bargaining process or as an alternative to the normal collective bargaining process.

## ARTICLE 42

### INCENTIVE PAY

A. The following certifications shall be considered special assignments for the purpose of this agreement:

1. Instructor
  - a. Nevada Emergency Medical Services Primary Instructor
    1. Certified by the State of Nevada Office of Emergency Medical Systems
  - b. Nevada Fire Service Instructor
    1. Certified by the Nevada State Fire Marshal
2. Self-Contained Breathing Apparatus Technician
  - a. Certified by the manufacturer of the departments current model of SCBA being used by the department. Certifications must be updated every four years.
3. Hazardous Materials Technician
  - a. Certified by the Nevada State Fire Marshal, or department approved equivalent training.
  - b. Must maintain currency under OSHA 1910.120.
4. Child Passenger Safety Technician
  - a. Certified by SafeKids or an entity approved by the Fire Chief.

5. Bi-Lingual

- a. Ability to pass department approved language proficiency examination. If there is a cost associated, the employee must pay for the cost of the exam. Additionally, the employee must re-test every two (2) years in order to continue receiving incentive pay.

B. Approved members possessing certifications for special assignments shall receive an additional incentive of \$400.00 annually, per each category, to be paid the first payroll in December of each year. To be eligible for the additional incentive, the employee must be current on the certification(s) and have received a rating of "Meets Standards" or above on their annual employee evaluation specific to the duties of the special assignment.

IN WITNESS WHEREOF, the City and the Association have caused these presents to be  
duly executed by their authorized representatives this \_\_\_\_ day of \_\_\_\_\_, 2018~~6~~.

CITY OF ELKO

ELKO FIRE FIGHTERS ASSOCIATION  
LOCAL #2423 OF THE INTERNATIONAL  
ASSOCIATION OF FIRE FIGHTERS

By: \_\_\_\_\_  
Chris Johnson, Mayor

By: \_\_\_\_\_  
Ray Mowrey, President

ATTEST:

ATTEST:

\_\_\_\_\_  
Shanell Owen, City Clerk

\_\_\_\_\_  
Seth Frandsen, Secretary - Treasurer

### LETTER OF UNDERSTANDING

The City of Elko, Nevada and the International Association of Fire Fighters Local 2423 hereby enter into the following letter of understanding.

The parties agree that the Association will be provided with the small room just off the main bedroom at the Fire Department Main Station, currently referred to as "The Association Office." All furnishings will be the responsibility of the Association. "The Association Office" will not be used by "On Duty" personnel during the hours of 0700 thru 1200 and 1300 thru 1700. Off duty members will be able to use "The Association Office" at any time providing it does not interfere with Fire Department schedules, business or training.

In addition, the Association may install and maintain, at its own expense, telephone lines for their FAX machine, answering machine and telephone.

CITY OF ELKO

ELKO FIRE FIGHTERS ASSOCIATION  
LOCAL #2423 OF THE INTERNATIONAL  
ASSOCIATION OF FIRE FIGHTERS

By: Signature on File  
Michael Franzoia, Mayor

By: Signature on File  
David Bixler, President

ATTEST:

ATTEST:

Signature on File  
Lori Lynch, City Clerk

Signature on File  
Shane Wiggins, Vice President



**MEMORANDUM OF UNDERSTANDING**  
**AGREEMENT BETWEEN THE CITY OF ELKO AND THE INTERNATIONAL**  
**ASSOCIATION OF FIREFIGHTERS LOCAL 2423**

The undersigned hereby agree as follows:

1. Case No. 96-03212 pending with the FMCS concerning overtime claims for travel time for training in Reno, Nevada, shall be dismissed with prejudice, it being understood that this agreement fully resolves any and all claims arising out of or associated with said case.
2. Without prejudice to the City of Elko and without establishing any precedent or admitting any liability whatsoever, the City of Elko shall pay those travel hours of the employees attending the training which was the subject matter of Case No. 96-03212 as hours of overtime compensation and the City shall pay those employees accordingly.
3. In future cases of training mandated to the City of Elko by a higher authority, the parties agree as follows:
  - a. The City shall pay the cost of such training;
  - b. The City shall provide suitable transportation to and from such training. In the event the City is unable to provide such transportation, the City and employees shall discuss the transportation issue and, with prior approval, the City will pay mileage as provided in N.R.S. Chapter 281 for two employee-provided vehicles to be used for such transportation;
  - c. Regardless of whether the City provides the transportation or approves one or two employee-provided vehicles, the drivers of the transportation shall be allowed to claim the hours of actual driving as overtime hours and will be compensated accordingly;
  - d. Any passengers of such transportation shall be allowed to claim one-half of the hours of actual travel time as a passenger to and from the location of the training as overtime hours and will be compensated accordingly; and
  - e. The City shall arrange for and pay motel costs and per diem in training requiring overnight arrangements.

Dated this 30<sup>th</sup> of May, 1996.

Signature on File

SHANE WIGGINS, President  
Firefighters Association, Local 2423

Signature on File

GEORGE EDES, City Manager  
City of Elko

**Elko Firefighters Association**  
**2.6% COLA**  
**Effective July 1, 2016**

COLA	2.60%				Annual			
Classification	Probationary Rate	Annual Rate	Hrly Rate	PPP Rate	Qualified Rate	Rate	Hrly Rate	PPP Rate
Captain	6,376.18	76,514.22	36.7857	2,942.85	6,755.80	81,069.59	38.9758	3,118.06
Assistant Fire Marshal	6,088.52	73,062.21	35.1261	2,810.08	6,453.91	77,446.92	37.2341	2,978.73
Fire Prevention Officer	5,743.85	68,926.15	33.1376	2,651.01	6,088.52	73,062.21	35.1261	2,810.08
Driver/Operator II	N/A				6,088.52	73,062.21	35.1261	2,810.08
Driver/Operator I	N/A				5,815.13	69,781.62	33.5489	2,683.91
	Start Rate	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Qualified Rate
Firefighter	4,380.79	4,542.75	4,708.59	4,873.14	5,039.00	5,206.15	5,371.99	5,539.14
% Increase		3.70%	3.65%	3.49%	3.40%	3.32%	3.19%	3.11%
Annual Rate	52,569.53	54,512.98	56,503.09	58,477.69	60,468.05	62,473.80	64,463.91	66,469.66
Hourly Rate	25.2738	26.2082	27.1649	28.1143	29.0712	30.0355	30.9923	31.9566
Per Pay Period Amount	2,021.91	2,096.65	2,173.20	2,249.14	2,325.69	2,402.84	2,479.38	2,556.53
	1 Year Probation	1 year	1.5 years	2 years	2.5 years	3 years	3.5 years	4 Years
FO1	1	2	3	4	5	6	7	8

1) Firefighters will be hired at the start rate. Upon satisfactory completion of twelve (12) months probationary period, the firefighter's rate will be increased to Step 1. Thereafter, the firefighter's rate will be increased to successive steps after completing six (6) months service between each step. The total time from the start to the qualified rate will be forty-eight (48) months, unless the probationary period is mutually extended.

2) Upon satisfactory completion of two full years of service (step 3), a firefighter may test for Driver/Operator I (DOI). Those satisfactorily completing the test will be paid six (6) percent of their base rate at step 3, 4, 5, or 6, whichever is applicable, for out of classification as DOI for any full shift assigned by the Fire Chief or his designee and worked by the firefighter. Upon reaching the Qualified Rate, out of classification will be paid solely as outlined in Article 20.

3) Driver Operator II accepting the position of Fire Prevention Officer shall receive the qualified rate of the Fire Prevention Officer classification. All others would start at the probationary rate.



**Elko Firefighters Association**  
**3.3 % COLA**  
**Effective July 1, 2018**

COLA	3.30%				Annual			
Classification	Probationary Rate	Annual Rate	Hrly Rate	PPP Rate	Qualified Rate	Rate	Hrly Rate	PPP Rate
Captain	6,678.81	80,145.73	38.5316	3,082.53	7,076.44	84,917.32	40.8256	3,266.05
Assistant Fire Marshal	6,377.49	76,529.89	36.7932	2,943.46	6,760.23	81,122.70	39.0013	3,120.10
Fire Prevention Officer	6,016.46	72,197.52	34.7103	2,776.83	6,377.49	76,529.89	36.7932	2,943.46
Driver/Operator II	N/A				6,377.49	76,529.89	36.7932	2,943.46
Driver/Operator I	N/A				6,091.13	73,093.59	35.1412	2,811.29

	Start Rate	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Qualified Rate
Firefighter	4,588.72	4,758.36	4,932.07	5,104.43	5,278.17	5,453.24	5,626.96	5,802.04
% Increase		3.70%	3.65%	3.49%	3.40%	3.32%	3.19%	3.11%
Annual Rate	55,064.59	57,100.28	59,184.84	61,253.16	63,337.98	65,438.93	67,523.49	69,624.44
Hourly Rate	26.4734	27.4521	28.4543	29.4486	30.4510	31.4610	32.4632	33.4733
Per Pay Period Amount	2,117.87	2,196.16	2,276.34	2,355.89	2,436.08	2,516.88	2,597.06	2,677.86

	1 Year Probation	1 year	1.5 years	2 years	2.5 years	3 years	3.5 years	4 Years
FO1	1	2	3	4	5	6	7	8

- 1) Firefighters will be hired at the start rate. Upon satisfactory completion of twelve (12) months probationary period, the firefighter's rate will be increased to Step 1. Thereafter, the firefighter's rate will be increased to successive steps after completing six (6) months service between each step. The total time from the start to the qualified rate will be forty-eight (48) months, unless the probationary period is mutually extended.
- 2) Upon satisfactory completion of two full years of service (step 3), a firefighter may test for Driver/Operator I (DOI). Those satisfactorily completing the test will be paid six (6) percent of their base rate at step 3, 4, 5, or 6, whichever is applicable, for out of classification as DOI for any full shift assigned by the Fire Chief or his designee and worked by the firefighter. Upon reaching the Qualified Rate, out of classification will be paid solely as outlined in Article 20.
- 3) Driver Operator II accepting the position of Fire Prevention Officer shall receive the qualified rate of the Fire Prevention Officer classification. All others would start at the probationary rate.

AGREEMENT  
BETWEEN  
CITY OF ELKO  
AND THE ELKO FIRE FIGHTERS ASSOCIATION  
LOCAL NO. 2423 OF THE  
INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS  
JULY 1, 2018 THROUGH JUNE 30, 2020

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ARTICLE 1  
PREAMBLE

This agreement is entered into between the City of Elko, Nevada, hereinafter referred to as the "City" and the International Association of Firefighters, Local 2423 hereinafter referred to as the "Association". Members of the Association, employed by the City are covered by this agreement and will hereinafter be referred to as "employees".

It is the intent and purpose of this agreement to assure sound and mutually beneficial working and economic relationships between the parties hereto and to provide an orderly and peaceful means of resolving any misunderstandings or differences which may arise.

It is recognized by both the City and Association and its member employees that the City is engaged in rendering public services to the general public and that there is an obligation on each party for the continuous rendition and availability of such services.

All member employees shall perform loyal and efficient work and service; shall use their influence and best efforts to protect the properties of the City and its service to the public; and shall cooperate in promoting and advancing the welfare of the City at all times.

The full agreement between the parties, other than those portions of public employment agreements that are expressly provided for, or excluded by State Statute or the Elko City Municipal Code, is set forth herein.

All City of Elko rules and regulations that are inconsistent with this agreement shall not be applicable to employees covered hereunder.

NOTE: Where the word designee is used in this agreement a designee is defined as an individual who has been officially designated by the Fire Chief or Deputy Fire Chief to act in his/her behalf during their absence of one or more full shifts. During the absence of the Fire Chief the Deputy Fire Chief shall be the designee and in the absence of both the Fire Chief and Deputy Fire Chief, the Chief may appoint a designee for administrative and clerical duties .

## ARTICLE 2

### RECOGNITION AND APPLICATION

- A. The City of Elko (hereinafter called the "City") recognizes the International Association of Firefighters, Local Number 2423, (hereinafter called the "Union") as the exclusive bargaining agent for the Fire Department employees listed below for the purpose of collective bargaining as set forth in NRS 288.
- B. Persons in the following classifications are included within the bargaining unit.
  - 1. Suppression
    - a. Captain
    - b. Driver Operator II
    - c. Driver Operator I
    - d. Firefighter
  - 2. Non-suppression
    - a. Assistant Fire Marshal
    - b. Fire Prevention Officer
- C. All other provisions of this agreement notwithstanding, administrative and , temporary employees are excluded from the bargaining unit of the Association and this agreement shall not apply to temporary employees except as may be expressly provided hereafter. Temporary employees are defined as those employees who are hired for a position which is not intended to exist for more than 6 months in a year and which will be designated as a temporary position at the time the offer of employment is made.



### ARTICLE 3

#### STRIKES AND LOCKOUTS

- A. The Association and the employees covered by this Agreement will not promote, sponsor or engage in, or against the City, any strike, slow down, interruption of operation, stoppage of work, absences from work upon any pretext or excuse not founded in fact, or any other intentional interruption of the City, regardless of the reason for so doing. Further, the Association will use its best efforts to induce all employees covered by this Agreement to comply with this pledge.
- B. The City will not lock out any employees covered by this Agreement during the term of this agreement as a result of a labor dispute with the Association.

## ARTICLE 4

### RIGHTS OF MANAGEMENT

As stated in Local Government Employee-Management Relations Act at NRS 288.150, subsection 3, those subject matters which are not within the scope of mandatory bargaining and which are reserved to the City without negotiation include:

- A. The right to hire, direct, assign, or transfer an employee, but excluding the right to assign or transfer an employee as a form of discipline.
- B. The right to reduce in force or lay off any employee because of lack of work or lack of funds, subject to paragraph (t) of subsection 2, NRS 288.150.
- C. The right to determine:
  - 1. Appropriate staffing levels and work performance standards, except for safety consideration;
  - 2. The content of the workday, including without limitation workload factors except for safety considerations;
  - 3. The quality and quantity of services to be offered to the public; and
  - 4. The means and methods of offering those services.
- D. Safety of the Public.
- E. Notwithstanding the provisions of any collective bargaining agreement negotiated pursuant to this chapter, the city is entitled to take whatever actions may be necessary to carry out its responsibilities in situation of emergency such as a riot, military action, natural disaster or civil disorder. Such actions may include the suspension of any collective bargaining agreement for the duration of the emergency. Any action taken under the provisions of this subsection shall not be construed as a failure to negotiate in good faith.

## ARTICLE 5

### NON-DISCRIMINATION

- A. The City will not interfere with, or discriminate in respect to any term or condition of employment against, any employee because of membership or non-membership in the Association, or because of any legitimate activity pursuant to this Agreement by the individual employee or the Association on behalf of its members, nor will the City encourage or discourage membership in any employee bargaining organization.
- B. Weingarten Rights give the employee the right to have union representation at all investigatory meetings, which the employee reasonably believes may result in disciplinary actions. A Union representative(s) of the employees choosing may attend all investigatory meetings. The association representative(s) may meet in private with the employee prior to the start of any questioning. A Union representative(s) can speak and object to questioning during the meeting. A Union representative(s) will be given equal rights as management in that they may raise a voice, gesture, challenge management's claim of truthfulness, threaten legal action. Management cannot label this behavior as insubordinate and impose discipline as long as the representative acts in his/her representational capacity and the actions are not considered to be outrageous and indefensible.
- C. The Association recognizes its responsibilities as the exclusive negotiation agent and agrees to represent all employees in the bargaining unit without discrimination, interference, restraint or coercion.
- D. The Provision of the agreement shall be applied equally to all employees in the fire department without any discrimination consistent with federal and Nevada law as to age, sex, sexual orientation, gender identity or expression, marital status, race, color, religion, national origin, political affiliation, personal reasons or membership or non-membership in the Association. The Association shall share equally with the City the responsibility for applying provision of the agreement.

## ARTICLE 6

### ASSOCIATION DUES AND PAYROLL DEDUCTION PRIVILEGES

- A. Member employees may authorize payroll deductions for the purpose of paying Association dues. Upon the execution of the proper personnel payroll document filed with the City Clerk, and coinciding with the commencement of a payroll period, the city agrees to deduct from the wages of an employee on a monthly basis association dues, the City's approved group health insurance, the City's approved credit union, and other city approved deductions.
- B. The Association will indemnify, defend and hold the City harmless against any claims made and against any suits instituted against the City on account of any action taken or not taken by the City in good faith under the provisions of this Article. The Association agrees to refund to the City any amount paid to it in error on account of the payroll deduction provision upon presentation of proper evidence thereof.
- C. The employee's earnings must be sufficient after other legal and required deductions are made to cover the amount of the appropriated Association dues. When a member in good standing of the Association is in a non-pay status for an entire pay period, no withholding will be made to cover the pay period from future earnings. In the case of any employee who is in non-pay status during only part of the pay period, and the wages are not sufficient to cover the full withholding no deductions shall be made. In this connection, all other legal and required deductions have priority over Association dues.

## ARTICLE 7

### HOURS OF WORK

- A. Except for the Assistant Fire Marshal and Fire Prevention Officer, the hours of work for employees of the Fire Department will continue to be 24-hour shifts, and average on an annual basis 56 hours per week.
- B. Suppression employees will work two (2) consecutive twenty-four (24) hour shifts for a total of forty-eight (48) hours and have ninety-six (96) hours off.
- C. Hours of work for the Assistant Fire Marshal and Fire Prevention Officer shall be Monday through Friday, forty (40) hours per week.
- D. With the consent of employee, the Fire Chief or his designee may alter the work schedules and shifts of suppression employees to accommodate multi-day training seminars. During the multi-day seminars, employees may be assigned to work shifts which are consistent with the class times for the seminars. Training time shall only be considered as compensable hours of work if it is required by the City and mandated as compensable under the Fair Labor Standards Act and its related regulations. An Employee's compensation shall not be reduced as a result of his or her participation in training, even if the hours worked during the 24 day work period are less than the employee's regularly scheduled hours during the work period.

Employees will complete and sign an approved training request form prior to attending seminars or trainings. The form will be used to establish the amount of overtime the employee may be entitled to.

- E. Upon approval of the Fire Chief and Human Resources, and on a case-by-case basis, a suppression employee may be assigned to work a forty (40) hour per week schedule due to a light duty assignment. That employee will continue to be paid at the same bi-weekly base salary, and will accrue leave at the same rate as s/he would accrue while assigned to his/her regular 48/96 hour schedule.

## ARTICLE 8

### OVERTIME

- A. The salary set forth in Exhibits A and B of this Agreement for suppression employees shall include straight time pay for 192 hours of work during each 24 day work period. A premium payment of one-half times the regular hourly rate shall be paid for all hours worked between 182 hours and 192 hours in a 24 day work period to the extent required by the Fair Labor Standards Act and related regulations ("FLSA").
- B. Except as otherwise set forth in this Article 8, any hours of work or training officially ordered in excess of the Employee's basic work period shall constitute overtime or call-back and shall be paid on a time-and-one-half basis. Furthermore, any overtime or call-back required to be worked shall be paid in accordance with the provisions of the Official Policies of the Public Employees' Retirement System of Nevada.
- C. Any overtime work required of an employee on a day when no work is scheduled or for which s/he is required to return to his/her place of employment, shall be considered to be at least two (2) hours in duration.
- D. Training scheduled pursuant to paragraph D of Article 7 shall not trigger eligibility for overtime or premium pay unless the time actually worked on the changed schedule creates overtime eligibility under the provisions of the FLSA.
- E. When an incoming shift is short personnel and does not meet minimum staffing requirements, and the company officer is unable to find an employee to fill-in on overtime, the company officer on duty may require a suppression employee to remain on duty as a mandatory hold over.



## ARTICLE 9

### HOLIDAYS AND HOLIDAY PAY

- A. The following is a list of legal holidays which will be observed:

New Year's Day  
President's Day  
Memorial Day  
Independence Day  
Labor Day  
Nevada Day  
Veteran's Day  
Thanksgiving Day  
Christmas Day  
Martin Luther King Day  
Day Following Thanksgiving

and any other day that may be declared a holiday or part of a holiday by the City Council, the Legislature of the State of Nevada or the Governor of the State of Nevada.

- B. Holidays are considered to be eight (8) hours in duration and will commence at 7:00 am on the day the holiday is observed,
- C. Any employees working a holiday will receive in addition to their regular wages, one and one half (1 - ½) times their regular rate of pay for eight (8) hours. This applies to that employee working a majority of hours that holiday. Any employees not working a majority of the holiday will receive in addition to their regular wages, eight (8) hours of pay.
- D. If pursuant to Nevada law, the holiday is observed on the Monday following or on the Friday preceding the actual day of the legal holiday, the provisions of paragraph C of this Article shall apply to those employees who work the shift which commences at or about 7:00 a.m. on the day the holiday is observed.

## ARTICLE 10

### ANNUAL LEAVE

- A. Eligibility: For the purpose of determining eligibility for annual leave allowance, the term "Continuous Service" shall be that service commencing with appointment to a position with the City and continuing until resignation or discharge.

For the purpose of determining annual leave earned, the term "Actual Service" shall mean the number of days actually worked on the job; provided however, that the absence from work due to sick leave with pay, annual leave with pay, injury or illness incurred in the City service and the absence on temporary military duty shall be deemed actual service.

- B. Qualifying Period: An employee may earn, but is not entitled to take annual leave until s/he has completed six (6) months service with the City.

- C. A regular, full time employee will be granted annual leave benefits as follows:

#### Years of Continuous Service

From 0 - 60 months: Sixteen (16) hours per month to a maximum of two hundred eighty eight (288) accumulated hours.

61 to 240 months: Twenty two and 4/tenths (22.4) hours per month to a maximum of four hundred thirty two (432) accumulated hours.

241 Months or more: Twenty five and 2/tenths (25.2) hours per month to a maximum of four hundred thirty two (432) accumulated hours.

#### Assistant Fire Marshal & Fire Prevention Officer

From 0 - 60 months: Ten hours (10) per month to a maximum of one hundred sixty (160) accumulated hours.

61 or more months: Fourteen hours (14) per month to a maximum of two hundred forty (240) accumulated hours.

Unless the Fire Chief, or designee, agrees to a shorter time, an employee shall give not less than two (2) weeks advance written notice to take annual leave of ninety six (96) hours or more; and not less than one (1) week advance written notice to take annual leave of less than ninety six (96) hours. The notice requirements of this paragraph shall not apply when a portion of a shift is taken as provided in paragraph D(2).

If a holiday falls on or during an employee's annual leave, that day will not be charged as a leave day.

Annual leave credits shall accrue throughout and be accounted for at the end of each pay period during which the employee is in full pay status during his/her regularly scheduled duty assigned hours.

Seasonal, temporary, part-time or intermittent employees are ineligible for annual leave benefits.

An employee shall be paid his/her regular hourly rate for each hour of annual leave time taken.

If an employee reaches his/her maximum Annual Leave Accrual hours, and is denied leave due to minimum staffing requirements, the employee shall be paid straight time pay for all accrued leave above the stated maximum during that current pay period.

D. Annual Leave Charge Back (suppression employees):

1. Except as provided in Article 13, "Injury Leave," when an employee takes annual leave it shall be charged on an hour per hour basis.
2. Annual leave of less than a full day may be approved by a shift captain, provided there is adequate staffing.

E. Approval of Annual Leave: Once the employee has fulfilled the obligation of Article 10 Paragraph C, the Fire Chief or designee will have three (3) "business days" to approve or disapprove any written request that is less than sixty (60) calendar days in advance; and ten (10) business days to approve or disapprove any written request that is more than sixty-one (61) calendar days in advance. Once the annual leave requested dates have been approved by the Fire Chief or designee, the employee will be guaranteed the dates requested without exception, unless mutually agreed upon by both parties to reschedule requested annual leave. Where more employees than can be spared request a particular period, preference will be in order of seniority in grade, provided the remaining employees are qualified to do the work. Except with the written approval of the Fire Chief, or designee, and the City Manager, not more than two hundred sixteen (216) consecutive hours may be taken off in any period of annual leave.

F. Resignation and/or Retirement:

1. A person about to resign or about to retire and under the provisions of the State Retirement Act or who is to be laid off without fault in his part, and who has earned annual leave, may be granted annual leave for the time so earned not to exceed four hundred thirty two hours (432). Such annual leave must be taken prior to the effective date of any such resignation or layoff; or, in lieu of such annual leave an employee may elect to receive a lump sum payment for annual leave time accrued to his credit.
  2. An employee nearing retirement will be required to provide the City at least a minimum of six months' notice in order to allow the City sufficient lead time in hiring a successor. Exceptions may be granted upon written request by the retiring employee through the Fire Chief, or designee, to the City Manager.
- G. Death of Employee: Upon the death of a person presently on the employment records of this City, a lump sum payment for annual leave time accrued to their credit will be made to the employee's beneficiaries or estate, upon receipt of proof of death and beneficiary(ies). The City Manager shall instruct the City Clerk on the disposition of such cases.
- H. For purposes of this Article 10, the following definitions shall apply.
- 1.. "Shift (suppression employees)": Twenty-four (24) hours.
  - 2.. "Shift (Assistant Fire Marshal & Fire Prevention Officer)": Eight (8) hours.
  - 3.. "Day" (Suppression employees) Twenty-Four (24) hours.
  - 4.. "Day" (Assistant Fire Marshal & Fire Prevention Officer) Eight (8) hours.
- I. Annual Leave Charge Back (Assistant Fire Marshal & Fire Prevention Officer)
- Except as provided in Article 13, "Injury Leave", when the Assistant Fire Marshal and Fire Prevention Officer takes annual leave it shall be charged on an hourly basis by hours of leave taken.

## ARTICLE 11

### SICK LEAVE

- A. Eligibility: For the purpose of determining eligibility for sick leave allowance, the term "continuous service" shall be that service commencing with appointment to a position with the City and continuing until resignation or discharge.

For the purpose of determining such leave earned, the term "Actual service" shall mean the number of days actually worked on the job; provided, however, that absence from work due to sick leave with pay, vacation with pay, injury or illness incurred in City service and absence on temporary military duty shall be deemed actual service.

- B. Qualifying Period: An employee shall not be entitled to accrue sick leave until after s/he has been employed three (3) full months continuous regular employment. At the beginning of an employee's fourth month of regular employment, a twenty-four hour shift employee shall be entitled to 90 hours sick leave credit and an eight hour shift employee shall be entitled to 30 hours of sick leave credit.

- C. Accrual of Sick Leave.

1. Employees, after completing three (3) full months of continuous regular employment, and working on a full time basis shall earn sick leave credits at the rate of thirty (30) hours per month, computed on a basis of calendar days of actual service.
2. Assistant Fire Marshal and Fire Prevention Officer shall earn sick leave credits at the rate of ten (10) hours per month, computed on a basis of calendar days of actual service.

- D. Maximum Accumulation: Accumulation of sick leave accruing to a twenty-four hour shift employee's credit which is not used during the year in which earned may accumulate from year to year to a maximum of two thousand eight hundred eighty (2880) hours. Accumulation of sick leave accruing to a forty-hour per week employee's credit which is not used during the year in which earned may accumulate from year to year to a maximum of two thousand eighty (2080) hours.

1. After an employee has accumulated two thousand eight hundred eighty (2880) hours of sick leave credit, or two thousand eighty (2080) for a forty-hour per week employee, the remaining sick leave accrual over two thousand eight hundred eighty

hours (2880), or two thousand eighty (2080) for a forty-hour per week employee, shall be credited as follows: one-half of the hours shall be added to regular sick leave and one half shall be placed in an extra sick leave account to be used by an employee under the following conditions:

- (a) The employee is suffering from a long term or chronic illness. ("Long term or chronic illness is defined as a disease or ailment that is a lasting condition for a period of months or years. It cannot be easily corrected within a short period of time and generally is not of a temporary disabling or incapacitating nature"); and
- (b) The employee has used all sick leave otherwise available to him/her; and,
- (c) Approval of the City Manager.

- E. Authorized Use of Sick Leave: Sick leave with pay can be granted only upon approval of the City Manager or Fire Chief, or designee, in the case of a bona-fide illness of an employee (those cases which do not qualify under FMLA). The purpose of sick leave is to allow employees who are injured, ill, or attending an appointment with a doctor or dentist, continuation of pay while obtaining medical treatment or recuperating from illness/injury. If an employee does not have sick leave available, the employee may use compensatory time, annual leave, or time without pay in that order..
- F. Family Sick Leave: Use of sick leave for immediate family related illness (non-FMLA) shall be limited to a maximum of one hundred forty four (144) hours per calendar year; no more than ninety-six (96) hours at a time. Immediate family is defined as spouse, parents, grandparents, brother, sister, child, grandchild, or corresponding relation by affinity..
- G. Regular and family sick leave shall be charged on an hour per hour basis from sick leave accrued for each one (1) hour taken.
- H. Bereavement Leave: In the event of the death of a member of the immediate family, an employee may request up to forty-eight (48) consecutive hours of sick leave, or up to twenty-four (24) hours of sick leave for eight (8) hour per day employees. Immediate family is defined as spouse, parents, grandparents, brother, sister, child, grandchild, or corresponding relation by affinity. Additional time may be approved by the City Manager, or designee, up to the limits then accrued in an individual instance.
- I. Certificate of Illness: Substantiating evidence in the form of a physician's certificate of



illness may be furnished as proof of the adequacy of the reason for the employee's absence during the time when sick leave was requested. Certificates shall be required by the City Manager, Fire Chief, or designee, when there is (1) absence in excess of two (2) days, and (2) whenever there is reason to believe sick leave is being abused.

J.. Forfeiture of Sick Leave: No employee shall be entitled to sick leave while absent from duty on account of any of the following:

1. Disability arising from any sickness or injury purposely self-inflicted or caused by any of his/her willful misconduct.
2. Disability arising from any conduct which is in violation of federal state, or local statute, written City or departmental policy.
3. Sickness or disability sustained while on leave without pay.

K.. Fraudulent Sick Leave Claims: Any person claiming sick leave with pay, where it is shown that such a claim was made or approved by such claimant knowing that such claimant was in fact not sick or otherwise entitled thereto, shall forfeit all accumulated sick leave and shall not be allowed to receive or accumulate sick leave for a period of twelve (12) pay periods thereafter. The employee is subject to termination if such fraudulent claim was made and accepted, however, such employee's rights to a subsequent hearing shall still be in accordance with the Nevada Revised Statutes.

L.. Sick Leave and Payment Upon Retirement: Upon retirement, an employee shall be paid accrued sick leave accrued during employment with the City of Elko up to nine hundred sixty (960) hours based on the same percentage as the percentage of the employee's retirement determined pursuant to the Nevada Public Employees Retirement Act.

M.. Death of an Employee: Upon the death of a person presently on the employment records of the City, a lump sum payment for sick leave accrued to the employee's credit up to nine hundred sixty (960) hours will be made to the employee's beneficiary(ies) or estate, upon receipt of proof of death by beneficiary(ies). The City Manager shall instruct the City Clerk on the disposition of such cases.

N.. Definitions: For purposes of this Article 11, the following definitions shall apply.

1. “Shift (suppression employees)”: Twenty-four (24) hours.
2. “Shift (Assistant Fire Marshal & Fire Prevention Officer)”: Eight (8) hours.

O.. Family and Medical Leave Act Leave:

- a. Family and medical leave for employees shall be governed by the provisions of the federal Family and Medical Leave Act (FMLA), as may be amended from time to time. Nothing in this section is intended to extend to the City employee’s rights or benefits not extended in this law. Where there is a conflict between this section and the FMLA, the FMLA governs.
- b. All employees who have one year (52 weeks) of service and have worked at least 1,250 hours during the preceding 12-month period , are eligible to take up to 12 weeks of unpaid leave concurrent with paid leave, in a 12-month period as defined in the FMLA. Eligible employees may request leave for their own serious health condition, for the serious health condition of the employee’s spouse, child or parent, for the birth and care of a newborn child, for placement of a child for adoption or foster care, or to provide military caregiver leave or exigency leave, as defined in the FMLA. The 12-month period shall be a “rolling” 12-month period measured backward from the date an employee uses any FMLA leave. Employees shall utilize all sick leave, compensatory time, and/or annual leave in that order, to be taken in conjunction with FMLA leave. Employees shall comply with the application process and various provisions of the FMLA. The City may require appropriate medical information and certifications as allowed by the FMLA when requesting leave for the employee or family member.
- c. The employee must provide reasonable advance notice if the need for the leave is foreseeable. The department head shall not deny leave to any eligible employee who requests family or medical leave pursuant to the provisions of the FMLA. The employee has the right to reinstatement to the same or a comparable position unless the employee is exempted from such right under the provisions of the FMLA.
- d. The City shall maintain coverage under any group health plan for the duration of the leave at the level and under conditions that would have been

provided had the employee been working. However, the City shall only maintain such group health plan coverage for such employee for up to 12 weeks within a 12 month period commencing with the start of the FMLA leave.

## ARTICLE 12

### LEAVE FOR MILITARY AND UNIFORMED SERVICE MEMBERS (MILITARY LEAVE)

- A. Definition: The Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. § 4301, et sq., together with Nevada Revised Statute (NRS) 281.145 (to the extent it creates rights or benefits that are more beneficial to or in addition to rights or benefits provided under USERRA), set forth the respective rights and duties of the City and its employees in connection with service in the uniformed services. The rights and benefits for Military Leave extend to firefighters who are called to active duty and who are deployed under the National Disaster Medical System of the U.S. Department of Health and Human Services. Upon the commencement of a period of service which is subject to USERRA and/or NRS 281.145, the firefighter shall be entitled to regular compensation for a period not to exceed 120 hours in any one (1) calendar year. An absence due to a period of service shall not count against the firefighter's annual vacation or sick leave. Pursuant to 20 CFR § 1002.41, USERRA rights are not diminished because an employee holds a temporary, part-time, probationary, or seasonal employment position. However, the City is not required to reemploy a temporary, part-time, probationary, or seasonal employee if the employment he or she left to serve in the uniformed services was for a brief, non-recurrent period and there is no reasonable expectation that the employment would have continued indefinitely or for a significant period.

## ARTICLE 13

### INJURY LEAVE

#### ABSENCE DUE TO EMPLOYMENT-CONNECTED TEMPORARY DISABILITY

- A. In the event an employee is absent due to an employment-connected temporary disability s/he may receive compensation as determined by the City of Elko's worker's compensation insurance carrier plus an amount from the city which would cause the total amount received by the employee to equal their salary at the time of his disability. Such payments from the city shall not extend beyond an employee's accumulated sick leave and annual leave. In the event compensation is not immediately established by the worker's compensation insurance carrier and the employee draws full sick leave pay from the city and subsequently receives worker's compensation, s/he shall repay the city the amount of such compensation pay received to cover the period which was covered by city sick leave.
- B. For each scheduled shift the employee does not work while on worker's compensation leave as a result of a temporary disability, sick or annual leave accumulated shall be charged at 33 1/3%. Therefore, as an example, when an employee on worker's compensation takes 24 hours off, eight (8) hours sick leave shall be charged.
- C. For purposes of this Article 13, accrued sick leave shall be exhausted prior to accrued annual leave being used.
- D. After six (6) months during which an employee is unable to work because of an employment-connected temporary disability, the employee may elect not to continue the provisions set forth in paragraphs A and B above, and to be provided only with payments for employment-connected temporary disability as determined by the City of Elko's worker's compensation carrier. Upon the employee's election to receive only worker's compensation payments, sick and annual leave shall cease to be deducted from the employee's leave accrual, and the employee shall earn service credits in respect to sick leave, annual leave, longevity pay, and retirement benefits.
- E. The provisions of this Article apply only to employment connected temporary disabilities which do not permit the employee to work. In that regard, should the City of Elko's worker's compensation carrier determine that an employment connected disability is or becomes permanent the provisions of the Article shall cease to apply as of the date of the permanent disability.

## ARTICLE 14

### COURT LEAVE

- A. An employee appearing in any court, or before the Grand Jury, as a party to an action arising out of their City employment; or as a witness to either a civil or criminal case for the purpose of giving testimony as to facts or knowledge that s/he has received in the course of their City employment, shall receive full compensation as though s/he were actually on the job during such times.
- B. The employee shall claim any jury, witness, or other fee to which s/he may be entitled by reasons of such appearance and forthwith pay the same over to the City Clerk to be deposited in the General Fund of the City. In all cases, however, the employee shall retain mileage allowances.



## ARTICLE 15

### ASSOCIATION ACTIVITIES

- A. The Association shall be allowed to hold monthly meetings at the Fire Department so long as such meetings are held after the day's work is completed and does not interfere with the Department schedules, business, or training. Any other meetings must receive the approval of the City Manager or Fire Chief, or designee.
- B. In order to ensure that the Association's meetings do not conflict with the Department schedules, business or training, the Association whenever possible shall give the City Manager, Fire Chief, or designee at least one (1) week's prior written notice of the time and date which the meetings will be held.
- C. Once meeting approval has been given, the date and time will be added to the calendar and the department will not schedule business, trainings, or activities that interfere or conflict with the scheduled meeting.

## ARTICLE 16

### RETIREMENT

- A. The retirement rights of the employees shall be the same as those provided by Chapter 286 of the Nevada Revised Statutes ("Public Employees' Retirement Act"). This agreement shall be interpreted consistent with the provisions and requirements of the Public Employees' Retirement Act. In the event of inconsistency, the terms of the Public Employees' Retirement Act shall govern.
- B. Pursuant to the Public Employees' Retirement Act, the Public Employees' Retirement System ("PERS"), by and through its board, arranges for actuarial valuations and reports on the soundness of the system and establishes the required contribution rate.
- C. The City has an employer-paid contribution plan and pays the entire contribution for employees who contribute to the police and firefighter's retirement fund, pursuant to NRS 286.421.9, to permit the entire contribution (including the employee's share) to be made on a pre-tax basis.
- D. Pursuant to NRS.421.3, employees' salaries must be adjusted to reflect employees' portion of the contributions by either reducing employees' salary or in lieu of an equivalent salary or cost-of-living increase. City and employees are each responsible for equal dollar amounts of the contributions.
- E. Effective July 17, 2005, the contribution rate for the police and firefighter's retirement fund was increased by 3.5% from 28.50% to 32.00%. Pursuant to NRS 286.421, the City paid the entire increase in the retirement fund contributions in lieu of granting employees an equivalent salary or cost-of-living increase.
- F. If the contribution rate increases or decreases in the future, employees' salaries shall be adjusted as required pursuant to NRS 286.421.3. If the contribution rate decreases then, the employees' salaries shall be increased by their one-half share of the contribution decrease. If the contribution rate increases, then employees' salaries shall be reduced by the employees' one-half share of the contribution increase.
- G. An employee about to retire is required to provide the City a minimum of six months advance written notice in order to allow the City sufficient lead time in hiring a successor. Exceptions may be granted upon written request by the retiring employee through the Fire Chief, to the City Manager.

## ARTICLE 17

### LONGEVITY PAY

- A. Upon completion of eight (8) years of continuous employment with performance reviews of standard or better, employees hired before July 1, 2011 will receive the following longevity pay, with the maximum years of service being twenty-five (25):

Years of Completed Service	Semi-Annual Amount	Total Annual
8	\$ 100	\$ 200
9	125	250
10	150	300
11	200	400
12	225	450
13	250	500
14	275	550
15	300	600
16	375	750
17	400	800
18	425	850
19	450	900
20	475	950
21	600	1200
22	625	1250
23	650	1300
24	675	1350
25	700	1400

Longevity pay shall be payable on the first payroll in June and December of each year. An employee will receive the first check during the year following the employee's eighth (8th) anniversary year of employment with the City. If the employment anniversary date falls between January 1 and June 30 of that year, the first check will be on the first payroll in June. If the anniversary date falls between July 1 and December 31 of that year, the first check will be on the first payroll in December.

## ARTICLE 18

### PAY RESOLUTIONS

- A. Pay Periods: The pay periods and dates of payment shall be established by the city.
- B. Initial Appointment: Firefighters hired after July 1, 1996 shall be hired at the start rate reflected in Exhibits A.
- C. Promotions: When a firefighter is promoted to Driver Operator I or a Driver Operator I is promoted to a Driver Operator II, s/he shall receive the qualified rate of the respective classification. The promoted employee shall serve a twelve (12) month probation period as outlined in Article 19.
- D. Demotions: When an employee is demoted to a lower position class, the pay rate shall be commensurate with where the employee would have been on the salary schedule if the promotion had not occurred. The Fire Chief or designee, with the approval of the City Manager, may demote an employee to a lesser paid salary classification upon failure of the employee to maintain a standard of work set forth in the job classification description. Nothing in this section prohibits the employee from future promotions.
- E. Full Time Service: For the purpose of determining eligibility for probationary period salary increases, promotion and accrual of benefits, the term "full-time service" shall mean the number of days actually worked on the job, including absences with pay. Leaves of absence without pay, including military leave to the extent permitted by applicable federal and/or Nevada law, shall not be credited as full time.
- F. Direct Deposit: The City of Elko will provide direct deposit of payroll to any local bank or credit union. Each employee will have the option of participating in the direct deposit program. Those employees who wish to participate in the direct deposit program will complete all the appropriate forms authorizing the City and/or bank or credit union to deposit their check electronically.

Any member who does not elect to take advantage of the direct deposit program may have their payroll checks mailed to them, or will be able to pick up their payroll check at the firehouse. The checks to be picked up at the firehouse will be sealed by the payroll clerk in individual envelopes.

## ARTICLE 19

### PERFORMANCE EVALUATION AND PROBATIONARY EMPLOYEES

#### A. Probationary Employees:

1. Newly-hired full-time employees shall serve a twelve (12) month probationary period from the date of hire. The probationary period for new hires may be extended for a period of six (6) months, based on the recommendation of the Fire Chief or his designee. After six (6) months of employment, a new hire shall receive a performance review. Thereafter, performance evaluations will be conducted biannually on the anniversary date, and every twelve (12) months after the employee reaches the qualified rate for the current position occupied. Upon successful completion of the probationary period, the newly hired employee shall be granted a merit increase to Step 1, in accordance with Exhibit A. Thereafter, the employee's rate will be increased to successive steps in accordance with Exhibit A, after completing six (6) months service between each step, and upon receiving an acceptable performance evaluation, with an "At Target" or higher evaluation rating.
2. Employees promoted into any higher paid classification shall serve a twelve (12) month probationary period from the date effective of the promotion to the higher classification. Employees promoted to Driver Operator I and Driver Operator II shall receive a performance evaluation after six (6) months full-time service in the position, and again after twelve (12) months full-time service in the position. Thereafter, performance evaluations will be conducted annually.
3. Employees promoted to Assistant Fire Marshal, or Captain shall receive the probationary rate for the first twelve (12) months of full-time service from the effective date of promotion. Upon the successful completion of this probationary period, the promoted employee shall receive the qualified rate as outlined in Exhibit A, provided the employee's job performance so warrants as established in the performance evaluation process. Performance evaluations shall occur bi-annually on the anniversary date of the effective promotion until the employee reaches the qualified rate. After the qualified rate is reached, performance evaluations will be conducted annually.

- 4.. An employee promoted to a higher classification may be returned to his/her former position if management determines s/he is unable to satisfactorily perform the job. In that event all promotions, regardless of the number of employees affected, which occurred as a result of the returning employees back to their former position, shall be reversed, returning those employees back to their former position and any employee hired at an entry level position as a result of the aforesaid promotions shall be terminated if no other openings exist.

## ARTICLE 20

### ASSIGNMENT TO HIGHER CLASSIFICATION

- A. An employee covered by this agreement who is required to work in a higher classification shall receive an additional 6% of his/her current rate of pay for all hours worked in this capacity.
- B. An employee shall not be removed from a temporary assignment for the purpose of avoiding payment of the above premium.
- C. Distribution of work in a higher classification shall be rotated among all employees in the lower classification; provided however that this clause shall not be interpreted to require that firefighters be permitted to work as fire captains.
- D. New hire firefighters will have to complete eighteen (18) months of service and satisfactorily complete the Driver/Operator I test to qualify for temporary assignment to Driver/Operator I. Out-of-classification pay for firefighters will be in accordance with paragraph (2) in Exhibit A.
- E. When a Captain has been designated by the Fire Chief or Deputy Fire Chief to act as the temporary Fire Chief during his/her absence of a full shift or more, the Captain shall receive an additional six percent (6%) over his/her base hourly rate for all hours worked in this capacity.



## ARTICLE 21

### GROUP LIFE INSURANCE

- A. The City shall pay 100% of the premium cost for:
1. A \$30,000 policy of Group Term Life Insurance for each of the employees of the fire department;
  2. A \$5,000 policy of Group Term Life Insurance for each unit employee's spouse; and
  3. A \$3,000 policy of Group Term Life Insurance for the dependent children of each unit employee, over 6 months to 19 years. However, if the dependent child is a full-time student, the life insurance set forth in this subparagraph 3 shall be until the dependent is 24 years of age.
  4. A \$500 policy Group Term Life Insurance for dependent children age 14 days to 6 months.

## ARTICLE 22

### GROUP HEALTH INSURANCE

A. All fire department employees regularly working a forty (40) hour week or more may, after initial employment, following a thirty (30) day waiting period from the first day of their employment and pursuant to the eligibility requirements of the current Benefits Program, enroll in the City's group health, dental and vision insurance plans; provided, however such employee is not excluded from enrollment by conditions of the insurance contracts.

B. City Share of Premium.

1. The City shall pay 100% of the cost of premium for group health, dental and vision insurance coverage for the employee.
2. To the extent provided by law, the employee shall have the option of converting the health, dental and vision insurance coverage upon their separation of employment at the City of Elko.

C. Employee Dependent Share of the Premium.

All provisions of employee and dependent health insurance shall be in accordance with the effective current Master Plan Document and premiums established and approved, effective at the beginning of each new plan year. The employee shall have the right to enroll all eligible dependents in the plan and shall have the respective premiums for dependents deducted through a payroll deduction.

D. All employees covered by this Agreement shall be given advance notice of any changes in the group insurance coverage's.

E. Insurance Committee.

Contingent upon approval by the Elko Police Department Employees Association and the International Union of Operating Engineers, Local 3, it is agreed that an Insurance Committee is established. The purpose of the Committee is to discuss group health insurance plan selection options and to make recommendations to the City Council and the respective bargaining units.

## ARTICLE 23

### PHYSICAL EXAMS

- A. The City will pay for the physical exams required by NRS 617.457 or any other Nevada law if the employee gets their exam from the physician chosen by the City. However, if the exam is done by another physician of the employee's choice, the City will reimburse the employee in the amount of the standard amount paid by the City and the employee shall pay the physician directly.
- B. Physical exams shall be taken annually in accordance with law and shall be scheduled by the Fire Chief, or designee.
- C. When there is a question of fitness for duty as a result of a required annual physical, the City shall pay for one additional diagnostic test deemed necessary by the physician to confirm or dispel a fitness for duty issue indicated as a result of an employee's annual physical exam. The City shall not pay for any additional testing for diagnosis or treatment of any health problem as a result of the physical.

## ARTICLE 24

### UNIFORMS AND ALLOWANCE

#### A. This city shall furnish to newly hired employees

##### 1. Class B Uniform

- a. One (1) dress shirt.
- b. Two (2) badges.
- c. Two (2) name tags.
- d. Two (2) pair of collar brass.
- e. One (1) black leather belt.

##### 2. Class C Uniform

- a. Three (3) red tee shirts.
- b. Three (3) blue tee shirts.
- c. One (1) sweat shirts.
- d. One (1) sweat pants.
- e. One (1) shorts
- f. Three (3) pants
- g. One (1) light coat.
- h. One (1) winter coat.
- i. One (1) pair station boots

##### 3. Helmet shield

- a. One (1) Helmet Shield designating rank and ID number

#### B. The City shall furnish each promoted employee with:

##### 1. Class B Uniform

- a. Two (2) badges
- b. Two (2) name tags
- c. Two (2) pair of collar brass.

2.     Helmet Shield

- a.     One (1) Helmet shield designating promoted rank and ID number.
- C.     The City shall furnish each employee a uniform allowance for maintenance and replacement of One Hundred-Fifty Dollars (\$150) per month.
- D.     The uniform allowance shall be paid on the first payroll in December and June of each year.
- E.     The Assistant Fire Marshal and Fire Protection Officer shall be provided with five (5) pants and five (5) shirts, boots or shoes, belt, badge, patches, light coat, and winter coat. If promoted through the ranks, the City shall buy two (2) pants and four (4) dress shirts plus all patches and badges as required.
- F.     Class A Uniform package shall be purchased by new hire employees upon successful completion of probationary period and prior to swearing in ceremony. Employees will notify the chief upon receipt of their Class A uniform, so the pinning ceremony can be scheduled. \*Current employees shall have Class A uniforms package purchased prior to December 31, 2014.

## ARTICLE 25

### LINEN SERVICE

- A. A linen service of the City's choosing shall be furnished. This service shall include cleaning of blankets, bedspreads, sheets and pillow cases.
- B. The City will provide each firefighter with two (2) winter blankets for use at the station.

## ARTICLE 26

### GRIEVANCE PROCEDURE

- A. The purpose of the following grievance procedure shall be to settle, as quickly as possible, any disputes arising out of the interpretation or application of this agreement.
- B. An Association grievance committee shall be established consisting of three members. Such committee shall be selected in a manner to be determined by the Association membership. The purpose of the Association grievance committee is to aid the Association and employee in resolution of grievances or to determine whether in fact, cause exists for pursuing the matter through the grievance procedure.
- C. An employee who feels aggrieved over the interpretation or application of this agreement shall take up the matter with the Deputy Fire Chief within ten (10) working days unless otherwise mutually agreed after the employee is aware or should have been aware of the event giving rise to the dispute. The employee shall further advise his/her supervisor of the matter giving rise to the dispute.
- D. The Deputy Fire Chief shall make a reasonable effort to reach an acceptable solution to the problem within ten (10) business days after it has been submitted to the Deputy Fire Chief. Any grievance settlement shall be approved in writing by the Fire Chief.
- E. If the grievance is not settled during this informal discussion and the employee wishes to proceed with the matter, s/he shall within ten (10) business days after the matter is submitted to the Deputy Fire Chief, file the matter in writing with the chairman of the Association grievance committee and provide the following information:
  - a. the employee's name;
  - b. the employee's position classification;
  - c. department;
  - d. a brief statement of the nature of the grievance;
  - e. any attempts to resolve the problem;
  - f. a proposed solution to the grievance;
  - g. signature of the employee;
  - h. the date the employee signed the statement;

The Association grievance committee and Deputy Fire Chief shall attempt to adjust the



matter at that time and shall render their decision in writing within ten (10) business days from the date said grievance is received. Any grievance settlement shall be approved in writing by the Fire Chief or designee.

- F. If the employee is not satisfied with the decision of the Association grievance committee, s/he shall, within ten (10) business days after the Association grievance committee renders its decision submit their grievance with the data as outlined above in writing to the Fire Chief. The Fire Chief shall arrange for such meetings and investigations that are necessary to enable him to respond in writing to the employee who has filed the grievance within ten (10) business days from the date the Fire Chief received said grievance.
- G. Within ten (10) business days after receipt of the written response from the Fire Chief, or designee, the employee may present the grievance in writing to the City Manager accompanied by all correspondence, transcripts, documents, tape recordings and all other data accumulated regarding the grievance. The City Manager shall review all of the relevant evidence and other data submitted. After consultation with the aggrieved employee and any other persons that the City Manager deems to have pertinent information in regard to such grievance, s/he shall within ten (10) business days from the receipt of said grievance render a decision.
- H. In the event the employee is not satisfied with the decision rendered by the City Manager, the matter may be submitted to arbitration in accordance with the following procedure:
  - 1. The Association shall within ten (10) business days of receipt of the City Manager's decision, notify the City Manager that the Association desires to refer the dispute to arbitration.
  - 2. The City and the Association shall attempt to agree on an impartial arbitrator within three (3) business days of the receipt of the notice to arbitrate. Should the City and Association be unable to agree on an arbitrator, they shall ask the American Arbitration Association (AAA) to submit to each party the names of seven (7) arbitrators, qualified to hear the matter.
  - 3. Within seven (7) days of receipt of the AAA panel, the parties shall agree to one of the arbitrators set forth in the panel to hear the dispute. Should the parties be unable to agree on one of the seven (7) AAA arbitrators submitted, the parties shall

alternately strike names of an arbitrator until one remains who shall hear and decide the matter. The party who seeks arbitration shall strike the first name.

4. The arbitrator shall have no authority to add to, subtract from, or modify any of the terms of this Agreement, or to hear, rule, or award on any matter, except while this Agreement, is in effect.
5. Consistent with the provisions of the Nevada Uniform Arbitration Act (NRS 38.015 and the following), the decision of the arbitrator shall be final and binding on the parties. The cost of the arbitrator shall be divided equally by the parties.
- I. The time limits specified in the preceding sections may be extended by the mutual agreement of the parties.
- J. The Association shall furnish the City with the names of the members of the Association grievance committee.
- K. Any employee, informally seeking or formally filing a request to have his grievance reviewed, shall not be discriminated against during recruitment, examination, appointment, training, promotion, retention, classification, or any other personnel action while doing so or testifying on behalf of another employee or assisting another employee to prepare a grievance report or acting as a representative of any employee requesting a grievance review.
- L. In the event the City schedules a grievance meeting while members of the grievance committee or the aggrieved is on a shift, the City shall grant time off with pay for those employees affected.
- M. For purposes of this Article, the term "business day" means any day Monday through Friday excluding holidays.
- N. No non-probationary employee shall be disciplined or discharged without just cause. Newly hired employees serving a probationary period may be disciplined or discharged in the discretion of the City with or without cause.

## ARTICLE 27

### ADOPTION OF AGREEMENT AND AMENDING PROCEDURE

- A. Adoption: This agreement will be deemed adopted and of binding effect, terminating negotiations during its term, upon approval and subscription of the Association and the City.
- B. Copies of Agreement: Upon adoption of this agreement, the City shall furnish the Association with two (2) copies of the Agreement. Additional copies of the Agreement may be requested either by the Association or its members and the City will be required to furnish said requested copies; however, the City shall be entitled to charge the current prevailing rate for each copy over and above the two (2) initially furnished the Association.
- C. Bulletin Boards: The City shall permit all reasonable use of Bulletin Boards located in the respective fire houses of the City. All materials posted by the Association shall be in good taste and shall not contain information which would embarrass or coerce any employee or official of the City.
- D. Politics on Bulletin Boards: No political displays, comments or suggestions shall be permitted on Bulletin Boards.
- E. Rules and Regulations:
  - 1. The City may adopt and amend Fire Department Rules and Regulations and Standard Operating Procedures consistent with N.R.S. and this Agreement. These shall be rules and policies by which the City administers the Fire Department and to which all employees covered by this agreement are bound.
  - 2. The City and the Union further recognize that the matters covered by the Fire Department Rules and Regulations and Standard Operating Procedures include subject matter which is subject and which is not subject to mandatory bargaining under the provisions of Nevada Revised Statutes 288. The City and the Union also recognize that these Fire Department Rules and Regulations and Standard Operating Procedures are subject to change by the Fire Chief or designee in accordance with the procedure outlined below.
  - 3. The City and the Union recognize and understand that the Fire Department Rules and Regulations and Standard Operating Procedures are general in nature and shall not

be considered as all inclusive. No inference will be drawn from the absence of a rule in the Fire Department Rules and Regulations.

4. The following procedure for adopting or changing Fire Department Rules and Regulations and Standard Operating Procedures will be as follows:
  - A. Except in the event of an emergency and except those which are currently in effect, no rule, regulation or standard operating procedure, nor amendment or cancellation thereof shall become effective until notice thereof has been posted in each fire station for a period of ten (10) consecutive days.
  - B. The City or the Union may request meetings to discuss their views relative to work rules and standard operating procedures and proposed changes therein. Except in the case of an emergency, upon timely request, such meetings shall be convened prior to the implementation of the rule, regulation, standard operating procedure, amendment or cancellation.
  - C. The Fire Chief will issue a written response to all written questions raised by the Union. The Union will do the same. These responses are due within three (3) days of the meeting with copies to the City Manager.
5. Any dispute arising between the City and the Union concerning any proposed or implemented modification or interpretation of Fire Department Rules and Regulations or Standard Operating Procedures which are the subject matter of mandatory bargaining shall be subject to the provisions of the Grievance Procedure, including arbitration.
6. Any dispute as to whether or not the subject matter of a proposed or adopted rule or regulation or standard operating procedure is a mandatory subject of bargaining shall be submitted to the Local Government Employee Management Relations Board in accordance with procedures outlined by the rules of that Board and N.R.S. 288 prior to it being submitted to arbitration.
7. Except in the event of an emergency, no disputed rule or standard operating procedure which is the subject of mandatory bargaining will go into effect prior to settlement of the dispute or arbitration award, whichever is earliest.
8. The parties agree that the Fire Department shall provide a copy of the current Fire

Department Rules and Regulations and Standard Operating Procedures, and a copy of any changes or amendments thereto, to each member of the Bargaining Unit.

- F. The use of the masculine pronoun with respect to employees shall refer to both male and female employees.

ARTICLE 28

SAFETY PROCEDURE

AND SAFETY EQUIPMENT AND CLOTHING

- A. It is in the best interests of the Association, the employees covered by this agreement, and the City that suggestions for improving and encouraging safety in fire department operations be seriously considered. In this context, the Association shall appoint a Safety Committee which may submit safety recommendations and report safety violations to the Fire Chief or designee, or the City Manager. Upon receipt of the Associations recommendations and/or report, the Fire Chief or designee, or the City Manager will within ten (10) calendar days acknowledge receipt of the report/recommendation and shall respond in writing within thirty (30) calendar days to the Association addressing those matters contained in the Association's recommendation and/or report.
- B. The City shall furnish and maintain at no cost to the employee all respiratory apparatus, gloves, helmets, and protective clothing.
- C. All protective clothing and equipment shall meet the highest requirements provided by Nevada or federal OSHA.

## ARTICLE 29

### TRADING TIME

Employees will be allowed practices of “trading time” and/or “early relief” with approval of the Fire Chief or Deputy Fire Chief. In the event the Chief or Deputy Fire Chief are not available, the Shift Captain shall have the authority to give the approval. The application of this Article shall not result in the payment of overtime compensation to employees who trade time or are provided early relief.



## ARTICLE 30

### SAVINGS CLAUSE

- A. This agreement is the entire Agreement of the parties, terminating all prior arrangements and practices and concluding all negotiations during the terms of this Agreement.
- B. Should any provisions of this Agreement be found to be in contravention of any Federal or State law, the Elko Charter or by a court of competent jurisdiction, such particular provisions shall be null and void, but all other provisions of this Agreement shall remain in force and effect until otherwise canceled or amended.

## ARTICLE 31

### COMPENSATORY TIME

1. Overtime compensation may be paid in cash or in compensatory time off under the following restrictions:
  - a. Compensatory time off at the standard overtime rate may be granted at the discretion of the Fire Chief or Deputy Fire Chief in lieu of cash payment and may be allowed to accrue as compensatory time off, up to a maximum of ninety-six (96) hours. Any hours in excess of ninety-six (96) hours will be paid at the applicable rate.
  - b. An employee will be eligible to use his/her comp time provided there is adequate staffing . In the event the Chief or Deputy Fire Chief are not available, the Captain shall have authority to grant the requested comp time.
  - c. An employee may cash out up to 40 hours of compensatory time on the second pay period in June and on the second pay period in December. The compensatory time will be paid out at the employee's regular hourly rate of pay.

## ARTICLE 32

### SALARY INCREASES

1. Effective July 1, 2018, the monthly salaries of the employees covered by this Agreement shall be adjusted as set forth in Exhibit A, representing a 3.3 % increase from the year prior ending June 30, 2018. The increase will be retroactive back to July 1, 2018.
2. Effective July 1, 2019, the monthly salaries for all employees covered by this Agreement shall be adjusted to match the change in the Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers West for the year ending January, 2019. If the CPI percentage change is above 3.3%, employees shall receive a 3.3% salary increase. If the CPI percentage change is below 3.3%, employees shall receive a salary increase equal to the CPI percentage increase.
3. Pursuant to N.R.S. 286.421.3 any PERS rate increase shall be shared equally by the employer and employee.

## ARTICLE 33

#### DURATION OF AGREEMENT

This Agreement shall be effective as of the 1<sup>st</sup> day of July 2018, and shall remain in full force and effect until June 30, 2020. Except as otherwise provided in NRS 288.155, this Agreement shall automatically be renewed from year to year thereafter, unless either party shall have notified the other in writing, on or before February 1, 2020, or by February 1 of any year thereafter that it desires to modify and/or terminate the Agreement. The parties shall promptly meet to set a date for the first negotiation session.

## ARTICLE 34

### LAYOFF PROCEDURE

- A. If a layoff or reduction in force occurs, seniority shall apply regardless of rank. All probationary firefighters within the bargaining unit will be laid off before any other classification. If any further layoffs are necessary, layoffs will progress in reverse order of seniority. The least senior employee first, progressing as necessary to the most senior employee last.
- B. All employees to be laid off shall be given written notice of such layoff at least 60 calendar days prior to the effective date of the layoff.
- C. Upon being laid off, an employee with City Manager approval, may elect demotion temporarily to any classification covered by the Agreement.
- D. In the event of an increase in the working force following a reduction, employees laid off or demoted shall be placed on the reemployment list within the department in which the layoff or emotion occurred in reverse order of demotion or termination.
- E. Employees who are reemployed within one (1) calendar year after they are laid off will be entitled to the reinstatement of accrued and unused sick leave remaining to their credit at the time of their layoff.
- F. No employee returning after a reduction in force shall lose any seniority they accrued prior to the layoff.
- G. Layoffs or reduction in force due to City budgetary constraints or considerations must consider all departments within the City, not solely the Fire Department.

## ARTICLE 35

### LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS ACT

Each party reserves all rights as set forth in the Local Government Employee-Management Relations Act (the "Act") (N.R.S. 288.010 and following). In this context the parties acknowledge that in respect to any non-mandatory subject of bargaining as defined in the Act which may be included in this Agreement, the City is not waiving or in any way limiting its right pursuant to the Act to refuse to bargain over non-mandatory subjects in future negotiations.

## ARTICLE 36

### EDUCATIONAL INCENTIVES

When educational incentive pay is budgeted, the budget amount shall be equally distributed in the approved school periods for the fiscal year. Fiscal Year educational reimbursement funds not used in a grading period shall roll to the next grading period. Notification to the Fire Chief or designee is required prior to the start of the class to be eligible for reimbursement. The City shall pay full tuition and books for courses taken by an employee at an accredited college or university or for correspondence courses completed from an accredited school, college or university. Reimbursements will be divided evenly from the available funds and distributed among all professional firefighters who apply for educational reimbursement for that grading period. Such reimbursements shall not exceed two courses per grading period. A grading period is considered to be the Fall, Spring, and Summer semesters as defined by the dates used by Great Basin College. . Reimbursement upon completion of the approved course will be as follows:

1. Tuition and books will be paid at:
  - 100% for a grade of A or B
  - 85% for a grade of C
  - 0% for a grade of D or F
  - 100% for a grade of "Pass"
  - 0% for a grade of "Fail"
2. Upon completion of registration, the employee shall provide the City with receipts for registration and books. All approved requests, and receipts for books and fees shall be forwarded to the Human Resources Manager. Copies of the final grade (s) shall be submitted to the Human Resources Manager for policy compliance prior to reimbursement



## ARTICLE 37

### PREVENTION MEASURES

The employee shall be provided with reasonable preventive measures as determined by the Fire Chief designed to protect the employee against communicable diseases. These measures shall include, but are not limited to, medical procedures such as hepatitis and other vaccines and blood tests, and medical equipment, such as gloves, masks and other products, equipment and procedures that are intended to detect, prevent, or impede communicable disease. The use of protective equipment may be required by the Fire Chief if it appears the non-use of this equipment may endanger the employee or another employee. Participation in any medical procedures, such as vaccination and testing, shall be at the discretion of the employee, and the City of Elko shall not be held responsible for any consequences to the employee as a result of the employee having or not having received any vaccinations or tests. This does not waive the employee's rights under Worker's Compensation.

## ARTICLE 38

### REPAIR OR REPLACEMENT OF PERSONAL PROPERTY

- A. The City shall reimburse the employee for the cost of repairing or replacing authorized personal property, which is damaged or destroyed and is not covered by worker's compensation insurance, or if such personal property is lost at any emergency. The reimbursement shall be made within thirty (30) days from approval of the claim. The list of authorized personal property shall include and be limited to eye-glasses, watches, contact lenses and knives.
- B. Any claims will first be submitted to Local 2423 for review, and approval or denial.
- C. Reimbursement amounts will be replacement cost on all prescription eyewear. All other authorized items will be limited to one thousand five hundred dollars (\$1,500.00) in the departments aggregate, each year, July 1<sup>st</sup> to June 30<sup>th</sup>, for employees in the bargaining unit.

## ARTICLE 39

### 40 HOUR PERSONNEL - ASSISTANT FIRE MARSHAL & FIRE PREVENTION OFFICER

Hours of work are to be from 0800 to 1700, including a one (1) hour lunch break. Hours worked over the forty (40) hours per week will be compensated at the rate of one-and-one-half (1 ½) times the employee's regular straight-time hourly rate.

The employee may elect to take either comp time or overtime.

For non-mandatory training, the employer may offer comp time only.

Any hours of work or training officially ordered in excess of the Employee's basic work period shall constitute overtime or call-back and shall be paid on a time-and-one-half basis. Furthermore, any overtime or call-back required to be worked shall be paid in accordance with the provisions of the Official Policies of the Public Employees' Retirement System of Nevada.

## ARTICLE 40

### PHYSICAL FITNESS INCENTIVE

- A. Parties agree to a voluntary physical fitness-testing program to be administered each spring by an authorized independent third party using a national testing/scoring standard (PACK TEST) established by the Federal Department of the Interior and the Bureau of Land Management. Employees that elect to take the Pack Test will be afforded three (3) opportunities to pass the PACK TEST annually, which must be completed each year no later than June 30<sup>th</sup> of each calendar year. Scheduling for the PACK TEST will be the responsibility of the employee. Employees must attain a passing score, at the arduous level, in order to receive a \$275.00 annual payment; such payment shall be made on the second payday in July of each year. There will be no reprisal or punitive action taken against an employee scoring less than the passing score on the test, or not participating in the PACK TEST.

## ARTICLE 41

### FISCAL EMERGENCY

Upon notification by the City to the Association that a fiscal emergency exists, the parties shall meet within 10 working days to commence negotiations. The City shall include with its notification all financial data and other information which shows a fiscal emergency does exist.

A fiscal emergency exists for local government, when the following events exist:

1. Contractual agreements (not just labor agreements) are in jeopardy of default, including but not limited to: vendors, consultants, construction, private services, etc.
2. Default on bond payments and other financial obligations by local government are imminent.

A fiscal emergency does not exist if raises and/or benefit increases are being given to any employee or elected official of the local government, consultant or consulting firm etc. The Association, in a timely fashion, will be allowed to audit any and all documents to ensure that a financial emergency does exist and meets the criteria and definition as set forth above. Non-Monetary articles cannot be opened by the City as a part of this process and will not be a part of this process.

If the parties are unable to reach an agreement within 20 working days, from the first day of negotiation then either party may submit to fact-finding arbitration. Once the recommendation of the fact finder is rendered, the parties shall commence negotiations within 10 working days. If the parties do not reach an agreement within 20 working days, then either party may submit to expedited binding arbitration. The decision of the binding arbitrator shall be binding on both parties.

The City cannot use the fiscal emergency process as a tool to impede or frustrate the normal collective bargaining process or as an alternative to the normal collective bargaining process.

## ARTICLE 42

### INCENTIVE PAY

- A. The following certifications shall be considered special assignments for the purpose of this agreement:
1. Instructor
    - a. Nevada Emergency Medical Services Primary Instructor
      1. Certified by the State of Nevada Office of Emergency Medical Systems
    - b. Nevada Fire Service Instructor
      1. Certified by the Nevada State Fire Marshal
  2. Self-Contained Breathing Apparatus Technician
    - a. Certified by the manufacturer of the departments current model of SCBA being used by the department. Certifications must be updated every four years.
  3. Hazardous Materials Technician
    - a. Certified by the Nevada State Fire Marshal, or department approved equivalent training.
    - b. Must maintain currency under OSHA 1910.120.
  4. Child Passenger Safety Technician
    - a. Certified by SafeKids or an entity approved by the Fire Chief.
  5. Bi-Lingual
    - a. Ability to pass department approved language proficiency examination. If there is a cost associated, the employee must pay for the cost of the exam. Additionally, the employee must re-test every two (2) years in order to continue receiving incentive pay.
- B. Approved members possessing certifications for special assignments shall receive an additional incentive of \$400.00 annually, per each category, to be paid the first payroll in December of each year. To be eligible for the additional incentive, the employee must be current on the certification(s) and have received a rating of "Meets Standards" or above on their annual employee evaluation specific to the duties of the special assignment.

IN WITNESS WHEREOF, the City and the Association have caused these presents to be duly executed by their authorized representatives this \_\_\_\_ day of \_\_\_\_\_, 2018.

CITY OF ELKO

ELKO FIRE FIGHTERS ASSOCIATION  
LOCAL #2423 OF THE INTERNATIONAL  
ASSOCIATION OF FIRE FIGHTERS

By: \_\_\_\_\_  
Chris Johnson, Mayor

By: \_\_\_\_\_  
Ray Mowrey, President

ATTEST:

ATTEST:

\_\_\_\_\_  
Shanell Owen, City Clerk

\_\_\_\_\_  
Seth Frandsen, Secretary - Treasurer

## LETTER OF UNDERSTANDING

The City of Elko, Nevada and the International Association of Fire Fighters Local 2423 hereby enter into the following letter of understanding.

The parties agree that the Association will be provided with the small room just off the main bedroom at the Fire Department Main Station, currently referred to as "The Association Office." All furnishings will be the responsibility of the Association. "The Association Office" will not be used by "On Duty" personnel during the hours of 0700 thru 1200 and 1300 thru 1700. Off duty members will be able to use "The Association Office" at any time providing it does not interfere with Fire Department schedules, business or training.

In addition, the Association may install and maintain, at its own expense, telephone lines for their FAX machine, answering machine and telephone.

CITY OF ELKO

ELKO FIRE FIGHTERS ASSOCIATION  
LOCAL #2423 OF THE INTERNATIONAL  
ASSOCIATION OF FIRE FIGHTERS

By: Signature on File

Michael Franzoia, Mayor

By: Signature on File

David Bixler, President

ATTEST:

ATTEST:

Signature on File

Lori Lynch, City Clerk

Signature on File

Shane Wiggins, Vice President



**MEMORANDUM OF UNDERSTANDING**  
**AGREEMENT BETWEEN THE CITY OF ELKO AND THE INTERNATIONAL**  
**ASSOCIATION OF FIREFIGHTERS LOCAL 2423**

The undersigned hereby agree as follows:

1. Case No. 96-03212 pending with the FMCS concerning overtime claims for travel time for training in Reno, Nevada, shall be dismissed with prejudice, it being understood that this agreement fully resolves any and all claims arising out of or associated with said case.
2. Without prejudice to the City of Elko and without establishing any precedent or admitting any liability whatsoever, the City of Elko shall pay those travel hours of the employees attending the training which was the subject matter of Case No. 96-03212 as hours of overtime compensation and the City shall pay those employees accordingly.
3. In future cases of training mandated to the City of Elko by a higher authority, the parties agree as follows:
  - a. The City shall pay the cost of such training;
  - b. The City shall provide suitable transportation to and from such training. In the event the City is unable to provide such transportation, the City and employees shall discuss the transportation issue and, with prior approval, the City will pay mileage as provided in N.R.S. Chapter 281 for two employee-provided vehicles to be used for such transportation;
  - c. Regardless of whether the City provides the transportation or approves one or two employee-provided vehicles, the drivers of the transportation shall be allowed to claim the hours of actual driving as overtime hours and will be compensated accordingly;
  - d. Any passengers of such transportation shall be allowed to claim one-half of the hours of actual travel time as a passenger to and from the location of the training as overtime hours and will be compensated accordingly; and
  - e. The City shall arrange for and pay motel costs and per diem in training requiring overnight arrangements.

Dated this 30<sup>th</sup> of May, 1996.

Signature on File

SHANE WIGGINS, President  
Firefighters Association, Local 2423

Signature on File

GEORGE EDES, City Manager  
City of Elko

**Elko Firefighters Association**

**3.3 % COLA**

**Effective July 1, 2018**

COLA	3.30%				Annual				
Classification	Probationary Rate	Annual Rate	Hrly Rate	PPP Rate	Qualified Rate	Rate	Hrly Rate	PPP Rate	
Captain	6,678.81	80,145.73	38.5316	3,082.53	7,076.44	84,917.32	40.8256	3,266.05	
Assistant Fire Marshal	6,377.49	76,529.89	36.7932	2,943.46	6,760.23	81,122.70	39.0013	3,120.10	
Fire Prevention Officer	6,016.46	72,197.52	34.7103	2,776.83	6,377.49	76,529.89	36.7932	2,943.46	
Driver/Operator II	N/A				6,377.49	76,529.89	36.7932	2,943.46	
Driver/Operator I	N/A				6,091.13	73,093.59	35.1412	2,811.29	

	Start Rate	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Qualified Rate
Firefighter	4,588.72	4,758.36	4,932.07	5,104.43	5,278.17	5,453.24	5,626.96	5,802.04
% Increase		3.70%	3.65%	3.49%	3.40%	3.32%	3.19%	3.11%
Annual Rate	55,064.59	57,100.28	59,184.84	61,253.16	63,337.98	65,438.93	67,523.49	69,624.44
Hourly Rate	26.4734	27.4521	28.4543	29.4486	30.4510	31.4610	32.4632	33.4733
Per Pay Period Amount	2,117.87	2,196.16	2,276.34	2,355.89	2,436.08	2,516.88	2,597.06	2,677.86

	1 Year Probation	1 year	1.5 years	2 years	2.5 years	3 years	3.5 years	4 Years
FO1	1	2	3	4	5	6	7	8

- 1) Firefighters will be hired at the start rate. Upon satisfactory completion of twelve (12) months probationary period, the firefighter's rate will be increased to Step 1. Thereafter, the firefighter's rate will be increased to successive steps after completing six (6) months service between each step. The total time from the start to the qualified rate will be forty-eight (48) months, unless the probationary period is mutually extended.
- 2) Upon satisfactory completion of two full years of service (step 3), a firefighter may test for Driver/Operator I (DOI). Those satisfactorily completing the test will be paid six (6) percent of their base rate at step 3, 4, 5, or 6, whichever is applicable, for out of classification as DOI for any full shift assigned by the Fire Chief or his designee and worked by the firefighter. Upon reaching the Qualified Rate, out of classification will be paid solely as outlined in Article 20.
- 3) Driver Operator II accepting the position of Fire Prevention Officer shall receive the qualified rate of the Fire Prevention Officer classification. All others would start at the probationary rate.

**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval to solicit bids for the Well 36 Public Improvements Project, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 26, 2018**
3. Agenda Category: **APPROPRIATION**
4. Time Required: **3 Minutes**
5. Background Information: **This project was approved in this year's Capital Budget. The work consists of installing curb, gutter, and sidewalk on two frontages (Ruby Vista Drive and Statice Street). RL**
6. Budget Information:
  - Appropriation Required:
  - Budget amount available: **\$100,000.00**
  - Fund name: **Water**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information:
9. Recommended Motion: **Move to approve soliciting bids for the Well 36 Public Improvements Project.**
10. Prepared By: **Ryan Limberg, Utilities Director**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution:

**Elko City Council  
Agenda Action Sheet**

1. Title: **Consideration to accept FAA AIP Grant Offer #49 Airport Improvement Program Project No. 3-32-0005-049-2018 includes Reconstruction of Security Perimeter Fencing and Electrical Vault Upgrade, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 26, 2018**
3. Agenda Category: **APPROPRIATION**
4. Time Required: **5 Minutes**
5. Background Information: **On May 22, 2018, Council awarded the bid for AIP-49 Security fence to Custom Fence Company in the amount of \$1,568,219.00 and Electrical Vault Upgrade to NNE Construction, Inc. in the amount of \$410,723.00. The Grant Offer associated with this project was received on June 12, 2018 from the FAA. JF**
6. Budget Information:  

**Appropriation Required: \$2,352,133.00 Federal Share**  
**Budget amount available: \$147,008.00 Local Match**  
**Fund name: Airport Enterprise Fund**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **FAA AIP Grant Offer #49**
9. Recommended Motion: **Move to accept FAA Grant Offer #49**
10. Prepared By: **Jim Foster, Airport Manager**
11. Committee/Other Agency Review:
12. Council Action:
13. Agenda Distribution: **Kirk Nielsen, P.E**  
**Program Manager, Jviation, Inc.**  
**155 North 400 West, Suite 580**  
**Salt Lake City, UT 84102**



U.S. Department  
of Transportation  
Federal Aviation  
Administration

Airports Division  
Western-Pacific Region  
Arizona, Nevada

FAA PHX ADO  
3800 N Central Ave, Suite 1025, 10th  
Floor  
Phoenix, AZ 85012

**JUN 12 2018**

Elko Regional Airport  
975 Terminal Way  
Elko, NV 89801

Dear Jim Foster:

We are enclosing the original and two copies of the Grant Offer for Airport Improvement Program (AIP) Project No. 3-32-0005-049-2018 at Elko Regional in Elko, Nevada. This letter outlines expectations for success. Please read the conditions and assurances carefully.

To properly enter into this agreement, you must do the following:

- a. The governing body must provide authority to execute the grant to the individual signing the grant; i.e. the sponsor's authorized representative.
- b. The sponsor's authorized representative must execute the grant, followed by the attorney's certification, no later than July 21, 2018, in order for the grant to be valid.
  - The date of the attorney's signature must be on or after the date of the sponsor's authorized representative's signature.
  - All signatures must be made with blue or black ink; Signature stamps will not be accepted.
- c. You may not make any modification to the text, terms or conditions of the grant offer.
- d. After you properly execute the grant agreement:
  - **Return one executed original Grant Agreement to our office via US mail or commercial courier.**
  - Retain one copy of the executed Grant Agreement for your records.
- e. Because time is now critical for entering the executed grant into the FAA system, we request you **send a copy of the signed agreement to our office by facsimile or email (pdf document) prior to sending the hardcopy document through U.S. mail or commercial courier.**

Subject to the requirements in 2 CFR §200.305, each payment request for reimbursement under this grant must be made electronically via the Delphi eInvoicing System. Please see the attached Grant Agreement for more information regarding the use of this System.

The terms and conditions of this agreement require you to complete the project without undue delay. We will be monitoring your progress to ensure proper stewardship of these Federal funds. We expect you to submit payment requests for reimbursement of allowable incurred project expenses consistent with project progress. Should you fail to make draws on a regular basis, your grant may be placed in "inactive" status, which will affect your ability to receive future grant offers.

Until the grant is completed and closed, you are responsible for submitting formal reports as follows:

- A signed/dated SF-270 (non-construction projects) or SF-271 or equivalent (construction projects) and SF-425 annually, due 90 days after the end of each federal fiscal year in which this grant is open (due December 31 of each year this grant is open); and
- Performance Reports, which are due within 30 days of the end of a reporting period as follows:
  1. Non-construction project: Due annually at end of the Federal fiscal year.
  2. Construction project: Submit FAA form 5370-1, Construction Progress and Inspection Report at the end of each fiscal quarter.

As a condition of receiving Federal assistance under this award, you must comply with audit requirements as established under 2 CFR part 200. Subpart F requires non-Federal entities that expend \$750,000 or more in Federal awards to conduct a single or program specific audit for that year. Note that this includes Federal expenditures made under other Federal-assistance programs. Please take appropriate and necessary action to assure your organization will comply with applicable audit requirements and standards.

Once the project(s) is completed and all costs are determined, we ask that you close the project without delay and submit the necessary final closeout documentation as required by your Region/Airports District Office.

Ricardo Sanchez, (602) 792-1071, is the assigned program manager for this grant and is readily available to assist you and your designated representative with the requirements stated herein. We sincerely value your cooperation in these efforts and look forward to working with you to complete this important project.

Sincerely,

*Holly L. Dixon*

*for* Mike N. Williams,  
Manager  
Phoenix Airports District Office



U.S. Department  
of Transportation  
Federal Aviation  
Administration

## GRANT AGREEMENT

### PART I—OFFER

Date of Offer	<u>JUN 12 2018</u>
Airport/Planning Area	<u>Elko Regional</u>
AIP Grant Number	<u>3-32-0005-049-2018</u>
DUNS Number	<u>081833311</u>
TO:	<u>City of Elko</u>
	<u>(herein called the "Sponsor")</u>

FROM: The United States of America (acting through the Federal Aviation Administration, herein called the "FAA")

WHEREAS, the Sponsor has submitted to the FAA a Project Application for a grant of Federal funds for a project at or associated with the Elko Regional Airport, which is included as part of this Grant Agreement; and

WHEREAS, the FAA has approved a project for the Elko Regional Airport (herein called the "Project") consisting of the following:

Reconstruct Perimeter Fencing required by 49 CFR 1542 and Improve Airport Miscellaneous Improvements which is more fully described in the Project Application.

NOW THEREFORE, According to the applicable provisions of the former Federal Aviation Act of 1958, as amended and recodified, 49 U.S.C. § 40101, et seq., and the former Airport and Airway Improvement Act of 1982 (AAIA), as amended and recodified, 49 U.S.C. § 47101, et seq., (herein the AAIA grant statute is referred to as "the Act"), the representations contained in the Project Application, and in consideration of (a) the Sponsor's adoption and ratification of the Grant Assurances dated March 2014, and the Sponsor's acceptance of this Offer; and, (b) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the Grant Assurances and conditions as herein provided.

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay 93.75 percent of the allowable costs incurred accomplishing the Project as the United States share of the Project.

This Offer is made on and SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

### CONDITIONS

1. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is \$2,352,113.

The following amounts represent a breakdown of the maximum obligation for the purpose of establishing

allowable amounts for any future grant amendment, which may increase the foregoing maximum obligation of the United States under the provisions of 49 U.S.C. § 47108(b):

\$0 for planning

\$2,352,113 airport development or noise program implementation; and,

\$0 for land acquisition.

The source of this Grant may include funding from the Small Airport Fund.

2. **Period of Performance.** The period of performance begins on the date the Sponsor formally accepts this agreement. Unless explicitly stated otherwise in an amendment from the FAA, the end date of the period of performance is 4 years (1,460 calendar days) from the date of formal grant acceptance by the Sponsor.  
  
The Sponsor may only charge allowable costs for obligations incurred prior to the end date of the period of performance (2 CFR §200.309). Unless the FAA authorizes a written extension, the sponsor must submit all project closeout documentation and liquidate (pay off) all obligations incurred under this award no later than 90 calendar days after the end date of the period of performance (2 CFR §200.343).  
  
The period of performance end date does not relieve or reduce Sponsor obligations and assurances that extend beyond the closeout of a grant agreement.
3. **Ineligible or Unallowable Costs.** The Sponsor must not include any costs in the project that the FAA has determined to be ineligible or unallowable.
4. **Indirect Costs - Sponsor.** Sponsor may charge indirect costs under this award by applying the indirect cost rate identified in the project application as accepted by the FAA, to allowable costs for Sponsor direct salaries and wages.
5. **Determining the Final Federal Share of Costs.** The United States' share of allowable project costs will be made in accordance with the regulations, policies, and procedures of the Secretary. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
6. **Completing the Project Without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the project without undue delays and in accordance with this agreement, and the regulations, policies, and procedures of the Secretary. Per 2 CFR § 200.308, the Sponsor agrees to report to the FAA any disengagement from performing the project that exceeds three months. The report must include a reason for the project stoppage. The Sponsor also agrees to comply with the assurances which are part of this agreement.
7. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
8. **Offer Expiration Date.** This offer will expire and the United States will not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before July 18, 2018, or such subsequent date as may be prescribed in writing by the FAA.
9. **Improper Use of Federal Funds.** The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner for any project upon which Federal funds have been expended. For the purposes of this grant agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor, that were originally paid pursuant to this or any other Federal grant agreement. The Sponsor must obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. The Sponsor must furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other



final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the Secretary.

10. **United States Not Liable for Damage or Injury.** The United States is not responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this grant agreement.
11. **System for Award Management (SAM) Registration And Universal Identifier.**
  - A. Requirement for System for Award Management (SAM): Unless the Sponsor is exempted from this requirement under 2 CFR 25.110, the Sponsor must maintain the currency of its information in the SAM until the Sponsor submits the final financial report required under this grant, or receives the final payment, whichever is later. This requires that the Sponsor review and update the information at least annually after the initial registration and more frequently if required by changes in information or another award term. Additional information about registration procedures may be found at the SAM website (currently at <http://www.sam.gov>).
  - B. Data Universal Numbering System: DUNS number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D & B) to uniquely identify business entities. A DUNS number may be obtained from D & B by telephone (currently 866-705-5771) or on the web (currently at <http://fedgov.dnb.com/webform>).
12. **Electronic Grant Payment(s).** Unless otherwise directed by the FAA, the Sponsor must make each payment request under this agreement electronically via the Delphi invoicing System for Department of Transportation (DOT) Financial Assistance Awardees.
13. **Informal Letter Amendment of AIP Projects.** If, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by \$25,000 or five percent (5%), whichever is greater, the FAA can issue a letter amendment to the Sponsor unilaterally reducing the maximum obligation.  
  

The FAA can also issue a letter to the Sponsor increasing the maximum obligation if there is an overrun in the total actual eligible and allowable project costs to cover the amount of the overrun provided it will not exceed the statutory limitations for grant amendments. The FAA's authority to increase the maximum obligation does not apply to the "planning" component of condition No. 1.

The FAA can also issue an informal letter amendment that modifies the grant description to correct administrative errors or to delete work items if the FAA finds it advantageous and in the best interests of the United States.

An informal letter amendment has the same force and effect as a formal grant amendment.
14. **Air and Water Quality.** The Sponsor is required to comply with all applicable air and water quality standards for all projects in this grant. If the Sponsor fails to comply with this requirement, the FAA may suspend, cancel, or terminate this agreement.
15. **Financial Reporting and Payment Requirements.** The Sponsor will comply with all federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.
16. **Buy American.** Unless otherwise approved in advance by the FAA, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States to be used for any project for which funds are provided under this grant. The Sponsor will include a provision implementing Buy American in every contract.
17. **Maximum Obligation Increase For Primary Airports.** In accordance with 49 U.S.C. § 47108(b), as amended, the maximum obligation of the United States, as stated in Condition No. 1 of this Grant Offer:

- A. May not be increased for a planning project;
- B. May be increased by not more than 15 percent for development projects;
- C. May be increased by not more than 15 percent for land project.

**18. Suspension or Debarment.** When entering into a "covered transaction" as defined by 2 CFR §180.200, the Sponsor must:

- A. Verify the non-federal entity is eligible to participate in this Federal program by:
  - 1. Checking the excluded parties list system (EPLS) as maintained within the System for Award Management (SAM) to determine if the non-federal entity is excluded or disqualified; or
  - 2. Collecting a certification statement from the non-federal entity attesting they are not excluded or disqualified from participating; or
  - 3. Adding a clause or condition to covered transactions attesting individual or firm are not excluded or disqualified from participating.
- B. Require prime contractors to comply with 2 CFR §180.330 when entering into lower-tier transactions (e.g. Sub-contracts).
- C. Immediately disclose to the FAA whenever the Sponsor (1) learns they have entered into a covered transaction with an ineligible entity or (2) suspends or debar a contractor, person, or entity.

**19. Ban on Texting While Driving.**

- A. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:
  - 1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to a grant or subgrant.
  - 2. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
    - a. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
    - b. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
- B. The Sponsor must insert the substance of this clause on banning texting while driving in all subgrants, contracts and subcontracts.

**20. AIP Funded Work Included in a PFC Application.**

Within 90 days of acceptance of this award, Sponsor must submit to the Federal Aviation Administration an amendment to any approved Passenger Facility Charge (PFC) application that contains an approved PFC project also covered under this grant award. The airport sponsor may not make any expenditure under this award until project work addressed under this award is removed from an approved PFC application by amendment.

**21. Exhibit "A" Property Map.** The Exhibit "A" Property Map is incorporated herein by reference or is submitted with the project application and made part of this grant agreement.

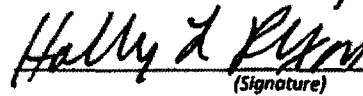
**22. Employee Protection from Reprisal.**

- A. Prohibition of Reprisals –

1. In accordance with 41 U.S.C. § 4712, an employee of a grantee or subgrantee may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in sub-paragraph (A)(2), information that the employee reasonably believes is evidence of:
    - i. Gross mismanagement of a Federal grant;
    - ii. Gross waste of Federal funds;
    - iii. An abuse of authority relating to implementation or use of Federal funds;
    - iv. A substantial and specific danger to public health or safety; or
    - v. A violation of law, rule, or regulation related to a Federal grant.
  2. Persons and bodies covered: The persons and bodies to which a disclosure by an employee is covered are as follows:
    - i. A member of Congress or a representative of a committee of Congress;
    - ii. An Inspector General;
    - iii. The Government Accountability Office;
    - iv. A Federal office or employee responsible for oversight of a grant program;
    - v. A court or grand jury;
    - vi. A management office of the grantee or subgrantee; or
    - vii. A Federal or State regulatory enforcement agency.
  3. Submission of Complaint – A person who believes that they have been subjected to a reprisal prohibited by paragraph A of this grant term may submit a complaint regarding the reprisal to the Office of Inspector General (OIG) for the U.S. Department of Transportation.
  4. Time Limitation for Submittal of a Complaint - A complaint may not be brought under this subsection more than three years after the date on which the alleged reprisal took place.
  5. Required Actions of the Inspector General – Actions, limitations and exceptions of the Inspector General's office are established under 41 U.S.C. § 4712(b)
  6. Assumption of Rights to Civil Remedy - Upon receipt of an explanation of a decision not to conduct or continue an investigation by the Office of Inspector General, the person submitting a complaint assumes the right to a civil remedy under 41 U.S.C. § 4712(c).
23. **Lighting**. The Sponsor must operate and maintain the lighting system during the useful life of the system in accordance with applicable FAA standards.
24. **Wildlife Fence**. The Sponsor understands that the fence is being installed to prevent wildlife from entering the airfield. The Sponsor agrees that it will maintain the integrity of the fence for its useful life, but no less than 20 years from the date of the grant was issued. The Sponsor understands that maintenance of the fence includes repair of damage to the fence or gates due to any purpose.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, as provided by the Act, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the assurances and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

**UNITED STATES OF AMERICA  
FEDERAL AVIATION ADMINISTRATION**

  
(Signature)



**Mike N. Williams**

(Typed Name)

**Manager, Phoenix Airports District Office**

(Title of FAA Official)

**PART II - ACCEPTANCE**

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer, and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Project Application.

I declare under penalty of perjury that the foregoing is true and correct.<sup>1</sup>

Executed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

City of Elko

(Name of Sponsor)

\_\_\_\_\_  
(Signature of Sponsor's Authorized Official)

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

(Typed Name of Sponsor's Authorized Official)

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

(Title of Sponsor's Authorized Official)

**CERTIFICATE OF SPONSOR'S ATTORNEY**

I, \_\_\_\_\_, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of \_\_\_\_\_. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the Act. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at \_\_\_\_\_ (location) this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

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

(Signature of Sponsor's Attorney)

<sup>1</sup>Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment, or both.

## ASSURANCES

### AIRPORT SPONSORS

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#### A. General.

- a. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
- b. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
- c. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this grant agreement.

#### B. Duration and Applicability.

##### 1. Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.

The terms, conditions and assurances of this grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

##### 2. Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.

The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

##### 3. Airport Planning Undertaken by a Sponsor.

Unless otherwise specified in this grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 25, 30, 32, 33, and 34 in Section C apply to planning projects. The terms, conditions, and assurances of this grant agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport.

#### C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

##### 1. General Federal Requirements.

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

**FEDERAL LEGISLATION**

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- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.<sup>1</sup>
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act - 5 U.S.C. 1501, et seq.<sup>2</sup>
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.<sup>12</sup>
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).<sup>1</sup>
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.<sup>1</sup>
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.<sup>1</sup>
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.), prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968 - 42 U.S.C. 4151, et seq.<sup>1</sup>
- s. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.<sup>1</sup>
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.<sup>1</sup>
- u. Copeland Anti-kickback Act - 18 U.S.C. 874.1
- v. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.<sup>1</sup>
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- x. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.<sup>2</sup>
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252).

**EXECUTIVE ORDERS**

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- a. Executive Order 11246 - Equal Employment Opportunity<sup>1</sup>
- b. Executive Order 11990 - Protection of Wetlands
- c. Executive Order 11998 - Flood Plain Management

- d. Executive Order 12372 - Intergovernmental Review of Federal Programs
- e. Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction<sup>1</sup>
- f. Executive Order 12898 - Environmental Justice

#### **FEDERAL REGULATIONS**

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- a. 2 CFR Part 180 - OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. [OMB Circular A-87 Cost Principles Applicable to Grants and Contracts with State and Local Governments, and OMB Circular A-133 - Audits of States, Local Governments, and Non-Profit Organizations].<sup>4, 5, 6</sup>
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment
- d. 14 CFR Part 13 - Investigative and Enforcement Procedures 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- e. 14 CFR Part 150 - Airport noise compatibility planning.
- f. 28 CFR Part 35- Discrimination on the Basis of Disability in State and Local Government Services.
- g. 28 CFR § 50.3 - U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964.
- h. 29 CFR Part 1 - Procedures for predetermination of wage rates.<sup>1</sup>
- i. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.<sup>1</sup>
- j. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).<sup>1</sup>
- k. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).<sup>1</sup>
- l. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.<sup>3</sup>
- m. 49 CFR Part 20 - New restrictions on lobbying.
- n. 49 CFR Part 21 – Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.
- p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs.<sup>1, 2</sup>
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.<sup>1</sup>



- s. 49 CFR Part 28 –Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities conducted by the Department of Transportation.
- t. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
- u. 49 CFR Part 32 –Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)
- v. 49 CFR Part 37 –Transportation Services for Individuals with Disabilities (ADA).
- w. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.

#### **SPECIFIC ASSURANCES**

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Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this grant agreement.

#### **FOOTNOTES TO ASSURANCE C.1.**

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- <sup>1</sup> These laws do not apply to airport planning sponsors.
- <sup>2</sup> These laws do not apply to private sponsors.
- <sup>3</sup> 49 CFR Part 18 and 2 CFR Part 200 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.
- <sup>4</sup> On December 26, 2013 at 78 FR 78590, the Office of Management and Budget (OMB) issued the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200. 2 CFR Part 200 replaces and combines the former Uniform Administrative Requirements for Grants (OMB Circular A-102 and Circular A-110 or 2 CFR Part 215 or Circular) as well as the Cost Principles (Circulars A-21 or 2 CFR part 220; Circular A-87 or 2 CFR part 225; and A-122, 2 CFR part 230). Additionally it replaces Circular A-133 guidance on the Single Annual Audit. In accordance with 2 CFR section 200.110, the standards set forth in Part 200 which affect administration of Federal awards issued by Federal agencies become effective once implemented by Federal agencies or when any future amendment to this Part becomes final. Federal agencies, including the Department of Transportation, must implement the policies and procedures applicable to Federal awards by promulgating a regulation to be effective by December 26, 2014 unless different provisions are required by statute or approved by OMB.
- <sup>5</sup> Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.
- <sup>6</sup> Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

#### **2. Responsibility and Authority of the Sponsor.**

##### **a. Public Agency Sponsor:**

It has legal authority to apply for this grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

##### **b. Private Sponsor:**

It has legal authority to apply for this grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

**3. Sponsor Fund Availability.**

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this grant agreement which it will own or control.

**4. Good Title.**

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

**5. Preserving Rights and Powers.**

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.
- b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.
- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.

- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in this grant agreement and shall insure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

**6. Consistency with Local Plans.**

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

**7. Consideration of Local Interest.**

It has given fair consideration to the interest of communities in or near where the project may be located.

**8. Consultation with Users.**

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

**9. Public Hearings.**

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

**10. Metropolitan Planning Organization.**

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy

of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

**11. Pavement Preventive Maintenance.**

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

**12. Terminal Development Prerequisites.**

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

**13. Accounting System, Audit, and Record Keeping Requirements.**

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this grant, the total cost of the project in connection with which this grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

**14. Minimum Wage Rates.**

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

**15. Veteran's Preference.**

It shall include in all contracts for work on any project funded under this grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title

49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

**16. Conformity to Plans and Specifications.**

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this grant agreement.

**17. Construction Inspection and Approval.**

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

**18. Planning Projects.**

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

**19. Operation and Maintenance.**

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be

required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for-

- 1) Operating the airport's aeronautical facilities whenever required;
  - 2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
  - 3) Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

#### **20. Hazard Removal and Mitigation.**

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

#### **21. Compatible Land Use.**

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

#### **22. Economic Nondiscrimination.**

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-
  - 1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
  - 2) charge reasonable, and not unjustly discriminatory, prices for each unit or service,

provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

- a.) Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
- b.) Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
- c.) Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
- d.) It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees (including, but not limited to maintenance, repair, and fueling) that it may choose to perform.
- e.) In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
- f.) The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
- g.) The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

### **23. Exclusive Rights.**

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental

and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

#### **24. Fee and Rental Structure.**

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

#### **25. Airport Revenues.**

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
  - 1) If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.
  - 2) If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
  - 3) Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at Section 47102 of title 49 United States Code), if the FAA determines the airport sponsor meets the requirements set forth in Sec. 813 of Public Law 112-95.
    - a.) As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a



manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.

- b.) Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

## **26. Reports and Inspections.**

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and
- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
  - 1) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
  - 2) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

## **27. Use by Government Aircraft.**

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that –

- a. by gross weights of such aircraft) is in excess of five million pounds Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied.

## **28. Land for Federal Facilities.**

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at

Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

## **29. Airport Layout Plan.**

- a. It will keep up to date at all times an airport layout plan of the airport showing:
  - 1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
  - 2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;
  - 3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon; and
  - 4) all proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.
- a.) If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

## **30. Civil Rights.**

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any activity conducted with, or benefiting from, funds received from this grant.

- a. Using the definitions of activity, facility and program as found and defined in §§ 21.23 (b) and 21.23 (e) of 49 CFR § 21, the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by, or pursuant to these assurances.
- b. Applicability
  - 1) Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the

sponsor's programs and activities.

- 2) Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.
- 3) Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.

c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

- 1) So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
- 2) So long as the sponsor retains ownership or possession of the property.

d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this grant agreement and in all proposals for agreements, including airport concessions, regardless of funding source:

**"The (Name of Sponsor), in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises and airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."**

e. Required Contract Provisions.

- 1) It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the DOT, and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.
- 2) It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
- 3) It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
- 4) It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin, creed, sex, age, or handicap as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:
  - a.) For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and

- b.) For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.
- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

### 31. Disposal of Land.

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order, (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund. If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.
- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order: (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund.
- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was

notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.

- d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

**32. Engineering and Design Services.**

It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

**33. Foreign Market Restrictions.**

It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

**34. Policies, Standards, and Specifications.**

It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated January 24, 2017 and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.

**35. Relocation and Real Property Acquisition.**

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

**36. Access By Intercity Buses.**

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

**37. Disadvantaged Business Enterprises.**

The sponsor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its DBE and ACDBE programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure

nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1936 (31 U.S.C. 3801).

**38. Hangar Construction.**

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

**39. Competitive Access.**

- a. If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-
  - 1) Describes the requests;
  - 2) Provides an explanation as to why the requests could not be accommodated; and
  - 3) Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.



## FAA Airports

### Current FAA Advisory Circulars Required for Use in AIP Funded and PFC Approved Projects

Updated: 2/20/2018

View the most current versions of these ACs and any associated changes at:

[http://www.faa.gov/airports/resources/advisory\\_circularsand](http://www.faa.gov/airports/resources/advisory_circularsand)

[http://www.faa.gov/regulations\\_policies/advisory\\_circulars/](http://www.faa.gov/regulations_policies/advisory_circulars/)

NUMBER	TITLE
70/7460-1L Change 1	Obstruction Marking and Lighting
150/5020-1	Noise Control and Compatibility Planning for Airports
150/5070-6B Changes 1- 2	Airport Master Plans
150/5070-7 Change 1	The Airport System Planning Process
150/5100-13B	Development of State Standards for Nonprimary Airports
150/5200-28F	Notices to Airmen (NOTAMS) for Airport Operators
150/5200-30D Change 1	Airport Field Condition Assessments and Winter Operations Safety
150/5200-31C Changes 1-2	Airport Emergency Plan
150/5210-5D	Painting, Marking, and Lighting of Vehicles Used on an Airport
150/5210-7D	Aircraft Rescue and Fire Fighting Communications
150/5210-13C	Airport Water Rescue Plans and Equipment
150/5210-14B	Aircraft Rescue Fire Fighting Equipment, Tools and Clothing
150/5210-15A	Aircraft Rescue and Firefighting Station Building Design

NUMBER	TITLE
150/5210-18A	Systems for Interactive Training of Airport Personnel
150/5210-19A	Driver's Enhanced Vision System (DEVIS)
150/5220-10E	Guide Specification for Aircraft Rescue and Fire Fighting (ARFF) Vehicles
150/5220-16E	Automated Weather Observing Systems (AWOS) for Non-Federal Applications
150/5220-17B	Aircraft Rescue and Fire Fighting (ARFF) Training Facilities
150/5220-18A	Buildings for Storage and Maintenance of Airport Snow and Ice Control Equipment and Materials
150/5220-20A	Airport Snow and Ice Control Equipment
150/5220-21C	Aircraft Boarding Equipment
150/5220-22B	Engineered Materials Arresting Systems (EMAS) for Aircraft Overruns
150/5220-23	Frangible Connections
150/5220-24	Foreign Object Debris Detection Equipment
150/5220-25	Airport Avian Radar Systems
150/5220-26 Changes 1-2	Airport Ground Vehicle Automatic Dependent Surveillance - Broadcast (ADS-B) Out Squitter Equipment
150/5300-7B	FAA Policy on Facility Relocations Occasioned by Airport Improvements of Changes
150/5300-13A Change 1	Airport Design
150/5300-14C	Design of Aircraft Deicing Facilities
150/5300-16A	General Guidance and Specifications for Aeronautical Surveys: Establishment of Geodetic Control and Submission to the National Geodetic Survey
150/5300-17C Change 1	Standards for Using Remote Sensing Technologies in Airport Surveys
150/5300-18B Change 1	General Guidance and Specifications for Submission of Aeronautical Surveys to NGS: Field Data Collection and Geographic Information System (GIS) Standards
150/5320-5D	Airport Drainage Design
150/5320-6F	Airport Pavement Design and Evaluation



<b>NUMBER</b>	<b>TITLE</b>
150/5320-12C Changes 1-8	Measurement, Construction, and Maintenance of Skid Resistant Airport Pavement Surfaces
150/5320-15A	Management of Airport Industrial Waste
150/5235-4B	Runway Length Requirements for Airport Design
150/5335-5C	Standardized Method of Reporting Airport Pavement Strength - PCN
150/5340-1L	Standards for Airport Markings
150/5340-5D	Segmented Circle Airport Marker System
150/5340-18F	Standards for Airport Sign Systems
150/5340-26C	Maintenance of Airport Visual Aid Facilities
150/5340-30J	Design and Installation Details for Airport Visual Aids
150/5345-3G	Specification for L-821, Panels for the Control of Airport Lighting
150/5345-5B	Circuit Selector Switch
150/5345-7F	Specification for L-824 Underground Electrical Cable for Airport Lighting Circuits
150/5345-10H	Specification for Constant Current Regulators and Regulator Monitors
150/5345-12F	Specification for Airport and Heliport Beacons
150/5345-13B	Specification for L-841 Auxiliary Relay Cabinet Assembly for Pilot Control of Airport Lighting Circuits
150/5345-26D	FAA Specification For L-823 Plug and Receptacle, Cable Connectors
150/5345-27E	Specification for Wind Cone Assemblies
150/5345-28G	Precision Approach Path Indicator (PAPI) Systems
150/5345-39D	Specification for L-853, Runway and Taxiway Retro reflective Markers
150/5345-42H	Specification for Airport Light Bases, Transformer Housings, Junction Boxes, and Accessories
150/5345-43H	Specification for Obstruction Lighting Equipment
150/5345-44K	Specification for Runway and Taxiway Signs
150/5345-45C	Low-Impact Resistant (LIR) Structures

NUMBER	TITLE
150/5345-46E	Specification for Runway and Taxiway Light Fixtures
150/5345-47C	Specification for Series to Series Isolation Transformers for Airport Lighting Systems
150/5345-49D	Specification L-854, Radio Control Equipment
150/5345-50B	Specification for Portable Runway and Taxiway Lights
150/5345-51B	Specification for Discharge-Type Flashing Light Equipment
150/5345-52A	Generic Visual Glideslope Indicators (GVGI)
150/5345-53D	Airport Lighting Equipment Certification Program
150/5345-54B	Specification for L-884, Power and Control Unit for Land and Hold Short Lighting Systems
150/5345-55A	Specification for L-893, Lighted Visual Aid to Indicate Temporary Runway Closure
150/5345-56B	Specification for L-890 Airport Lighting Control and Monitoring System (ALCMS)
150/5360-12F	Airport Signing and Graphics
150/5360-13 Change 1	Planning and Design Guidelines for Airport Terminal Facilities
150/5360-14A	Access to Airports By Individuals With Disabilities
150/5370-2G	Operational Safety on Airports During Construction
150/5370-10G	Standards for Specifying Construction of Airports
150/5370-11B	Use of Nondestructive Testing in the Evaluation of Airport Pavements
150/5370-13A	Off-Peak Construction of Airport Pavements Using Hot-Mix Asphalt
150/5370-15B	Airside Applications for Artificial Turf
150/5370-16	Rapid Construction of Rigid (Portland Cement Concrete) Airfield Pavements
150/5370-17	Airside Use of Heated Pavement Systems
150/5390-2C	Heliport Design
150/5395-1A	Seaplane Bases

**THE FOLLOWING ADDITIONAL APPLY TO AIP PROJECTS ONLY**

Updated: 2/20/2018

<b>NUMBER</b>	<b>TITLE</b>
150/5100-14E Change 1	Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects
150/5100-17 Changes 1 - 7	Land Acquisition and Relocation Assistance for Airport Improvement Program Assisted Projects
150/5300-15A	Use of Value Engineering for Engineering Design of Airport Grant Projects
150/5320-17A	Airfield Pavement Surface Evaluation and Rating Manuals
150/5370-12B	Quality Management for Federally Funded Airport Construction Projects
150/5380-6C	Guidelines and Procedures for Maintenance of Airport Pavements
150/5380-7B	Airport Pavement Management Program
150/5380-9	Guidelines and Procedures for Measuring Airfield Pavement Roughness

**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible authorization for Staff to solicit bids for a Culvert Replacement at 6<sup>th</sup> Street and Douglas Street, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 26, 2018**
3. Agenda Category: **APPROPRIATION**
4. Time Required: **5 Minutes**
5. Background Information: **This culvert continues to fail due to deterioration and needs to be replaced. The plan is to replace approximately 110 feet of culvert with this project. DS**
6. Budget Information:  
    Appropriation Required: **Approximately \$50,000 to 60,000**  
    Budget amount available: **\$75,000**  
    Fund name: **Street Department – Storm Drains and Gutters**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **None**
9. Recommended Motion: **Authorize Staff to solicit bids for a Culvert Replacement at 6<sup>th</sup> Street and Douglas Street.**
10. Prepared By: **Dennis Strickland, Public Works Director**
11. Committee/Other Agency Review:
12. Council Action:
13. Agenda Distribution: **Bob Thibault, P.E., Staff Engineer**

**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval of the Elko Police Department joining the Nevada State Purchasing/AXON Enterprises, Inc. for a Five (5) Year Contract for body worn cameras, digital storage audio/video footage known, as Evidence.com, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 26, 2018**
3. Agenda Category: **APPROPRIATION**
4. Time Required: **15 Minutes**
5. Background Information: **The FY2018/19 Budget allotted funding from Capital Equipment and line-item budgets for the Elko Police Department to acquire the body worn cameras, storage, and software. This contract is for five (5) years, with the total cost breakdown as follows:**  
  

**Year 1 - \$55,111.60**  
**Year 2 - \$42,232.40**  
**Year 3 - \$42,232.40**  
**Year 4 - \$42,232.40**  
**Year 5 - \$42,232.40**  
**TOTAL - \$224,041.20**
6. Budget Information:  

**Appropriation Required: \$ 55,111.60 (first year; FY18/19)**  
**Budget amount available: \$13,000 (Capital Equip) / \$43,000 (Services)**  
**Fund name: Capital Equipment and Police Services and Supplies**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information:
9. Recommended Motion: **Authorize the Elko Police Department to enter into a five (5) year contract with AXON Enterprises, Inc. to supply body worn cameras and related hardware and software by joining the Nevada State Purchasing/AXON Enterprises, Inc. contract, in the amount of \$224,041.20.**
10. Prepared By: **Captain Ty Trouten, Elko Police Department**
11. Committee/Other Agency Review:
12. Council Action:
13. Agenda Distribution:





# AXON

**Elko Police Department - NV**

**AXON SALES REPRESENTATIVE**

Jared Zygowicz  
(480) 463-2139  
[jzygowicz@axon.com](mailto:jzygowicz@axon.com)

**ISSUED**  
6/4/2018

Q-169360-43255.696JZ





**Axon Enterprise, Inc.**  
17800 N 85th St.  
Scottsdale, Arizona 85255  
United States  
Phone: (800) 978-2737

Quote Expiration: 07/31/2018

Account Number: 107221

Start Date: 07/01/2018

Payment Terms: Net 30

Delivery Method: Fedex - Ground

**SHIP TO**

Tyler Trouten  
Elko Police Dept. - NV  
1448 Silver Street  
Elko, NV 89801  
US

**BILL TO**

Elko Police Dept. - NV  
1448 Silver Street  
Elko, NV 89801  
US

**SALES REPRESENTATIVE**

Jared Zygowicz  
Phone: (480) 463-2139  
Email: jzygowicz@axon.com  
Fax: 480.550.9251

**PRIMARY CONTACT**

Tyler Trouten  
Phone: (775) 777-7313  
Email: ttrouten@ci.elko.nv.us

**Due Net 30**

Item	Description	Quantity	List Unit Price	Net Unit Price	Total (USD)
<b>Axon Plans &amp; Packages</b>					
87026	TASER ASSURANCE PLAN DOCK 2 ANNUAL PAYMENT	6	336.00	336.00	2,016.00
80082	UNLIMITED BWC BUNDLE: YEAR 1 PAYMENT	40	948.00	825.71	33,028.40
80052	CAD/RMS SERVICE ADD-ON: YEAR 1 PAYMENT	40	180.00	121.20	4,848.00
85110	EVIDENCE.COM INCLUDED STORAGE	1,600	0.00	0.00	0.00
80022	PRO EVIDENCE.COM LICENSE: YEAR 1 PAYMENT	5	468.00	468.00	2,340.00
85110	EVIDENCE.COM INCLUDED STORAGE	150	0.00	0.00	0.00
<b>Hardware</b>					
74001	AXON CAMERA ASSEMBLY, ONLINE, AXON BODY 2, BLK	40	499.00	209.48	8,379.20
74021	MAGNET MOUNT, THICK OUTERWEAR, AXON RAPIDLOCK	40	0.00	0.00	0.00
74054	VELCRO MOUNT, RAPID LOCK	10	0.00	0.00	0.00
11509	BELT CLIP, RAPIDLOCK	30	0.00	0.00	0.00
11553	SYNC CABLE, USB A TO 2.5MM	40	0.00	0.00	0.00
73004	WALL CHARGER, USB SYNC CABLE, FLEX	40	0.00	0.00	0.00
70033	WALL MOUNT BRACKET, ASSY, EVIDENCE.COM DOCK	6	42.00	0.00	0.00
74008	AXON DOCK, 6 BAY + CORE, AXON BODY 2	6	1,495.00	0.00	0.00
<b>Services</b>					
85144	AXON STARTER	1	2,500.00	2,500.00	2,500.00

Item	Description	Quantity	Price	Net Unit Price	Total (USD)
<b>Services (Continued)</b>					
85146	AXON 1-DAY SERVICE	1	2,000.00	2,000.00	2,000.00
				Subtotal	55,111.60
				Estimated Shipping	0.00
				Estimated Tax	0.00
				Total	55,111.60

## Spare Axon Body 2

Item	Description	Quantity	List Unit Price	Net Unit Price	Total (USD)
<b>Hardware</b>					
74001	AXON CAMERA ASSEMBLY, ONLINE, AXON BODY 2, BLK	3	0.00	0.00	0.00
73004	WALL CHARGER, USB SYNC CABLE, FLEX	3	0.00	0.00	0.00
74021	MAGNET MOUNT, THICK OUTERWEAR, AXON RAPIDLOCK	3	0.00	0.00	0.00
74054	VELCRO MOUNT, RAPID LOCK	3	0.00	0.00	0.00
11509	BELT CLIP, RAPIDLOCK	3	0.00	0.00	0.00
11553	SYNC CABLE, USB A TO 2.5MM	3	0.00	0.00	0.00
				Subtotal	0.00
				Estimated Tax	0.00
				Total	0.00

## Year 2- 2019

Item	Description	Quantity	List Unit Price	Net Unit Price	Total (USD)
<b>Axon Plans &amp; Packages</b>					
80083	UNLIMITED BWC BUNDLE: YEAR 2 PAYMENT	40	948.00	825.71	33,028.40
87026	TASER ASSURANCE PLAN DOCK 2 ANNUAL PAYMENT	6	336.00	336.00	2,016.00
80053	CAD/RMS SERVICE ADD-ON: YEAR 2 PAYMENT	40	180.00	121.20	4,848.00
85110	EVIDENCE.COM INCLUDED STORAGE	1,600	0.00	0.00	0.00
80023	PRO EVIDENCE.COM LICENSE: YEAR 2 PAYMENT	5	468.00	468.00	2,340.00
85110	EVIDENCE.COM INCLUDED STORAGE	150	0.00	0.00	0.00
				Subtotal	42,232.40
				Estimated Tax	0.00
				Total	42,232.40



Item	Description	Quantity	List Unit Price	Net Unit Price	Total (USD)
<b>Axon Plans &amp; Packages</b>					
80084	UNLIMITED BWC BUNDLE: YEAR 3 PAYMENT	40	948.00	825.71	33,028.40
87026	TASER ASSURANCE PLAN DOCK 2 ANNUAL PAYMENT	6	336.00	336.00	2,016.00
80054	CAD/RMS SERVICE ADD-ON: YEAR 3 PAYMENT	40	180.00	121.20	4,848.00
85110	EVIDENCE.COM INCLUDED STORAGE	1,600	0.00	0.00	0.00
80024	PRO EVIDENCE.COM LICENSE: YEAR 3 PAYMENT	5	468.00	468.00	2,340.00
85110	EVIDENCE.COM INCLUDED STORAGE	150	0.00	0.00	0.00
				Subtotal	42,232.40
				Estimated Tax	0.00
				Total	42,232.40

#### Year 4- 2021

Item	Description	Quantity	List Unit Price	Net Unit Price	Total (USD)
<b>Axon Plans &amp; Packages</b>					
80085	UNLIMITED BWC BUNDLE: YEAR 4 PAYMENT	40	948.00	825.71	33,028.40
87026	TASER ASSURANCE PLAN DOCK 2 ANNUAL PAYMENT	6	336.00	336.00	2,016.00
80055	CAD/RMS SERVICE ADD-ON: YEAR 4 PAYMENT	40	180.00	121.20	4,848.00
85110	EVIDENCE.COM INCLUDED STORAGE	1,600	0.00	0.00	0.00
80025	PRO EVIDENCE.COM LICENSE: YEAR 4 PAYMENT	5	468.00	468.00	2,340.00
85110	EVIDENCE.COM INCLUDED STORAGE	150	0.00	0.00	0.00
				Subtotal	42,232.40
				Estimated Tax	0.00
				Total	42,232.40

#### Year 5- 2022

Item	Description	Quantity	List Unit Price	Net Unit Price	Total (USD)
<b>Axon Plans &amp; Packages</b>					
80086	UNLIMITED BWC BUNDLE: YEAR 5 PAYMENT	40	948.00	825.71	33,028.40
87026	TASER ASSURANCE PLAN DOCK 2 ANNUAL PAYMENT	6	336.00	336.00	2,016.00
80056	CAD/RMS SERVICE ADD-ON: YEAR 5 PAYMENT	40	180.00	121.20	4,848.00

Item	Description	Quantity	Price	Net Unit Price	Total (USD)
<b>Axon Plans &amp; Packages (Continued)</b>					
85110	EVIDENCE.COM INCLUDED STORAGE	1,600	0.00	0.00	0.00
80026	PRO EVIDENCE.COM LICENSE: YEAR 5 PAYMENT	5	468.00	468.00	2,340.00
85110	EVIDENCE.COM INCLUDED STORAGE	150	0.00	0.00	0.00
				Subtotal	42,232.40
				Estimated Tax	0.00
				Total	42,232.40

<b>Grand Total</b>	<b>224,041.20</b>
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## Discounts (USD)

Quote Expiration: 07/31/2018

List Amount	281,062.00
Discounts	57,020.80
<b>Total</b>	<b>224,041.20</b>

*\*Total excludes applicable taxes and shipping*

## Summary of Payments

Payment	Amount (USD)
Due Net 30	55,111.60
Spare Axon Body 2	0.00
Year 2- 2019	42,232.40
Year 3- 2020	42,232.40
Year 4- 2021	42,232.40
Year 5- 2022	42,232.40
<b>Grand Total</b>	<b>224,041.20</b>



## Axon's Sales Terms and Conditions

By signing this document, you certify that you have read and agree to the provisions set forth in this document and Axon's Master Services and Purchasing Agreement (MSPA), posted at <https://www.axon.com/legal/sales-terms-and-conditions>, as well as the attached Statement of Work (SOW) for Axon Fleet and/or Axon Interview Room purchase, if applicable. You represent that you are legally authorized to sign this Agreement on behalf of your entity. If you do not have this authority, please do not sign this document.

Signature:	_____	Date:	_____
Name (Print):	_____	Title:	_____
PO# (Or write N/A):	_____		

Please sign and email to Jared Zygowicz at [jzygowicz@axon.com](mailto:jzygowicz@axon.com) or fax to 480.550.9251

Thank you for being a valued Axon customer. For your convenience on your next order, please check out our online store [buy.axon.com](http://buy.axon.com)

Quote: Q-169360-43255.696JZ

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**CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR**

A Contract Between the State of Nevada  
Acting by and Through Its

**Nevada Department of Public Safety****Nevada Highway Patrol**

333 W. Nye Lane

Carson City, NV 89706

Contact: Sergeant Chris LaPrairie

Phone: (775) 600-3324 Fax: (775) 684-7359

Email: [claprairie@dps.state.nv.us](mailto:claprairie@dps.state.nv.us)

and

**TASER International, Inc.**17800 N. 85<sup>th</sup> Street

Scottsdale, AZ 85255

Contact: Alissa McDowell

Phone: (480) 905-2038 Fax: (480) 991-0791

Email: [amcdowell@taser.com](mailto:amcdowell@taser.com)

WHEREAS, NRS 333.700 authorizes elective officers, heads of departments, boards, commissions or institutions to engage, subject to the approval of the Board of Examiners (BOE), services of persons as independent contractors; and

WHEREAS, it is deemed that the service of Contractor is both necessary and in the best interests of the State of Nevada.

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1. **REQUIRED APPROVAL.** This Contract shall not become effective until and unless approved by the Nevada State Board of Examiners.
2. **DEFINITIONS.**
  - A. "State" – means the State of Nevada and any State agency identified herein, its officers, employees and immune contractors as defined in NRS 41.0307.
  - B. "Independent Contractor" – means a person or entity that performs services and/or provides goods for the State under the terms and conditions set forth in this Contract.
  - C. "Fiscal Year" – is defined as the period beginning July 1st and ending June 30th of the following year.
  - D. "Current State Employee" – means a person who is an employee of an agency of the State.
  - E. "Former State Employee" – means a person who was an employee of any agency of the State at any time within the preceding 24 months.
3. **CONTRACT TERM.** This Contract shall be effective as noted below, unless sooner terminated by either party as specified in *Section 10, Contract Termination*. Contract is subject to Board of Examiners' approval (anticipated to be December 13, 2016).

Effective from:	Upon BOE approval anticipated to be December 13, 2016	To:	November 30, 2021
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written notice of termination for default, or notice of termination without cause upon the other party. All notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, posted prepaid on the date posted, and addressed to the other party at the address specified above.

5. **INCORPORATED DOCUMENTS.** The parties agree that this Contract, inclusive of the following attachments, specifically describes the scope of work. This Contract incorporates the following attachments in descending order of constructive precedence:

ATTACHMENT AA:	NEGOTIATED ITEMS
ATTACHMENT BB:	STATE SOLICITATION OR RFP #:3273and AMENDMENT #1
ATTACHMENT CC:	INSURANCE SCHEDULE
ATTACHMENT DD:	CONTRACTOR'S RESPONSE

A Contractor's attachment shall not contradict or supersede any State specifications, terms or conditions without written evidence of mutual assent to such change appearing in this Contract.

6. **CONSIDERATION.** The parties agree that Contractor will provide the services specified in *Section 5, Incorporated Documents* at a cost as noted in Attachment CC; Contractor's Response with a total contract not to exceed \$1,252,000.00.

The State does not agree to reimburse Contractor for expenses unless otherwise specified in the incorporated attachments. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the result of legislative appropriation may require.

7. **ASSENT.** The parties agree that the terms and conditions listed on incorporated attachments of this Contract are also specifically a part of this Contract and are limited only by their respective order of precedence and any limitations specified.
8. **BILLING SUBMISSION: TIMELINESS.** The parties agree that timeliness of billing is of the essence to the Contract and recognize that the State is on a fiscal year. All billings for dates of service prior to July 1 must be submitted to the state no later than the first Friday in August of the same calendar year. A billing submitted after the first Friday in August, which forces the State to process the billing as a stale claim pursuant to NRS 353.097, will subject the Contractor to an administrative fee not to exceed one hundred dollars (\$100.00). The parties hereby agree this is a reasonable estimate of the additional costs to the state of processing the billing as a stale claim and that this amount will be deducted from the stale claim payment due to the Contractor.
9. **INSPECTION & AUDIT.**

- A. **Books and Records.** Contractor agrees to keep and maintain under generally accepted accounting principles (GAAP) full, true and complete records, contracts, books, and documents as are necessary to fully disclose to the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all State and federal regulations and statutes.
- B. **Inspection & Audit.** Contractor agrees that the relevant books, records (written, electronic, computer related or otherwise), including, without limitation, relevant accounting procedures and practices of Contractor or its subcontractors, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location of Contractor where such records may be found, with or without notice by the State Auditor, the relevant State agency or its contracted examiners, the department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the state Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives. All subcontracts shall reflect requirements of this Section.

minimum three (3) years, and for five (5) years if any federal funds are used pursuant to the Contract. The retention period runs from the date of payment for the relevant goods or services by the state, or from the date of termination of the Contract, whichever is later. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

## 10. **CONTRACT TERMINATION.**

- A. **Termination Without Cause.** Any discretionary or vested right of renewal notwithstanding, this Contract may be terminated upon written notice by mutual consent of both parties, or unilaterally by either party without cause.
- B. **State Termination for Non-Appropriation.** The continuation of this Contract beyond the current biennium is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the state Legislature and/or federal sources. The State may terminate this Contract, and Contractor waives any and all claims(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason for the contracting Agency's funding from State and/or federal sources is not appropriated or is withdrawn, limited, or impaired.
- C. **Cause Termination for Default or Breach.** A default or breach may be declared with or without termination. This Contract may be terminated by either party upon written notice of default or breach to the other party as follows:
- 1) If Contractor fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or services called for by this Contract within the time requirements specified in this Contract or within any granted extension of those time requirements; or
  - 2) If any State, county, city, or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or services required by this Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or
  - 3) If Contractor becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or
  - 4) If the State materially breaches any material duty under this Contract and any such breach impairs Contractor's ability to perform; or
  - 5) If it is found by the State that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the State of Nevada with a view toward securing a contract or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such contract; or
  - 6) If it is found by the State that Contractor has failed to disclose any material conflict of interest relative to the performance of this Contract.
- D. **Time to Correct.** Termination upon declared default or breach may be exercised only after service of formal written notice as specified in *Section 4, Notice*, and the subsequent failure of the defaulting party within fifteen (15) calendar days of receipt of that notice to provide evidence, satisfactory to the aggrieved party, showing that the declared default or breach has been corrected.
- E. **Winding Up Affairs Upon Termination.** In the event of termination of this Contract for any reason, the parties agree that the provisions of this Section survive termination:
- 1) The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;
  - 2) Contractor shall satisfactorily complete work in progress at the agreed rate (or a pro rata basis if necessary) if so requested by the Contracting Agency;

- 4) Contractor shall preserve, protect and promptly deliver into State possession all proprietary information in accordance with *Section 21, State Ownership of Proprietary Information*.
11. **REMEDIES.** Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages, and to a prevailing party reasonable attorneys' fees and costs. It is specifically agreed that reasonable attorneys' fees shall include without limitation one hundred and twenty-five dollars (\$125.00) per hour for State-employed attorneys. The State may set off consideration against any unpaid obligation of Contractor to any State agency in accordance with NRS 353C.190. In the event that the Contractor voluntarily or involuntarily becomes subject to the jurisdiction of the Bankruptcy Court, the State may set off consideration against any unpaid obligation of Contractor to the State or its agencies, to the extent allowed by bankruptcy law, without regard to whether the procedures of NRS 353C.190 have been utilized.
12. **LIMITED LIABILITY.** The State will not waive and intends to assert available NRS Chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Liquidated damages shall not apply unless otherwise specified in the incorporated attachments. Damages for any State breach shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to Contractor, for the fiscal year budget in existence at the time of the breach. Damages for any Contractor breach shall not exceed one hundred and fifty percent (150%) of the Contract maximum "not to exceed" value. Contractor's tort liability shall not be limited.
13. **FORCE MAJEURE.** Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Contract after the intervening cause ceases.
14. **INDEMNIFICATION.** To the fullest extent permitted by law Contractor shall indemnify, hold harmless and defend, not excluding the State's right to participate, the State from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of Contractor, its officers, employees and agents.
15. **INDEPENDENT CONTRACTOR.** Contractor is associated with the state only for the purposes and to the extent specified in this Contract, and in respect to performance of the contracted services pursuant to this Contract, Contractor is and shall be an independent contractor and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for the state whatsoever with respect to the indebtedness, liabilities, and obligations of Contractor or any other party. Contractor shall be solely responsible for, and the State shall have no obligation with respect to: (1) withholding of income taxes, FICA or any other taxes or fees; (2) industrial insurance coverage; (3) participation in any group insurance plans available to employees of the state; (4) participation or contributions by either Contractor or the State to the Public Employees Retirement System; (5) accumulation of vacation leave or sick leave; or (6) unemployment compensation coverage provided by the State. Contractor shall indemnify and hold State harmless from, and defend State against, any and all coverage provided by the State. Contractor shall indemnify and hold State harmless from, and defend State against, any and all losses, damages, claims, costs, penalties, liabilities, and expenses arising or incurred because of, incident to, or otherwise with respect to any such taxes or fees. Neither Contractor nor its employees, agents, nor representatives shall be considered employees, agents, or representatives of the State and Contractor shall evaluate the nature of services and the term of the Contract negotiated in order to determine "independent contractor" status, and shall monitor the work, relationship throughout the term of the Contract to ensure that the independent contractor relationship remains as such. To assist in determining the appropriate status (employee or independent contractor), Contractor represents as follows:

QUESTION		CONTRACTOR'S INITIALS	
		YES	NO
1.	Does the Contracting Agency have the right to require control of when, where and how the independent contractor is to work?		Am



QUESTION		YES	NO
2.	Will the Contracting Agency be providing training to the independent contractor?		AM
3.	Will the Contracting Agency be furnishing the independent contractor with worker's space, equipment, tools, supplies or travel expenses?		AM
4.	Are any of the workers who assist the independent contractor in performance of his/her duties employees of the State of Nevada?		AM
5.	Does the arrangement with the independent contractor contemplate continuing or recurring work (even if the services are seasonal, part-time, or of short duration)?	AM	
6.	Will the State of Nevada incur an employment liability if the independent contractor is terminated for failure to perform?		AM
7.	Is the independent contractor restricted from offering his/her services to the general public while engaged in this work relationship with the State?		AM

16. **INSURANCE SCHEDULE.** Unless expressly waived in writing by the State, Contractor, as an independent contractor and not an employee of the state, must carry policies of insurance and pay all taxes and fees incident hereunto. Policies shall meet the terms and conditions as specified within this Contract along with the additional limits and provisions as described in *Attachment CC*, incorporated hereto by attachment. The State shall have no liability except as specifically provided in the Contract.

The Contractor shall not commence work before:

- 1) Contractor has provided the required evidence of insurance to the Contracting Agency of the State, and
- 2) The State has approved the insurance policies provided by the Contractor.

Prior to approval of the insurance policies by the State shall be a condition precedent to any payment of consideration under this Contract and the State's approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent to this Contract. Any failure of the State to timely approve shall not constitute a waiver of the condition.

- A. **Insurance Coverage.** The Contractor shall, at the Contractor's sole expense, procure, maintain and keep in force for the duration of the Contract insurance conforming to the minimum limits as specified in *Attachment CC*, incorporated hereto by attachment. Unless specifically stated herein or otherwise agreed to by the State, the required insurance shall be in effect prior to the commencement of work by the Contractor and shall continue in force as appropriate until:

- 1) Final acceptance by the State of the completion of this Contract; or
- 2) Such time as the insurance is no longer required by the State under the terms of this Contract; whichever occurs later.

Any insurance or self-insurance available to the State shall be in excess of and non-contributing with, any insurance required from Contractor. Contractor's insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by the State, Contractor shall provide the State with renewal or replacement evidence of insurance no less than thirty (30) days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by the Contract, an insurer or surety shall fail to comply with the requirements of this Contract, as soon as Contractor has knowledge of any such failure, Contractor shall immediately notify the State and immediately replace such insurance or bond with an insurer meeting the requirements.

- B. **General Requirements.**

employees and immune contractors as defined in NRS 41.0307 shall be named as additional insureds for all liability arising from the Contract.

- 2) **Waiver of Subrogation:** Each insurance policy shall provide for a waiver of subrogation against the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 for losses arising from work/materials/equipment performed or provided by or on behalf of the Contractor.
- 3) **Cross Liability:** All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause.
- 4) **Deductibles and Self-Insured Retentions:** Insurance maintained by Contractor shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by the State. Such approval shall not relieve Contractor from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed fifty thousand dollars (\$50,000.00) per occurrence, unless otherwise approved by the Risk Management Division.
- 5) **Policy Cancellation:** Except for ten (10) days notice for non-payment of premiums, each insurance policy shall be endorsed to state that without thirty (30) days prior written notice to the State of Nevada, c/o Contracting Agency, the policy shall not be canceled, non-renewed or coverage and/or limits reduced or materially altered, and shall provide that notices required by this Section shall be sent by certified mail to the address shown on page one (1) of this contract.
- 6) **Approved Insurer:** Each insurance policy shall be:
  - a) Issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurers acceptable to the State and having agents in Nevada upon whom service of process may be made; and
  - b) Currently rated by A.M. Best as "A-VII" or better.

C. **Evidence of Insurance.**

Prior to the start of any work, Contractor must provide the following documents to the contracting State agency:

- 1) **Certificate of Insurance:** The Acord 25 Certificate of Insurance form or a form substantially similar must be submitted to the State to evidence the insurance policies and coverages required of Contractor. The certificate must name the State of Nevada, its officers, employees and immune contractors as defined in NRS 41.0307 as the certificate holder. The certificate should be signed by a person authorized by the insurer to bind coverage on its behalf. The State project/Contract number; description and Contract effective dates shall be noted on the certificate, and upon renewal of the policies listed, Contractor shall furnish the State with replacement certificates as described within *Section 16A, Insurance Coverage*.
- **Mail all required insurance documents to the State Contracting Agency identified on Page one of the Contract.**
- 2) **Additional Insured Endorsement:** An Additional Insured Endorsement (CG 20 10 11 85 or CG 20 26 11 85), signed by an authorized insurance company representative, must be submitted to the State to evidence the endorsement of the State as an additional insured per *Section 16 B, General Requirements*.
- 3) **Schedule of Underlying Insurance Policies:** If Umbrella or Excess policy is evidenced to comply with minimum limits, a copy of the underlying Schedule from the Umbrella or Excess insurance policy may be required.
- 4) **Review and Approval:** Documents specified above must be submitted for review and approval by the State prior to the commencement of work by Contractor. Neither approval by the State nor failure to disapprove the insurance furnished by Contractor shall relieve Contractor of Contractor's full responsibility to provide the insurance required by this Contract. Compliance with the insurance requirements of this Contract shall not limit the liability of Contractor or its subcontractors, employees or agents to the State or others, and shall be in addition to and not in lieu of any other remedy available to the State under this Contract or otherwise. The State reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.

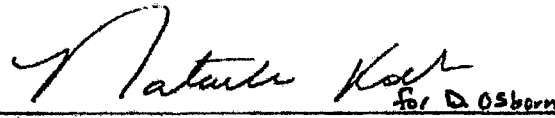
17. **COMPLIANCE WITH LEGAL OBLIGATIONS.** Contractor shall procure and maintain for the duration of this Contract any State, county, city or federal license, authorization, waiver, permit qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or services required by this Contract. Contractor will be responsible to pay all taxes, assessments, fees, premiums, permits, and licenses required by law. Real property and personal property taxes are the responsibility of Contractor in accordance with NRS 361.157 and NRS 361.159. Contractor agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract. The State may set-off against consideration due any delinquent government obligation in accordance with NRS 353C.190.
18. **WAIVER OF BREACH.** Failure to declare a breach or the actual waiver of any particular breach of the Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.
19. **SEVERABILITY.** If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the non-enforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.
20. **ASSIGNMENT/DELEGATION.** To the extent that any assignment of any right under this Contract changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this Contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by State, such offending portion of the assignment shall be void, and shall be a breach of this Contract. Contractor shall neither assign, transfer nor delegate any rights, obligations nor duties under this Contract without the prior written consent of the State.
21. **STATE OWNERSHIP OF PROPRIETARY INFORMATION.** Any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under the Contract), or any other documents or drawings, prepared or in the course of preparation by Contractor (or its subcontractors) in performance of its obligations under this Contract shall be the exclusive property of the State and all such materials shall be delivered into State possession by Contractor upon completion, termination, or cancellation of this Contract. Contractor shall not use, willingly allow, or cause to have such materials used for any purpose other than performance of Contractor's obligations under this Contract without the prior written consent of the State. Notwithstanding the foregoing, the State shall have no proprietary interest in any materials licensed for use by the State that are subject to patent, trademark, or copyright protection.
22. **PUBLIC RECORDS.** Pursuant to NRS 239.010, information or documents received from Contractor may be open to public inspection and copying. The State has a legal obligation to disclose such information unless a particular record is made confidential by law or a common law balancing of interests. Contractor may label specific parts of an individual document as a "trade secret" or "confidential" in accordance with NRS 333.333, provided that Contractor thereby agrees to indemnify and defend the State for honoring such a designation. The failure to so label any document that is released by the State shall constitute a complete waiver of any and all claims for damages caused by any release of the records.
23. **CONFIDENTIALITY.** Contractor shall keep confidential all information, in whatever form, produced, prepared, observed or received by Contractor to the extent that such information is confidential by law or otherwise required by this Contract.
24. **FEDERAL FUNDING.** In the event federal funds are used for payment of all or part of this Contract:
- A. Contractor certifies, by signing this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. pt 67, Section 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.
  - B. Contractor and its subcontracts shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted there under contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program-specific regulations.
  - C. Contractor and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions.)

25. **LOBBYING.** The parties agree, whether expressly prohibited by federal law, or otherwise, that no funding associated with this Contract will be used for any purpose associated with or related to lobbying or influencing or attempting to lobby or influence for any purpose the following:
- A. Any federal, State, county or local agency, legislature, commission, council or board;
  - B. Any federal, State, county or local legislator, commission member, council member, board member, or other elected official; or
  - C. Any officer or employee of any federal, State, county or local agency; legislature, commission, council or board.
26. **WARRANTIES.**
- A. **General Warranty.** Contractor warrants that all services, deliverables, and/or work products under this Contract shall be completed in a workmanlike manner consistent with standards in the trade, profession, or industry, shall conform to or exceed the specifications set forth in the incorporated attachments; and shall be fit for ordinary use, of good quality, with no material defects.
  - B. **System Compliance.** Contractor warrants that any information system application(s) shall not experience abnormally ending and/or invalid and/or incorrect results from the application(s) in the operating and testing of the business of the State.
27. **PROPER AUTHORITY.** The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract. Contractor acknowledges that as required by statute or regulation this Contract is effective only after approval by the State Board of Examiners and only for the period of time specified in the Contract. Any services performed by Contractor before this Contract is effective or after it ceases to be effective are performed at the sole risk of Contractor.
28. **NOTIFICATION OF UTILIZATION OF CURRENT OR FORMER STATE EMPLOYEES.** Contractor has disclosed to the State all persons that the Contractor will utilize to perform services under this Contract who are Current State Employees or Former State Employees. Contractor will not utilize any of its employees who are Current State Employees or Former State Employees to perform services under this Contract without first notifying the Contracting Agency of the identity of such persons and the services that each such person will perform, and receiving from the Contracting Agency approval for the use of such persons.
29. **ASSIGNMENT OF ANTITRUST CLAIMS.** Contractor irrevocably assigns to the State any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of State of Nevada or federal antitrust laws in connection with any goods or services provided to the Contractor for the purpose of carrying out the Contractor's obligations under this Contract, including, at the State's option, the right to control any such litigation on such claim for relief or cause of action. Contractor shall require any subcontractors hired to perform any of Contractor's obligations under this Contract to irrevocably assign to the State, as third party beneficiary, any right, title or interest that has accrued or which may accrue in the future by reason of any violation of State of Nevada or federal antitrust laws in connection with any goods or services provided to the subcontractor for the purpose of carrying out the subcontractor's obligations to the Contractor in pursuance of this Contract, including, at the State's option, the right to control any such litigation on such claim or relief or cause of action.
30. **GOVERNING LAW: JURISDICTION.** This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada, without giving effect to any principle of conflict-of-law that would require the application of the law of any other jurisdiction. The parties consent to the exclusive jurisdiction of the First Judicial District Court, Carson City, Nevada for enforcement of this Contract.
31. **ENTIRE CONTRACT AND MODIFICATION.** This Contract and its integrated attachment(s) constitute the entire agreement of the parties and as such are intended to be the complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto and approved by the Office of the Attorney General and the State Board of Examiners.

  
Independent Contractor's Signature


11/1/16  
Date

Exp. Global Sales  
Independent Contractor's Title

 Natalie Keck  
for D. Osborn  
Signature

11/1/16  
Date

DPS Captain  
Title

 S. HANCOCK  
Signature

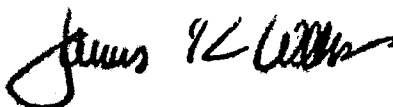
11/1/16  
Date

ASD III  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title



APPROVED BY BOARD OF EXAMINERS

\_\_\_\_\_  
Signature – Board of Examiners

On:

1/10/17  
Date

Approved as to form by:

  
Deputy Attorney General for Attorney General

On:

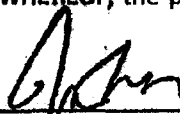
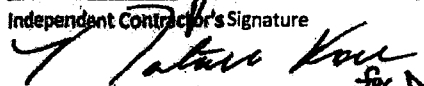
1/10/16  
Date

## Attachment AA – Negotiated Items

Both parties agree to the following:

1. The Department of Public Safety agrees to enter into a 5 year contract, TASER will offer the following discounts based on the option chosen, as further outlined below:
  - The Basic + TAP licensing offered as Option 1– Tab II – Attachment H3 (Quote #Q-83680-2) of TASER's proposal response, TASER is prepared to offer a \$50,000 discount.
  - The Basic + Extended Warranty offered as Option 2– Tab II – Attachment H3 (Quote #Q-83682-5) of TASER's proposal response, TASER is prepared to offer a \$50,000 discount.
  - If DPS/HPD chooses the Unlimited Licensing option provided as Option 3 – Tab II – Attachment H3 (Quote #Q-83679-4) of TASER's proposal response, TASER is prepared to offer a \$100,000 discount.
2. As this option was previously mentioned as a potential solution by Taser representatives, TASER to provide two (2) body worn cameras for the cost of one (1) in rural duty stations where bandwidth speeds are minimal as described in the RFP. This would allow for a hot and cold camera to minimize time in uploading videos.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby.

  
\_\_\_\_\_  
Independent Contractor's Signature  
  
\_\_\_\_\_  
Signature- State of Nevada  
11/11/16  
\_\_\_\_\_  
Date

EMP, Global Sales  
\_\_\_\_\_  
Independent's Contractor's Title  
DPS Captain  
\_\_\_\_\_  
Title

## Attachment CC

### **INSURANCE REQUIREMENTS:**

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, his agents, representatives, employees or subcontractors and Contractor is free to purchase additional insurance as may be determined necessary.

- A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Contractor shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a "following form" basis.

**1. Commercial General Liability – Occurrence Form**

Policy shall include bodily injury, property damage and broad form contractual liability coverage.

• General Aggregate	\$2,000,000
• Products – Completed Operations Aggregate	\$1,000,000
• Personal and Advertising Injury	\$1,000,000
• Each Occurrence	\$1,000,000

- a. The policy shall be endorsed to include the following additional insured language: "The State of Nevada shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor".

**2. Automobile Liability - can be waived if contract does not involve use of motor vehicle.**

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL)	\$1,000,000
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- a. The policy shall be endorsed to include the following additional insured language: "The State of Nevada shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, including automobiles owned, leased, hired or borrowed by the Contractor"

**3. Worker's Compensation and Employers' Liability**

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$100,000
Disease – Each Employee	\$100,000
Disease – Policy Limit	\$500,000

- a. Policy shall contain a waiver of subrogation against the State of Nevada.

- b. This requirement shall not apply when a contractor or subcontractor is exempt under N.R.S., **AND** when such contractor or subcontractor executes the appropriate sole proprietor waiver form.

#### **4. Technology E&O/Professional Liability**

The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Services of this contract.

Each Claim	\$1,000,000
Annual Aggregate	\$2,000,000

- a. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

#### **5. Network Security (Cyber) and Privacy Liability:**

##### **For Contracts under \$5 Million**

Per Occurrence	\$1,000,000
Annual Aggregate	\$2,000,000

##### **For Contracts greater than \$5 Million**

Contact Risk Management Division

This errors and omissions insurance shall include coverage for third party claims and losses including with respect to network risks (such as data breaches, transmission of virus/malicious code; unauthorized access or criminal use of third party, ID/data theft) and invasion of privacy regardless of the type of media involved in the loss of private information (such as computers, paper files and records, or voice recorded tapes), covering collection, use, access, etc. of personally identifiable information., direct liability, as well as contractual liability for violation of privacy policy, civil suits and sublimit for regulatory defense/indemnity for payment of fines and penalties.

- a. The retroactive coverage date shall be no later than the effective date of this contract.
- b. Contractor shall maintain an extended reporting period for not less than two (2) years after termination of this contract.


#### **6. Fidelity Bond or Crime Insurance (contracts involving financial accounts or data)**

Bond or Policy Limit (contact Risk Management) \_\_\_\_\_

- a. The bond or policy shall include coverage for all directors, officers, agents and employees of the Contractor.
- b. The bond or policy shall include coverage for third party fidelity and name the State of Nevada as loss payee.
- c. The bond or policy shall include coverage for extended theft and mysterious disappearance.
- d. The bond or policy shall not contain a condition requiring an arrest and conviction.
- e. Policies shall be endorsed to provide coverage for computer crime/fraud.



- B. **ADDITIONAL INSURANCE REQUIREMENTS:** The policies shall include, or be endorsed to include, the following provisions:
1. On insurance policies where the State of Nevada is named as an additional insured, the State of Nevada shall be an additional insured to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by this Contract.
  2. The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.
- C. **NOTICE OF CANCELLATION:** Contractor shall for each insurance policy required by the insurance provisions of this Contract shall not be suspended, voided or canceled except after providing thirty (30) days prior written notice been given to the State, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to **Nevada Department of Public Safety, Attn: Chris LaPrairie, 333 W. Nye Lane, Carson City NV 89706**. Should contractor fail to provide State timely notice, contractor will be considered in breach and subject to cure provisions set forth within this contract.
- D. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Nevada and with an "A.M. Best" rating of not less than A-VII. The State in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
- E. **VERIFICATION OF COVERAGE:** Contractor shall furnish the State with certificates of insurance (ACORD form or equivalent approved by the State) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.
- All certificates and any required endorsements are to be received and approved by the State before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.
- All certificates required by this Contract shall be sent directly to **Nevada Department of Public Safety, Attn: Chris LaPrairie, 333 W. Nye Lane, Carson City NV 89706**. The State project/contract number and project description shall be noted on the certificate of insurance. The State reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE STATES RISK MANAGEMENT DIVISION.**
- F. **SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as additional insureds under its policies or Contractor shall furnish to the State separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.
- G. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract shall be made by the Attorney General's Office or the Risk Manager, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

  
Independent Contractor's Signature

11/11/16  
Date

EVP, Global sales  
Title

 for D. Osborn  
Signature - State of Nevada

11/1/16  
Date

DPS Captain  
Title

O / 480 463 2139

F / 480 550 9251

AXON.COM

**From:** Alissa McDowell

**Sent:** Friday, June 8, 2018 9:08 AM

**To:** Jared Zygowicz <[jared@axon.com](mailto:jared@axon.com)>; Bob Lovering <[blovering@axon.com](mailto:blovering@axon.com)>

**Subject:** RE: AXON approval

*Axon Enterprises, Inc. hereby authorizes the City of Elko to join or use the State of Nevada Contract #3273 between Nevada Department of Public Safety – Nevada Highway Patrol and Axon Enterprise for the purchase of police body cameras, together with associated hardware and services.*

**From:** Tyler Trouten [<mailto:ttrouten@elkocitynv.gov>]

**Sent:** Friday, June 8, 2018 9:03 AM

**To:** Jared Zygowicz <[jared@axon.com](mailto:jared@axon.com)>

**Subject:** AXON approval

Could you specify Nevada Highway Patrol or use similar language to following:

*Axon Enterprises, Inc. hereby authorizes the City of Elko to join or use the Master Services and Purchasing Agreement between Axon and the State of Nevada dated \_\_\_\_\_ for the purchase of police body cameras, together with associated hardware and services.*

Thanks for your attention on this.

**Ty Trouten**

Elko Police Department

1448 Silver Street

Elko NV 89801

(775) 777-7313

## Master Services and Purchasing Agreement

This Master Services and Purchasing Agreement (the **Agreement**) by and between Axon Enterprise, Inc., (**Axon or Party**) a Delaware corporation having its principal place of business at 17800 N 85<sup>th</sup> Street, Scottsdale, Arizona, 85255, and the Agency listed on the Quote (**Agency, Party** or collectively **Parties**), is entered into the later of (a) the last signature date on this Agreement, or (b) the signature date on the quote (**the Effective Date**).

This Agreement sets forth the terms and conditions for the purchase, delivery, use, and support of Axon Products and Services as detailed in the Quote Appendix (the **Quote**), which is hereby incorporated by reference. In consideration of this Agreement, the Parties agree as follows:

1 **Term.** This Agreement will commence on the Effective Date and will remain in full force and effect until terminated by either Party. The Agency may renew the terms and conditions of this Agreement for an additional 5 years upon the execution of a new pricing Quote. New products and services may require additional terms and conditions. Axon services will not be authorized until a signed Quote or Purchase Order is accepted by Axon, whichever is first.

2 **Definitions.**

**"Confidential Information"** means all nonpublic information disclosed by Axon, Axon affiliates, business partners of Axon or their respective employees, contractors or agents that is designated as confidential or that, given the nature of the information or circumstances surrounding its disclosure, reasonably should be understood to be confidential.

**"Evidence.com Service"** means Axon web services for Evidence.com, the Evidence.com site, Evidence Sync software, Axon Capture App, Axon View App, other software, maintenance, storage, and any product or service provided by Axon under this Agreement for use with Evidence.com. This does not include any third-party applications, hardware warranties, or my.evidence.com services.

**"Products"** means all hardware, software, cloud based services, and software maintenance releases and updates provided by Axon under this Agreement.

**"Quote"** is an offer to sell, and is valid only for products and services listed on the quote at prices on the quote. Any terms and conditions contained within the Agency's purchase order in response to the Quote will be null and void and shall have no force or effect. Axon is not responsible for pricing, typographical, or other errors in any offer by Axon and Axon reserves the right to cancel any orders resulting from such errors.

**"Services"** means all services provided by Axon pursuant to this Agreement.

3 **Payment Terms.** Axon invoices upon shipment, unless otherwise specified in the Quote. Invoices are due to be paid within 30 days of the date of invoice, unless otherwise specified by Axon. All orders are subject to prior credit approval. Payment obligations are non-cancelable, fees paid are non-refundable, and all amounts payable will be made without setoff, deduction, or withholding. If a delinquent account is sent to collections, the Agency is responsible for all collection and attorneys' fees. In the event the Agency chooses a phased deployment for the Products in the Quote, the Quote

pricing is subject to change if the phased deployment changes.

- 4 **Taxes.** Unless Axon is provided with a valid and correct tax exemption certificate applicable to the purchase and ship-to location, the Agency is responsible for sales and other taxes associated with the order.
- 5 **Shipping; Title; Risk of Loss; Rejection.** Axon reserves the right to make partial shipments and Products may ship from multiple locations. All shipments are FOB Shipping Point via common carrier and title and risk of loss pass to the Agency upon delivery to the common carrier by Axon. The Agency is responsible for any shipping charges on the Quote. Shipping dates are estimates only. The Agency may reject Products that do not match the Products listed in the Quote, are damaged, or non-functional upon receipt (**Nonconforming Product**) by providing Axon written notice of rejection within 10 days of shipment. In the event the Agency receives a Nonconforming Product, the Agency's sole remedy is to return the Product to Axon for repair or replacement as further described in the Warranties Section. Failure to notify Axon within the 10-day rejection period will be deemed as acceptance of Product.
- 6 **Returns.** All sales are final and no refunds or exchanges are allowed, except for warranty returns or as provided by state or federal law.
- 7 **Warranties.**
  - 7.1 **Hardware Limited Warranty.** Axon warrants that its law enforcement hardware Products are free from defects in workmanship and materials for a period of ONE (1) YEAR from the date of receipt. Extended warranties run from the date of purchase of the extended warranty through the balance of the 1-year limited warranty term plus the term of the extended warranty measured from the date of expiration of the 1-year limited warranty. CEW cartridges and Smart cartridges that are expended are deemed to have operated properly. Axon-manufactured accessories are covered under a limited 90-DAY warranty from the date of receipt. Non-Axon manufactured accessories, including all Apple and Android devices, are covered under the manufacturer's warranty. In the event of a warranty claim for an Apple or Android device, the Agency should contact the manufacturer. If Axon determines that a valid warranty claim is received within the warranty period, as further described in the Warranty Limitations section, Axon agrees to repair or replace the Product. Axon's sole responsibility under this warranty is to either repair or replace with the same or like Product, at Axon's option.
  - 7.2 **Warranty Limitations.**
    - 7.2.1 The warranties do not apply to and Axon will not be responsible for any loss, data loss, damage, or other liabilities arising from damage: (a) from failure to follow instructions relating to the Product's use; (b) caused by use with non-Axon products or from the use of cartridges, batteries or other components that are not manufactured or recommended by Axon; (c) caused by abuse, misuse, intentional or deliberate damage to the Product, or force majeure; (d) to a Product or part that has been repaired or modified by persons other than Axon authorized personnel or without the written permission of Axon; or (e) to any Axon Product whose serial number has been removed or defaced.
    - 7.2.2 **To the extent permitted by law, the warranties and the remedies set forth above**

are exclusive and Axon disclaims all other warranties, remedies, and conditions, whether oral or written, statutory, or implied, as permitted by applicable law. If statutory or implied warranties cannot be lawfully disclaimed, then all such warranties are limited to the duration of the express warranty described above and limited by the other provisions contained in this Agreement.

7.2.3 Axon's cumulative liability to any Party for any loss or damage resulting from any claims, demands, or actions arising out of or relating to any Axon Product will not exceed the purchase price paid to Axon for the Product or if for Services, the amount paid for such Services over the prior 12 months preceding the claim. In no event will either Party be liable for any direct, special, indirect, incidental, exemplary, punitive or consequential damages, however caused, whether for breach of warranty, breach of contract, negligence, strict liability, tort or under any other legal theory.

7.3 **Warranty Returns.** If a valid warranty claim is received by Axon within the warranty period, Axon agrees to repair or replace the Product that Axon determines in its sole discretion to be defective under normal use, as defined in the Product instructions. Axon's sole responsibility under this warranty is to either repair or replace with the same or like Product, at Axon's option.

7.3.1 For warranty return and repair procedures, including troubleshooting guides, please go to Axon's websites [www.axon.com/support](http://www.axon.com/support) or [www.evidence.com](http://www.evidence.com), as indicated in the appropriate Product user manual or quick start guide.

7.3.2 Before delivering Product for warranty service, it is the Agency's responsibility to upload the data contained in the Product to the Evidence.com Service or download the Product data and keep a separate backup copy of the contents. Axon is not responsible for any loss of software programs, data, or other information contained on the storage media or any other part of the Product.

7.3.3 A replacement Product will be new or like new and have the remaining warranty period of the original Product or 90 days from the date of replacement or repair, whichever period is longer. When a Product or part is exchanged, any replacement item becomes Agency's property and the replaced item becomes Axon's property.

8 **Product Warnings.** See Axon's website at [www.axon.com/legal](http://www.axon.com/legal) for the most current Axon product warnings.

9 **Design Changes.** Axon reserves the right to make changes in the design of any of Axon's products and services without incurring any obligation to notify the Agency or to make the same change to products and services previously purchased.

10 **Insurance.** Axon will maintain, at Axon's own expense and in effect during the Term, Commercial General Liability Insurance, and Workers' Compensation Insurance and Commercial Automobile Insurance, and will furnish certificates of insurance or self-insurance upon request.

11 **Indemnification.** Axon will indemnify and defend the Agency's officers, directors, and employees (**Agency Indemnitees**) from and against all claims, demands, losses, liabilities, reasonable costs and expenses arising out of a claim by a third party against an Agency Indemnitee resulting from any negligent act, error or omission, or willful misconduct of Axon under or related to this Agreement,

except in the case of negligent acts, omissions or willful misconduct of the Agency or claims that fall under Workers Compensation coverage.

- 12 **IP Rights.** Axon owns and reserves all right, title, and interest in the Axon Products and Services, and related software, as well as any suggestions made to Axon.
- 13 **IP Indemnification.** Axon will defend, indemnify, and hold the Agency Indemnitees harmless from and against any claims, damages, losses, liabilities, costs, and expenses (including reasonable attorneys' fees) arising out of or relating to any third-party claim alleging that use of Axon Products or Services as permitted under this Agreement infringes or misappropriates the intellectual property rights of a third party. The Agency must provide Axon with prompt written notice of such a claim, tender to Axon the defense or settlement of such a claim at Axon's expense, and cooperate fully with Axon in the defense or settlement of such a claim.

Axon has no liability to the Agency or any third party if any alleged infringement or claim of infringement is to any extent based upon: (a) any modification of the Evidence.com Service by the Agency or any third party not approved by Axon; (b) use of the Evidence.com Service in connection or in combination with equipment, devices, or services not approved or recommended by Axon; (c) the use of Evidence.com Service other than as permitted under this Agreement or in a manner for which it was not intended; or (d) the use of other than the most current release or version of any software provided by Axon as part of or in connection with the Evidence.com Service. Nothing in this Section will affect any warranties in favor of the Agency that are otherwise provided in or arise out of this Agreement.

- 14 **Agency Responsibilities.** The Agency is responsible for (i) use of Axon Products (including any activities under the Agency Evidence.com account and use by Agency employees and agents), (ii) breach of this Agreement or violation of applicable law by the Agency or any of the Agency's end users, (iii) Agency Content or the combination of Agency Content with other applications, content or processes, including any claim involving alleged infringement or misappropriation of third party rights by Agency Content or by the use of Agency Content, (iv) a dispute between the Agency and any third party over Agency use of Axon Products or the collection or use of Agency Content, (v) any hardware or networks that the Agency connects to the Evidence.com Service, and (vi) any security settings the Agency establishes to interact with or on the Evidence.com Service.

15 **Termination.**

**15.1 By Either Party.** Either Party may terminate for cause upon 30 days advance notice to the other Party if there is any material default or breach of this Agreement by the other Party, unless the defaulting Party has cured the material default or breach within the 30-day notice period. In the event that the Agency terminates this Agreement due to Axon's failure to cure the material breach or default, Axon will issue a refund of any prepaid amounts on a prorated basis from the date of notice of termination.

**15.2 By Agency.** The Agency is obligated to pay the fees under this Agreement as may lawfully be made from funds budgeted and appropriated for that purpose during the Agency's then current fiscal year. In the event that sufficient funds will not be appropriated or are not otherwise legally available to pay the fees required under this Agreement, this Agreement

may be terminated by the Agency. The Agency agrees to deliver notice of termination under this Section at least 90 days prior to the end of the Agency's then current fiscal year, or as soon as reasonably practicable under the circumstances.

**15.3 Effect of Termination.** Upon any termination of this Agreement: (a) all Agency rights under this Agreement immediately terminate; (b) the Agency remains responsible for all fees and charges incurred through the date of termination; and (c) Payment Terms, Warranty, Product Warnings, Indemnification, and Agency Responsibilities Sections, as well as the Evidence.com Terms of Use Appendix Sections on Agency Owns Agency Content, Data Storage, Fees and Payment, Software Services Warranty, IP Rights and License Restrictions will continue to apply in accordance with their terms. If the Agency purchases Products for a value less than the Manufacturer's Suggested Retail Price (**MSRP**) and this Agreement is terminated before the end of the term then (a) the Agency will be invoiced for the remainder of the MSRP for the Products received and not already paid for; or (b) only in the case of termination for non-appropriations, return the Products to Axon within 30 days of the date of termination. For bundled Products, the MSRP is the value of all standalone components of the bundle.

**16 General.**

**16.1 Confidentiality.** Both Parties will take all reasonable measures to avoid disclosure, dissemination or unauthorized use of either Party's Confidential Information. Except as required by applicable law, neither Party will disclose either Party's Confidential Information during the Term or at any time during the 5-year period following the end of the Term. Unless the Agency is legally required to disclose Axon's pricing, all Axon pricing is considered confidential and competition sensitive. To the extent allowable by law, Agency will provide notice to Axon prior to any such disclosure. Notwithstanding the above, Axon retains the right to publicly announce information pertaining to this Agreement. As a publicly traded company, Axon has a duty to provide shareholders with information on material agreements.

**16.2 Excusable delays.** Axon will use commercially reasonable efforts to deliver all Products and Services ordered as soon as reasonably practicable. In the event of interruption of any delivery due to causes beyond Axon's reasonable control, Axon has the right to delay or terminate the delivery with reasonable notice.

**16.3 Force Majeure.** Neither Party will be liable for any delay or failure to perform any obligation under this Agreement where the delay or failure results from any cause beyond the Parties' reasonable control, including acts of God, labor disputes or other industrial disturbances, systemic electrical, telecommunications, or other utility failures, earthquake, storms or other elements of nature, blockages, embargoes, riots, acts or orders of government, acts of terrorism, or war.

**16.4 Proprietary Information.** The Agency agrees that Axon has and claims various proprietary rights in the hardware, firmware, software, and the integration of ancillary materials, knowledge, and designs that constitute Axon products and services, and that the Agency will not directly or indirectly cause any proprietary rights to be violated.

**16.5 Independent Contractors.** The Parties are independent contractors. Neither Party, nor any



of their respective affiliates, has the authority to bind the other. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the Parties.

- 16.6 No Third-Party Beneficiaries.** This Agreement does not create any third-party beneficiary rights in any individual or entity that is not a party to this Agreement.
- 16.7 Non-discrimination and Equal Opportunity.** During the performance of this Agreement, neither the Parties nor the Party's employees will discriminate against any person, whether employed by a Party or otherwise, on the basis of race, color, religion, gender, age, national origin, handicap, marital status, or political affiliation or belief. In all solicitations or advertisements for employees, agents, subcontractors or others to be engaged by a Party or placed by or on behalf of a Party, the solicitation or advertisement shall state all qualified applicants shall receive consideration for employment without regard to race, color, religion, gender, age, national origin, handicap, marital status, or political affiliation or belief.
- 16.8 U.S. Government Rights.** Any Evidence.com Service provided to the U.S. Government as "commercial items," "commercial computer software," "commercial computer software documentation," and "technical data" will have the same rights and restrictions generally applicable to the Evidence.com Service. If the Agency is using the Evidence.com Services on behalf of the U.S. Government and these terms fail to meet the U.S. Government's needs or are inconsistent in any respect with federal law, the Agency will immediately discontinue use of the Evidence.com Service. The terms "commercial item," "commercial computer software," "commercial computer software documentation," and "technical data" are defined in the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement.
- 16.9 Import and Export Compliance.** In connection with this Agreement, each Party will comply with all applicable import, re-import, export, and re-export control laws and regulations.
- 16.10 Assignment.** Neither Party may assign or otherwise transfer this Agreement without the prior written approval of the other Party. Axon may assign or otherwise transfer this Agreement or any of its rights or obligations under this Agreement without consent (a) for financing purposes, (b) in connection with a merger, acquisition or sale of all or substantially all of its assets, (c) as part of a corporate reorganization, or (d) to an affiliate or subsidiary corporation. Subject to the foregoing, this Agreement will be binding upon the Parties and their respective successors and assigns.
- 16.11 No Waivers.** The failure by either Party to enforce any provision of this Agreement will not constitute a present or future waiver of the provision nor limit the Party's right to enforce the provision at a later time.
- 16.12 Severability.** This Agreement is contractual and not a mere recital. If any portion of this Agreement is held to be invalid or unenforceable, the remaining portions of this Agreement will remain in full force and effect.
- 16.13 Governing Law; Venue.** The laws of the state where the Agency is physically located, without

reference to conflict of law rules, govern this Agreement and any dispute of any sort that might arise between the Parties. The United Nations Convention for the International Sale of Goods does not apply to this Agreement.

**16.14 Notices.** All communications and notices to be made or given pursuant to this Agreement must be in the English language. Notices provided by posting on the Agency's Evidence.com site will be effective upon posting and notices provided by email will be effective when the email was sent. Notices provided by personal delivery will be effective immediately. Contact information for notices:

Axon: Axon Enterprise, Inc.  
Attn: Contracts  
17800 N. 85th Street  
Scottsdale, Arizona 85255  
contracts@axon.com

Agency:

**16.15 Entire Agreement.** This Agreement, including the Appendices attached hereto, and the Quote provided by Axon, represents the entire agreement between the Parties. This Agreement supersedes all prior or contemporaneous representations, understandings, agreements, or communications between the Parties, whether written or verbal, regarding the subject matter of this Agreement. No modification or amendment of any portion of this Agreement will be effective unless in writing and signed by the Parties to this Agreement. If Axon provides a translation of the English language version of this Agreement, the English language version of the Agreement will control if there is any conflict.

**16.16 Counterparts.** If this Agreement form requires the signatures of the Parties, then this Agreement may be executed by electronic signature in multiple counterparts, each of which is considered an original.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed. Each Party warrants and represents that its respective signatories, whose signatures appear below, have been and are, on the date of signature, duly authorized to execute this Agreement.

**Axon Enterprise, Inc.**

**Agency**

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

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## Evidence.com Terms of Use

### Appendix

1     **Evidence.com Subscription Term.** The Evidence.com Subscription Term will begin after shipment of the Axon body worn cameras. If shipped in 1st half of the month, the start date is on the 1st of the following month. If shipped in the last half of the month, the start date is on the 15th of the following month. For phased deployments, the Evidence.com Subscription begins upon the shipment of the first phase. For purchases that consist solely of Evidence.com licenses, the Subscription will begin upon the Effective Date.

2     **Access Rights. "Agency Content"** means software, data, text, audio, video, images or other Agency content or any of the Agency's end users (a) run on the Evidence.com Service, (b) cause to interface with the Evidence.com Service, or (c) upload to the Evidence.com Service under the Agency account or otherwise transfer, process, use or store in connection with the Agency account. Upon the purchase or granting of a subscription from Axon and the opening of an Evidence.com account, the Agency will have access and use of the Evidence.com Service for the storage and management of Agency Content during the Evidence.com Subscription Term.

The Evidence.com Service and data storage are subject to usage limits. The Evidence.com Service may not be accessed by more than the number of end users specified in the Quote. If Agency becomes aware of any violation of this Agreement by an end user, the Agency will immediately terminate that end user's access to Agency Content and the Evidence.com Services. For Evidence.com Lite licenses, the Agency will have access and use of Evidence.com Lite for only the storage and management of data from TASER CEWs and the TASER CAM during the subscription Term. The Evidence.com Lite Service may not be accessed to upload any non-TASER CAM video or any other files.

3     **Agency Owns Agency Content.** The Agency controls and owns all right, title, and interest in and to Agency Content and except as otherwise outlined herein, Axon obtains no interest in the Agency Content, and the Agency Content are not business records of Axon. The Agency is solely responsible for the uploading, sharing, withdrawal, management and deletion of Agency Content. Axon will have limited access to Agency Content solely for providing and supporting the Evidence.com Service to the Agency and Agency end users. The Agency represents that the Agency owns Agency Content; and that none of Agency Content or Agency end users' use of Agency Content or the Evidence.com Service will violate this Agreement or applicable laws.

4     **Evidence.com Data Security.**

4.1.     **Generally.** Axon will implement commercially reasonable and appropriate measures designed to secure Agency Content against accidental or unlawful loss, access or disclosure. Axon will maintain a comprehensive Information Security Program (ISP) that includes logical and physical access management, vulnerability management, configuration management, incident monitoring and response, encryption of digital evidence uploaded, security education, risk management, and data protection. The Agency is responsible for maintaining the security of end user names and passwords and taking steps to maintain appropriate security and access by end users to Agency

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Content. Login credentials are for Agency internal use only and Agency may not sell, transfer, or sublicense them to any other entity or person. The Agency agrees to be responsible for all activities undertaken by the Agency, Agency employees, Agency contractors or agents, and Agency end users that result in unauthorized access to the Agency account or Agency Content. Audit log tracking for the video data is an automatic feature of the Services that provides details as to who accesses the video data and may be downloaded by the Agency at any time. The Agency shall contact Axon immediately if an unauthorized third party may be using the Agency account or Agency Content or if account information is lost or stolen.

**4.2. FBI CJIS Security Addendum.** Axon agrees to the terms and requirements set forth in the Federal Bureau of Investigation (**FBI**) Criminal Justice Information Services (**CJIS**) Security Addendum for the Term of this Agreement.

**5** **Axon's Support.** Axon will make available updates as released by Axon to the Evidence.com Services. The Agency is responsible for maintaining the computer equipment and Internet connections necessary for use of the Evidence.com Services.

**5.1. Support of Android Applications.** For Android applications, including Axon View, Axon Device Manager, and Axon Capture, Axon will use reasonable efforts to continue supporting previous version of such applications for 45 days after the change. In the event Agency does not update their Android application to the most current version within 45 days of release, Axon may disable the application or force updates to the non-supported application.

**6** **Data Privacy.** Axon will not disclose Agency Content or any information about the Agency except as compelled by a court or administrative body or required by any law or regulation. Axon will give notice if any disclosure request is received for Agency Content so the Agency may file an objection with the court or administrative body. The Agency agrees to allow Axon access to certain information from the Agency in order to: (a) perform troubleshooting services upon request or as part of Axon's regular diagnostic screenings; (b) enforce this agreement or policies governing use of Evidence.com Services; or (c) perform analytic and diagnostic evaluations of the systems.

**7** **Data Storage.** Axon will determine the locations of the data centers in which Agency Content will be stored and accessible by Agency end users. For United States customers, Axon will ensure that all Agency Content stored in the Evidence.com Services remains within the United States, including any backup data, replication sites, and disaster recovery sites. Axon may transfer Agency Content to third parties for the purpose of storage of Agency Content. Third party subcontractors responsible for storage of Agency Content are contracted by Axon for data storage services. Ownership of Agency Content remains with the Agency.

For use of an Unlimited Evidence.com License, unlimited data may be stored in the Agency's Evidence.com account only if the data originates from an Axon Body Worn Camera or Axon Capture device. Axon reserves the right to charge additional fees for exceeding purchased storage amounts or for Axon's assistance in the downloading or exporting of Agency Content. Axon may place into archival storage any data stored in the Agency's Evidence.com accounts that has not been viewed or accessed for 6 months. Data stored in

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archival storage will not have immediate availability, and may take up to 24 hours to access.

- 8 **Suspension of Evidence.com Services.** Axon may suspend Agency access or any end user's right to access or use any portion or all of the Evidence.com Services immediately upon notice, in accordance with the following:
- 8.1. The Termination provisions of the Master Service Agreement apply;
  - 8.2. The Agency or an end user's use of or registration for the Evidence.com Services (i) poses a security risk to the Evidence.com Services or any third party, (ii) may adversely impact the Evidence.com Services or the systems or content of any other customer, (iii) may subject Axon, Axon's affiliates, or any third party to liability, or (iv) may be fraudulent;
  - 8.3. If Axon suspends the right to access or use any portion or all of the Evidence.com Services, the Agency remains responsible for all fees and charges incurred through the date of suspension without any credits for any period of suspension. Axon will not delete any of Agency Content on Evidence.com as a result of a suspension, except as specified elsewhere in this Agreement.
- 9 **Software Services Warranty.** Axon warrants that the Evidence.com Services will not infringe or misappropriate any patent, copyright, trademark, or trade secret rights of any third party. Axon disclaims any warranties or responsibility for data corruption or errors before the data is uploaded to the Evidence.com Services.
- 10 **License Restrictions.** Neither the Agency nor any Agency end users (including, without limitation, employees, contractors, agents, officers, volunteers, and directors), may, or may attempt to: (a) permit any third party to access the Evidence.com Services, except as permitted in this Agreement; (b) modify, alter, tamper with, repair, or otherwise create derivative works of any of the Evidence.com Services; (c) reverse engineer, disassemble, or decompile the Evidence.com Services or apply any other process or procedure to derive the source code of any software included in the Evidence.com Services, or allow any others to do the same; (d) access or use the Evidence.com Services with the intent to gain unauthorized access, avoid incurring fees or exceeding usage limits or quotas; (e) copy the Evidence.com Services in whole or part, except as expressly permitted in this Agreement; (f) use trade secret information contained in the Evidence.com Services, except as expressly permitted in this Agreement; (g) resell, rent, loan, or sublicense the Evidence.com Services; (h) access the Evidence.com Services in order to build a competitive product or service or copy any features, functions, or graphics of the Evidence.com Services; (i) remove, alter, or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon's or Axon's licensors on or within the Evidence.com Services or any copies of the Evidence.com Services; or (j) use the Evidence.com Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, to store or transmit material in violation of third party privacy rights, or to store or transmit malicious code. All licenses granted in this Agreement are conditional on continued compliance this Agreement, and will immediately and automatically terminate if the Agency does not comply with any term or condition of this Agreement. The Agency may only use Axon's trademarks in accordance with the Axon Trademark Use Guidelines (located at [www.axon.com](http://www.axon.com)).
- 11 **After Termination.** Axon will not delete any Agency Content as a result of a termination

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during a period of 90 days following termination. During this 90-day period the Agency may retrieve Agency Content only if all amounts due have been paid (there will be no application functionality of the Evidence.com Services during this 90-day period other than the ability to retrieve Agency Content). The Agency will not incur any additional fees if Agency Content is downloaded from Evidence.com during this 90-day period. Axon has no obligation to maintain or provide any Agency Content after this 90-day period and will thereafter, unless legally prohibited delete all of Agency Content stored in the Evidence.com Services. Upon request, Axon will provide written proof that all Agency Content has been successfully deleted and fully removed from the Evidence.com Services.

- 12 Post-Termination Assistance.** Axon will provide Agency with the same post-termination data retrieval assistance that Axon generally makes available to all customers. Requests for Axon to provide additional assistance in downloading or transferring Agency Content, including requests for Axon's Data Egress Services, will result in additional fees and Axon will not warrant or guarantee data integrity or readability in the external system.

## Professional Services

### Appendix

- 1 **Professional Services Term.** Amounts pre-paid for professional services as outlined in the Quote and the Professional Service Appendix must be used within 6 months of the Effective Date.
- 2 **Scope of Services.** The project scope will consist of the Services identified on the Quote.
  - 2.1. The Full Service Package for the Axon and Evidence.com related Services includes 4 consecutive days of on-site services and a professional services manager who will work closely with the Agency to assess the Agency's deployment scope and determine which on-site services are appropriate. If more than 4 consecutive days of on-site services are needed, additional on-site assistance is available for \$7,000 per week (4 consecutive days) or \$2000 per day. The full set of service options includes:

#### System set up and configuration

- Setup Axon View on smart phones (if applicable).
- Configure categories & custom roles based on Agency need.
- Register cameras to Agency domain.
- Troubleshoot IT issues with Evidence.com and Axon Dock (Dock) access.
- Work with IT to install Evidence Sync software on locked-down computers (if applicable).
- One on-site session included.

#### Dock configuration

- Work with Agency to decide ideal location of Dock setup and set configurations on Dock if necessary.
- Authenticate Dock with Evidence.com using "admin" credentials from Agency.
- On-site assistance included

#### Best practice implementation planning session

- Provide considerations for establishment of video policy and system operations best practices based on Axon's observations with other agencies.
- Discuss importance of entering metadata in the field for organization purposes and other best practice for digital data management.
- Provide referrals of other agencies using the Axon camera products and Evidence.com Service
- Recommend rollout plan based on review of shift schedules.

#### System Admin and troubleshooting training sessions

Step-by-step explanation and assistance for Agency's configuration of security, roles & permissions, categories & retention, and other specific settings for Evidence.com.

#### Axon instructor training (Train the Trainer)

Training for Agency's in-house instructors who can support the Agency's Axon camera and Evidence.com training needs after Axon's Professional Service team has fulfilled its contracted on-site obligations

#### Evidence sharing training

Tailored workflow instruction for Investigative Units on sharing Cases and Evidence with local prosecuting agencies.

#### End user go live training and support sessions

Assistance with device set up and configuration. Training on device use, Evidence.com and Evidence Sync.

#### Implementation document packet

Evidence.com administrator guides, camera implementation guides, network setup guide, sample policies, and categories & roles guide

#### Post go live review session

- 2.2. The Axon Starter Package includes one day of on-site services and a professional services manager that will work closely with the Agency to assess the Agency's deployment scope and determine which services are appropriate. If more than one (1) day of on-site services is needed, additional on-site assistance is available for \$2,000 per day. The Axon Starter Package options include:

**System set up and configuration**

- Setup Axon Mobile on smart phones (if applicable).
- Configure categories & custom roles based on Agency need.
- Troubleshoot IT issues with Evidence.com and Evidence.com Dock (Dock) access.
- Work with IT to install Evidence Sync software on locked-down computers (if applicable).
- Virtual assistance included.

**Dock configuration**

- Work with Agency to decide ideal location of Dock setup and set configurations on Dock if necessary.
- Authenticate Dock with Evidence.com using "Administrator" credentials from Agency.
- Virtual assistance included.

**Axon instructor training (Train the Trainer)**

Training for Agency's in-house instructors who can support the Agency's Axon camera and Evidence.com training needs after Axon's Professional Service team has fulfilled its contracted on-site obligations.

**End user go live training and support sessions**

- Assistance with device set up and configuration.
- Training on device use, Evidence.com and Evidence Sync.

**Implementation document packet**

Evidence.com administrator guides, camera implementation guides, network setup guide, sample policies, and categories & roles guide.

The Axon body camera Virtual Starter package includes all items in the Axon Starter Package, except one day of on-site services.

- 2.3. The Package for the CEW-related Services are detailed below:

**System set up and configuration**

- Configure Evidence.com categories & custom roles based on Agency need.
- Troubleshoot IT issues with Evidence.com.
- Work with IT to install Evidence Sync software on locked-down computers (if applicable).
- Register users and assign roles in Evidence.com.
- **For the Full Service Package:** On-site assistance included
- **For the Starter Package:** Virtual assistance included

**Dedicated Project Manager**

Assignment of a specific Axon representative for all aspects of planning the Product rollout (Project Manager). Ideally, the Project Manager will be assigned to the Agency 4-6 weeks prior to rollout.

**Best practice implementation planning session to:**

- Provide considerations for establishment of CEW policy and system operations best practices based on Axon's observations with other agencies.
- Discuss importance of entering metadata for organization purposes and other best practice for digital data management.
- Provide referrals to other agencies using the TASER CEW Products and Evidence.com Service.
- **For the Full Service Package:** On-site assistance included
- **For the Starter Package:** Virtual assistance included



**System Admin and troubleshooting training sessions**

On-site sessions—each providing a step-by-step explanation and assistance for Agency's configuration of security, roles & permissions, categories & retention, and other specific settings for Evidence.com.

**Evidence.com Instructor training**

- Axon's on-site professional services team will provide training on the Evidence.com system with the goal of educating instructors who can support the Agency's subsequent Evidence.com training needs.
- **For the Full Service Package:** Training for up to 3 individuals at the Agency
- **For the Starter Package:** Training for up to 1 individual at the Agency

**TASER CEW inspection and device assignment**

Axon's on-site professional services team will perform functions check on all new TASER CEW Smart weapons and assign them to a user on Evidence.com.

**Post go live review session**

For the Full Service Package: On-site assistance included.

For the Starter Package: Virtual assistance included.

- 3 **Officer Safety Plan (OSP) Full Service and Starter Service.** The Package for OSP Full Service includes both the Axon Full Service and CEW Full Service items. The Package for OSP Starter Service includes both the Axon Starter Service and CEW Starter Service items.

- 4 **Smart Weapon Transition Service.** The Package for Smart Weapon Transition service includes the following:

**Archival of Firing Logs**

Axon's on-site professional services team will upload firing logs to Evidence.com from all TASER CEW Smart Weapons that the Agency is replacing with newer Smart Weapon models.

**Return of Old Weapons**

Axon's on-site professional service team will ship all old weapons back to Axon's headquarters.

Axon will provide the Agency with a Certificate of Destruction

- 5 **Body Worn Camera Virtual Add-on Services.** The Agency may purchase Virtual add-on classes for both end users and support staff. The Virtual Add-on User class will include one deployment planning conference call and one virtual administrative training via WebEx.

- 6 **Out of Scope Services.** Axon is responsible to perform only the Services described on the Quote. Any additional services discussed or implied that are not defined explicitly by the Quote will be considered out of the scope. Additional training days may be added on to any service package for additional fees set forth in the Quote.

- 7 **Delivery of Services.**

7.1. **Hours and Travel.** Axon personnel will work within normal business hours, Monday through Friday, 8:30 a.m. to 5:30 p.m., except holidays, unless otherwise agreed in advance. All tasks on-site will be performed over a consecutive timeframe, unless otherwise agreed to by the Parties in advance. Travel time by Axon personnel to Agency premises will not be charged as work hours performed.

7.2. **Changes to Services.** Changes to the scope of Services must be documented and agreed upon by the Parties in a change order. Changes may require an equitable adjustment in the charges or schedule.

- 8 **Authorization to Access Computer Systems to Perform Services.** The Agency authorizes Axon to access relevant Agency computers and network systems, solely for performing the Services. Axon will work diligently to identify as soon as reasonably practicable the resources and information Axon expects to use, and will provide an initial itemized list to the Agency. The Agency is responsible for, and assumes the risk of any problems, delays, losses, claims, or expenses resulting from the content, accuracy, completeness, and consistency of all data, materials, and information supplied by the Agency.
- 9 **Site Preparation and Installation.** Prior to delivering any Services, Axon will provide 1 copy of the then-current user documentation for the Services and related Products in paper or electronic form (**Product User Documentation**). The Product User Documentation will include all environmental specifications that must be met in order for the Services and related Products to operate in accordance with the Product User Documentation. Prior to the installation of Product (whether performed by the Agency or Axon), the Agency must prepare the location(s) where the Products are to be installed (**Installation Site**) in accordance with the environmental specifications set forth in the Product User Documentation. Following the installation of the Products, the Agency must maintain the Installation Site where the Products have been installed in accordance with the environmental specifications set forth in the Product User Documentation. In the event that there are any updates or modifications to the Product User Documentation for any Products provided by Axon under this Agreement, including the environmental specifications for the Products, Axon will provide the updates or modifications to Agency when they are generally released by Axon to Axon customers.
- 10 **Acceptance Checklist.** Axon will present an Acceptance Form (**Acceptance Form**) upon completion of the Services. The Agency will sign the Acceptance Form acknowledging completion of the Services once the on-site service session has been completed. If the Agency reasonably believes that Axon did not complete the Services in substantial conformance with this Agreement, the Agency must notify Axon in writing of the specific reasons for rejection of the Services within 7 calendar days from delivery of the Checklist. Axon will address the issues and then will re-present the Acceptance Form for approval and signature. If Axon does not receive the signed Acceptance Form or a written notification of the reasons for the rejection of the performance of the Services within 7 calendar days of delivery of the Acceptance Form, the absence of the Agency response will constitute affirmative acceptance of the Services, and a waiver of any right of rejection.
- 11 **Liability for Loss or Corruption of Data.** The Agency is responsible for: (i) instituting proper and timely backup procedures for any files and programs on the Agency's network, not including any Agency Content on Evidence.com (**Agency Software and Data**); (ii) creating timely backup copies of Agency Software and Data that may be damaged, lost, or corrupted due to Axon's provision of Services; and (iii) using backup copies to restore any Agency Software and Data in the event of any loss of, damage to, or corruption of the operational version of Agency Software and Data, even if such damage, loss, or corruption is due to Axon's negligence. However, regardless of any assistance provided by Axon: (i) Axon will in no way be liable for the accuracy, completeness, success, or results of efforts to restore Agency Software and Data; (ii) any assistance provided by Axon under this Section is without warranty, express or implied; and (iii) in no event will Axon be liable for loss of, damage to, or corruption of Agency Software and Data from any cause.

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## Technology Assurance Plan Appendix

The Technology Assurance Plan ("TAP") is an optional plan the Agency may purchase. If TAP is included on the Quote, this TAP Appendix applies. TAP may be purchased as a standalone plan. TAP for Axon body worn cameras is also included as part of the Unlimited Evidence.com License, as well as under the Officer Safety Plan. TAP provides hardware extended warranty coverage, Spare Products, and a hardware refresh. TAP only applies to the Axon hardware Products listed in the Quote.

- 1 **TAP Warranty Coverage.** TAP includes the extended warranty coverage described in the current hardware warranty. TAP warranty coverage starts at the end of the Hardware Limited Warranty term and continues as long as the Agency continues to pay the required annual fees for TAP. TAP for Axon body worn cameras also includes free replacement of the Axon Flex controller battery and Axon Body battery during the TAP Term for any failure that is not specifically excluded from the Hardware Warranty.
- 2 **TAP Term.** The TAP Term start date is based upon the shipment date of the hardware covered under TAP. If the shipment of the hardware occurred in the first half of the month, then the Term starts on the 1st of the following month. If the shipment of the hardware occurred in the second half of the month, then the Term starts on the 15th of the following month.
- 3 **SPARE Product.** Axon will provide a predetermined number of spare Products for those hardware items and accessories listed in the Quote (**Spare Products**) to keep at the Agency location to replace broken or non-functioning units in order to improve the availability of the units to officers in the field. The Agency must return to Axon, through Axon's Return Merchandise Authorization (**RMA**) process, any broken or non-functioning units for which a Spare Product is utilized, and Axon will repair the non-functioning unit or replace with a replacement Product. Axon will repair or replace the unit that fails to function for any reason not excluded by the TAP warranty coverage, during the TAP Term with the same Product or a like Product, at Axon's sole option.
- 4 **Officer Safety Plan (OSP).** The Officer Safety Plan includes the benefits of the Evidence.com Unlimited License (which includes unlimited data storage for Axon camera and Axon Capture generated data in the Evidence.com Services and TAP for the Axon Camera), TAP for Evidence.com Dock, one Axon brand CEW with a 4-year Warranty, one CEW battery, and one CEW holster.

The OSP must be purchased for a period of 5 years (**OSP Term**). At any time during the OSP Term, the Agency may choose to receive the CEW, battery and holster by providing a \$0 purchase order. At the time elected to receive the CEW, the Agency may choose from any CEW model available as of the Effective Date of this Agreement. If the OSP is terminated before the end of the term and the Agency did not receive a CEW, battery or holster, Axon has no obligation to reimburse for those items not received.

If OSP is terminated before the end of the OSP Term and the Agency received a CEW, battery and/or holster then (a) the Agency will be invoiced for the remainder of the MSRP for the

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Products received and not already paid as part of the OSP before the termination date; or (b) only in the case of termination for non-appropriations, return the CEW, battery and holster to Axon within 30 days of the date of termination.

- 5     **TAP Upgrade Models.** Any Products replaced within 6 months prior to the scheduled upgrade will be deemed the upgrade. Within 30 days of receiving an upgrade, the Agency must return the original Products to Axon or destroy the Products locally and provide a certificate of destruction to Axon that includes the serial numbers for the destroyed Products. If the Agency does not return the Products to Axon or destroy the Products, Axon will deactivate the serial numbers for the Products received by the Agency.
- 6     **TAP for Axon Body Worn Cameras.** If the Agency purchases 3 years of Evidence.com Unlimited Licenses or TAP as a stand-alone service and makes all payments, Axon will provide the Agency with a new Axon body worn camera (**Body Worn Upgrade Model**) 3 years after the TAP Term begins. If the Agency purchases 5 years of Evidence.com Unlimited Licenses, OSP, or TAP as a stand-alone service and makes all payments, Axon will provide the Agency with a Body Worn Upgrade Model 2.5 years after the TAP Term begins and once again 5 years after the TAP Term begins.
- 6.1.     **TAP as a stand-alone.** If the Agency purchased TAP for Axon cameras as a stand-alone service, then Axon will upgrade the Axon camera (and controller if applicable), free of charge, with a new on-officer video camera that is the same Product or a like Product, at Axon's sole option. Axon makes no guarantee that the Body Worn Upgrade Model will utilize the same accessories or Dock. If the Agency would like to change product models for the Body Worn Upgrade Model, then the Agency must pay the price difference in effect at the time of the upgrade between the MSRP for the offered Body Worn Upgrade Model and the MSRP for the model that will be acquired. No refund will be provided if the MSRP of the new model is less than the MSRP of the offered Body Worn Upgrade Model.
- 6.2.     **OSP or Unlimited TAP.** If the Agency purchased an Unlimited License or OSP, then Axon will upgrade the Axon camera (and controller if applicable), free of charge, with a new on-officer video camera of the Agency's choice.
- 7     **TAP Dock Upgrade Models.** If the Agency purchased TAP for the Axon Docks, or if the Agency purchased OSP, Axon will upgrade the Dock free of charge, with a new Dock with the same number of bays that is the same product or a like product, at Axon's sole option (**Dock Upgrade Model**). If the Agency purchased 3 years of Dock TAP, Axon will provide the Dock Upgrade Model 3 years after the TAP term begins. If the Agency purchased 5 years of Dock TAP, Axon will provide the Dock Upgrade Model 2.5 years after the TAP Term begins and once again 5 years after the TAP Term begins. If the Agency would like to change product models for the Dock Upgrade Model or add additional bays, then the Agency must pay the price difference in effect at the time of the upgrade between the MSRP for the offered Dock Upgrade Model and the MSRP for the model desired. No refund will be provided if the MSRP of the new model is less than the MSRP of the offered Dock Upgrade Model.
- 8     **TAP for CEWs.** TAP for CEWs is a 5 year term. If the Agency makes all TAP CEW payments, 5 years after the start of the TAP Term, Axon will provide the Agency with a new CEW that is the same Product or a like Product, in the same weapon class (**CEW Upgrade Model**), as well as a

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battery. The Agency may elect to receive the CEW Upgrade Model anytime in the 5th year of the TAP term as long as the final payment has been made.

If the Agency would like to change product models for the CEW Upgrade Model, then the Agency must pay the price difference in effect at the time of the upgrade between the MSRP for the offered CEW Upgrade Model and the MSRP for the model that will be acquired. No refund will be provided if the MSRP of the new model is less than the MSRP of the offered CEW Upgrade Model.

To continue TAP coverage for the CEW Upgrade Model, the Agency must elect TAP and will be invoiced for the first year payment at the time the upgrade is processed. The TAP payment amount will be the rate then in effect for TAP.

- 9 **TAP Termination.** If an invoice for TAP is more than 30 days past due or the Agency defaults on its payments for the Evidence.com Services, then Axon may terminate TAP and all outstanding Product related TAPs. Axon will provide notification that TAP coverage is terminated. Once TAP coverage is terminated for any reason, then:
- 9.1. TAP coverage will terminate as of the date of termination and no refunds will be given.
  - 9.2. Axon will not and has no obligation to provide the free upgrades.
  - 9.3. The Agency will be invoiced for and are obligated to pay to Axon the MSRP then in effect for all Spare Products provided under TAP. If the Spare Products are returned within 30 days of the Spare Product invoice date, credit will be issued and applied against the Spare Product invoice.
  - 9.4. The Agency will be responsible for payment of any missed payments due to the termination before being allowed to purchase any future TAP.
  - 9.5. **Termination of TAP for CEWs.** In addition to the above, if the Agency terminates TAP for CEWs, the below also applies:
    - 9.5.1. If the Agency made two or more annual TAP payments, then the Agency will: retain the extended warranty coverage; receive a 50% credit for the difference between TAP payments paid prior to termination and the extended warranty price then in effect for each CEW covered under TAP; and have until the date listed on the termination notification to apply that credit toward the purchase of any Axon products. The credit amount available and expiration date of the credit will be provided as part of the termination notification.
    - 9.5.2. If the Agency made only one annual TAP payment, then the Agency may elect to pay the difference between the price for the extended warranty then in effect and the payments made under TAP to continue extended warranty coverage. This election must be made when written notice of cancellation is submitted by the Agency. If the Agency does not elect to continue with an extended warranty, then warranty coverage will terminate as of the date of cancellation/termination.
    - 9.5.3. If the Agency received a credit towards the first TAP payment as part of a trade-in promotion, then upon cancellation/termination the Agency will be assessed a \$100 cancellation fee for each Covered Product.

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## Axon Commander™ Software

### Appendix

If Axon Commander is included on the Quote, this Axon Commander Appendix applies. The Axon Commander Software (**Commander**), all executable instructions, images, icons, sound, and text incorporated in Commander, are owned by Axon and is protected by United States copyright laws and international treaty provisions. Except to the extent expressly licensed in this Agreement, all rights are reserved to Axon.

1. **License Grant.** Axon grants a non-exclusive, royalty-free, worldwide right and license to use Commander, where "use" and "using" in this Agreement mean storing, loading, installing, or executing Commander exclusively for data communication with an Axon product. The term of the license will be detailed in the Quote. The Agency may use Commander in a networked environment on computers other than the computer on which Commander is installed provided that each execution of Commander is for data communication with an Axon product. The Agency may make copies and adaptations of Commander for archival purposes only. When copying or adaptation is an essential step in the authorized use of Commander, the Agency shall retain all copyright, trademark, and proprietary notices in the original Software on all copies or adaptations.
2. **Term.** The term for the Commander license, as well as for any maintenance, will begin upon the completion of Commander installation services by Axon.
3. **License Restrictions.** The Agency may not use Commander in any manner or for any purpose other than as expressly permitted by this Agreement. The Agency may not: (a) modify, alter, tamper with, repair, or otherwise create derivative works of Commander; (b) reverse engineer, disassemble, or decompile Commander or apply any other process or procedure to derive the source code of Commander, or allow any others to do the same; (c) access or use Commander in a way intended to avoid incurring fees or exceeding usage limits or quotas; (d) copy Commander in whole or part, except as expressly permitted in this Agreement; (e) use trade secret information contained in Commander, except as expressly permitted in this Agreement; (f) resell, rent, loan or sublicense Commander; (g) access Commander in order to build a competitive product or service or copy any features, functions or graphics of Commander; or (h) remove, alter or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon or Axon's licensors on or within Commander or any copies of Commander. All licenses granted in this Agreement are conditional on continued compliance with this Agreement, and will immediately terminate if the Agency does not comply with any term or condition of this Agreement. During the term of use of Commander and after, the Agency will not assert, nor authorize, assist, or encourage any third party to assert, against Axon or any of Axon's affiliates, customers, vendors, business partners, or licensors, any patent infringement or other intellectual property infringement claim regarding Commander.
4. **Support.** Axon may make available updates and error corrections (collectively, "Updates") to Commander. Updates may be provided electronically via the Internet or via media as determined solely by Axon. It is the Agency's responsibility to establish and maintain adequate

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access to the Internet in order to receive the updates. The Agency is responsible for maintaining the computer equipment necessary for use of Commander. At its sole discretion, Axon may provide technical support for the current and prior release(s)/version(s) of Commander for a period of six (6) months following the date the subsequent release/version is made generally available.

5. **Termination.** This Agreement will continue for the duration of Axon's copyright in Commander, unless earlier terminated as provided in this Agreement. Axon may terminate Agency's license immediately without notice to Agency for its failure to comply with any of the terms set forth in this Agreement. Upon termination, the Agency must immediately destroy Commander, together with all copies, adaptations and merged portions thereof in any form. Obligations to pay accrued charges or fees will survive the termination of this Agreement.

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# Axon Integration Services

## Appendix

If CAD/RMS Service is included on the Quote, this Axon Integration Services Appendix applies.

- 1 **Term.** The term of this Appendix commences on the Effective Date. The actual work to be performed by Axon is not authorized to begin until Axon receives the signed Quote or a purchase order for the services described in this Appendix (**Integration Services**), whichever is first.
- 2 **Scope of Integration Services.** The project scope will consist of the development of an integration module that allows the Evidence.com Service to interact with the Agency's Computer-Aided Dispatch (**CAD**) or Records Management Systems (**RMS**), so that Agency's licensees may use the integration module to automatically tag the Axon recorded videos with a case ID, category, and location. The integration module will allow the Integration Module License holders to auto populate the Axon video meta-data saved to the Evidence.com Service based on data already maintained in the Agency's CAD or RMS. Axon is responsible to perform only the Integration Services described in this Appendix and any additional services discussed or implied that are not defined explicitly by this Appendix will be considered outside the scope of this Agreement and may result in additional fees.
- 3 **Pricing.** All Integration Services performed by Axon will be rendered in accordance with the fees and payment terms set forth in the Quote. The Agency must purchase Axon Integration licenses for every Evidence.com user in the Agency, even if the user does not have an Axon body camera.
- 4 **Delivery of Integration Services.**
  - 4.1. **Support After Completion of the Integration Services.** After completion of the Integration Services and acceptance by the Agency, Axon will provide up to 5 hours of remote (phone or Web-based) support services at no additional charge to the Agency. Axon will also provide support services that result because of a change or modification in the Evidence.com Service at no additional charge as long as the Agency maintains Evidence.com subscription licenses and Integration Module Licenses, and as long as the change is not required because the Agency changes its CAD or RMS. Thereafter, any additional support services provided to the Agency will be charged at Axon's then current standard professional services rate.
  - 4.2. **Changes to Services.** Changes to the scope of the Integration Services must be documented and agreed upon by the Parties in a change order. If the changes cause an increase or decrease in any charges or cause a scheduling change from that originally agreed upon, an equitable adjustment in the charges or schedule will be agreed upon by the Parties and included in the change order, signed by both Parties.
  - 4.3. **Warranty.** Axon warrants that it will perform the Integration Services in a good and workmanlike manner.
- 5 **Agency's Responsibilities.** Axon's successful performance of the Integration Services depends upon the Agency's:
  - 5.1. Making available its relevant systems, including its current CAD or RMS, for



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assessment by Axon (including making these systems available to Axon via remote access if possible);

- 5.2. Making any required modifications, upgrades or alterations to Agency's hardware, facilities, systems and networks related to Axon's performance of the Integration Services;
- 5.3. Providing access to the building facilities and where Axon is to perform the Integration Services, subject to safety and security restrictions imposed by the Agency (including providing security passes or other necessary documentation to Axon representatives performing the Integration Services permitting them to enter and exit Agency premises with laptop personal computers and any other materials needed to perform the Integration Services);
- 5.4. Providing all necessary infrastructure and software information (TCP/IP addresses, node names, and network configuration) necessary for Axon to provide the Integration Services;
- 5.5. Promptly installing and implementing any and all software updates provided by Axon;
- 5.6. Ensuring that all appropriate data backups are performed;
- 5.7. Providing to Axon the assistance, participation, review and approvals and participating in testing of the Integration Services as requested by Axon;
- 5.8. Providing Axon with remote access to the Agency's Evidence.com account when required for Axon to perform the Integration Services;
- 5.9. Notifying Axon of any network or machine maintenance that may impact the performance of the integration module at the Agency; and
- 5.10. Ensuring the reasonable availability by phone or email of knowledgeable staff and personnel, system administrators, and operators to provide timely, accurate, complete, and up-to-date documentation and information to Axon (these contacts are to provide background information and clarification of information required to perform the Integration Services).

- 6 **Authorization to Access Computer Systems to Perform Services.** Agency authorizes Axon to access Agency's relevant computers, network systems, and CAD or RMS solely for performing the Integration Services. Axon will work diligently to identify as soon as reasonably practicable the resources and information Axon expects to use, and will provide an initial itemized list to Agency. Agency is responsible for, and assumes the risk of any problems, delays, losses, claims, or expenses resulting from the content, accuracy, completeness, and consistency of all data, materials, and information supplied by Agency.

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## Axon Forensic Suite Software Appendix

If Axon Forensic Software is included on the Quote, this Axon Forensic Software Appendix applies. The Axon Forensic Suite including Axon Convert, Axon Five and Axon Detect (**Axon Forensic**), including all executable instructions, images, icons, sound, and text incorporated in Axon Forensic, is owned by Amped Software SRL (**Amped**) and is protected by United States copyright laws and international treaty provisions. Except to the extent expressly licensed in this Agreement, all rights are reserved to Amped.

1. **License Grant.** Axon grants a non-exclusive, royalty-free, worldwide right and license to use Axon Forensic, where "use" and "using" in this Agreement mean storing, loading, installing, or executing Axon Forensic exclusively for data communication with an Amped or a Axon product. Axon Forensic may be used in a networked environment on computers other than the computer on which Axon Forensic is installed provided that each execution of Axon Forensic is for data communication with an Amped or an Axon product. Copies and adaptations of Axon Forensic may be made for archival purposes and when copying or adaptation is an essential step in the authorized use of Axon Forensic provided that the Agency retains all copyright, trademark, and proprietary notices in the original Axon Forensic on all copies or adaptations. The Agency may copy the written materials accompanying Axon Forensic.
2. **License Restrictions.** The Agency may not use Axon Forensic in any manner or for any purpose other than as expressly permitted by this Agreement. The Agency may not: (a) modify, alter, tamper with, repair, or otherwise create derivative works of Axon Forensic; (b) reverse engineer, disassemble, or decompile Axon Forensic or apply any other process or procedure to derive the source code of Axon Forensic, or allow any others to do the same; (c) access or use Axon Forensic in a way intended to avoid incurring fees or exceeding usage limits or quotas; (d) copy Axon Forensic in whole or part, except as expressly permitted in this Agreement; (e) use trade secret information contained in Axon Forensic, except as expressly permitted in this Agreement; (f) resell, rent, loan or sublicense Axon Forensic; (g) access Axon Forensic in order to build a competitive product or service or copy any features, functions or graphics of Axon Forensic; or (h) remove, alter or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Amped or Axon licensors on or within Axon Forensic or any copies of Axon Forensic. All licenses granted to the Agency in this Agreement are conditional on continued compliance this Agreement, and will immediately and automatically terminate if the Agency does not comply with any term or condition of this Agreement. During the term of use of Axon Forensic and after, the Agency will not assert, nor authorize, assist, or encourage any third party to assert, against Axon or any Axon affiliates, customers, vendors, business partners, or licensors, any patent infringement or other intellectual property infringement claim regarding Axon Forensic.
3. **Support.** The Agency acknowledges that Axon offers no guarantee of support or maintenance for Axon Five until purchased. Once purchased, Axon will offer support of Axon Five for one year at support@axon.com. On or before the one-year anniversary of purchase, the Agency may purchase additional years of support at current pricing. Should no support package be purchased, ongoing support and updates are discontinued by Amped for product, even though the Agency license remains valid for perpetual use.

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4. **Remedies.** THE AGENCY'S EXCLUSIVE REMEDY IS, AT AXON'S SOLE OPTION, REPAIR OR REPLACEMENT OF AXON FORENSIC OR REFUND OF PART OR ALL OF THE LICENSE FEE, IF ANY, PAID BY THE AGENCY FOR AXON FORENSIC.
  5. **Termination.** This Agreement will continue for the duration of Amped's copyright in Axon Forensic, unless earlier terminated as provided in this Agreement. Axon may terminate the license immediately without notice for failure to comply with any of the terms set forth in this Agreement. Upon termination, the Agency must immediately destroy Axon Forensic, together with all copies, adaptations and merged portions thereof in any form. Obligations to pay accrued charges or fees will survive the termination of this Agreement.
  6. **Export Controls (U.S. and Canada Only).** EXPORT OF AXON FORENSIC IS PROHIBITED. AXON FORENSIC MAY NOT BE EXPORTED WITHOUT THE PRIOR EXPRESSED WRITTEN APPROVAL OF AXON. UNAUTHORIZED EXPORT OF AXON FORENSIC IS PROHIBITED BY AXON AND CONSIDERED A VIOLATION OF LICENSE AGREEMENT.

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## Axon Interview Room Appendix

If Axon Interview Room is included on the Quote, this Axon Interview Room Appendix applies.

- 1 **Axon Interview Room Evidence.com Subscription Term.** The Evidence.com Subscription for Axon Interview Room (**Interview Room Subscription**) will begin after the first shipment of the Axon Interview Room hardware. If shipped in 1st half of the month, the start date is on the 1st of the following month. If shipped in the last half of the month, the start date is on the 15th of the following month. For phased deployments, the Interview Room Subscription begins upon the shipment of the first phase, and subsequent phases will begin upon shipment of that phase.
- 2 **Statement of Work.** The Axon Interview Room Statement of Work (**Interview Room SOW**) attached to this Appendix will detail Axon's respect to the professional services deliverables. Axon is responsible to perform only the services described in this Interview Room SOW. Any additional services discussed or implied that are not defined explicitly by the Interview Room SOW will be considered outside the scope of this Agreement. Axon may subcontract any part of the Interview Room SOW to a qualified subcontractor.
- 3 **Axon Interview Room Warranty.** Axon Interview Room Products are covered under the applicable manufacturer's warranty.
  - 3.1. **Warranty Returns.** The terms and conditions in the "Warranty Returns" section of the main body of the MSPA apply to warranty returns related to Hardware Maintenance.
  - 3.2. **Product Repair or Replacement.** If Axon determines that a valid warranty claim is received within the Hardware Maintenance Term, Axon agrees to repair or replace the hardware that Axon determines in its sole discretion to be defective under normal use. Axon's sole responsibility under this warranty is to either repair or replace damaged or defective hardware with the same or like hardware, at Axon's discretion. Axon is not obligated to repair or replace hardware that is damaged as a result of intentional or deliberate damage.
- 4 **Hardware Maintenance Warranty Coverage.** If the Agency purchased Axon Interview Hardware Maintenance warranty coverage, the Axon Interview Room hardware listed in the Quote will receive extended warranty coverage during the term purchased in the Quote (**Hardware Maintenance Term**). The Hardware Maintenance Term start date begins upon the Agency's receipt of the hardware covered under the Hardware Maintenance. Hardware Maintenance only applies to the Axon Interview Room hardware listed in the Quote. The Agency may not buy more than one Hardware Maintenance for any one covered Product. Hardware Maintenance includes the extended warranty coverage described in the current hardware warranty. Hardware Maintenance warranty coverage starts at the beginning of the Hardware Maintenance Term and continues throughout the Hardware Maintenance Term and as long the Agency continues to pay the required annual fees for Hardware Maintenance.
  - 4.1. **Hardware Maintenance Termination.** If an invoice for Hardware Maintenance is more than 30 days past due Axon may terminate Hardware Maintenance. Axon will provide notification that Hardware Maintenance coverage is terminated. Once Hardware Maintenance coverage is terminated for any reason, then:
    - 4.1.1. Hardware Maintenance coverage will terminate as of the date of termination

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and no refunds will be given.

**4.1.2.** Axon will not, and has no obligation to, provide future support or services for the hardware covered by Axon Interview Room Hardware Maintenance.

**5**     **Support.** Axon will provide remote customer service for troubleshooting hardware issues. In the event Axon deems it necessary, and at Axon's sole discretion, Axon will provide an on-site technician for support.

**6**     **Axon Interview Unlimited.** For use of an Axon Interview Room Unlimited Evidence.com License, unlimited data may be stored as part of the Axon Interview Room unlimited storage only if the data originates from Axon Interview Room hardware.

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## Axon Fleet Appendix

If Axon Fleet is included on the Quote, this Axon Fleet Appendix applies.

- 1 **Axon Fleet Evidence.com Subscription Term.** The Evidence.com Subscription for Axon Fleet will begin after the first shipment of the Axon Fleet hardware (**Axon Fleet Subscription**) if shipped in 1st half of the month, the start date is on the 1st of the following month. If shipped in the last half of the month, the start date is on the 15th of the following month. For phased deployments, the Axon Fleet Subscription begins upon the shipment of the first phase, and subsequent phases will begin upon shipment of that phase.
- 2 **Agency Responsibilities.** The Agency is responsible for ensuring its infrastructure and vehicles adhere to the minimum requirements needed to effectively operate Axon Fleet as established by Axon during the on-site assessment at the Agency's facility and/or in Axon's technical qualifying questions. The Quote is based upon the Agency's accurate representation of its infrastructure. Any inaccuracies the Agency provides to Axon regarding the Agency's infrastructure and vehicles may subject the Quote to change.
- 3 **CradlePoint.** If the Agency purchases CradlePoint Enterprise Cloud Manager, the Agency is responsible for complying with the CradlePoint end user license agreement. The Agency acknowledges that the term of the CradlePoint license may differ from the term of the Evidence.com license. The Agency further acknowledges that CradlePoint installation services are not within the scope of this Agreement. All CradlePoint hardware is warranted under CradlePoint's manufacturer's warranty. In the event that the Agency requires support for its CradlePoint hardware, the Agency will contact CradlePoint directly.
- 4 **Statement of Work.** If the Agency has purchased installation services for Axon Fleet, the Statement of Work (**Fleet SOW**) attached to this Appendix will detail Axon's deliverables to the Agency with respect to the installation of Axon Fleet and any related hardware. Axon is responsible to perform only the services described in this Fleet SOW. Any additional services discussed or implied that are not defined explicitly by the Fleet SOW will be considered out of the scope. Axon may subcontract any part of the Fleet SOW to a qualified subcontractor.
- 5 **Warranty Coverage.** Axon's standard Hardware Warranty applies to Axon Fleet when installed by Axon trained personnel.
  - 5.1. If the Agency chooses (i) to install the Axon Fleet cameras and related hardware on its own without "train the trainer" services provided by Axon nor does not follow instructions provided by Axon during "train the trainer services", or (ii) a third party to install the hardware (collectively, **Third Party Installer**), Axon will not be responsible for Third Party Installer's failure to follow instructions relating to the implementation and use of Axon Fleet hardware, including (a) any degradation in performance that does not meet Axon's specifications or (b) any damage to the Axon Fleet hardware that occurs from such Third Party Install.
  - 5.2. Additional charges for Axon services may apply in the event Axon is required to (a) replace hardware that is damaged because of a Third Party Installer; (b) provide

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extensive remote support; or (c) send Axon personnel to the Agency's site to replace hardware damaged by a Third Party Installer.

- 5.3. If Agency utilizes a Third Party Installer or their own IT infrastructure, Axon is not responsible for any system failure, including but not limited to, the failure of the Axon Fleet hardware to operate in accordance with Axon's specifications.

6 **Fleet Wireless Offload Service.**

- 6.1. **License Grant.** Axon grants a non-exclusive, royalty-free, worldwide perpetual right and license to use Fleet Wireless Offload Software (**Fleet WOS**), where "use" and "using" in this Agreement mean storing, loading, installing, or executing Fleet WOS exclusively for data communication with Axon Products for the number of server licenses purchased.
- 6.2. **License Start Date.** The Fleet WOS term will begin upon the start of the Axon Fleet Evidence.com Subscription.
- 6.3. **License Restrictions.** The Agency may not use Fleet WOS in any manner or for any purpose other than as expressly permitted by this Agreement. The Agency may not: (a) modify, alter, tamper with, repair, or otherwise create derivative works of Fleet WOS; (b) reverse engineer, disassemble, or decompile Fleet WOS or apply any other process or procedure to derive the source code of Fleet WOS, or allow any others to do the same; (c) access or use Fleet WOS in a way intended to avoid incurring fees or exceeding usage limits or quotas; (d) copy Fleet WOS in whole or part, except as expressly permitted in this Agreement; (e) use trade secret information contained in Fleet WOS, except as expressly permitted in this Agreement; (f) resell, rent, loan or sublicense Fleet WOS; (g) access Fleet WOS in order to build a competitive product or service or copy any features, functions or graphics of Fleet WOS; or (h) remove, alter or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon or Axon's licensors on or within Fleet WOS or any copies of Fleet WOS. All licenses granted in this Agreement are conditional on continued compliance with this Agreement, and will immediately terminate if the Agency does not comply with any term or condition of this Agreement.
- 6.4. **Updates.** If the Agency purchases maintenance for Fleet WOS, Axon will make available updates and error corrections (**WOS Updates**) to Fleet WOS. WOS Updates may be provided electronically via the Internet or via media as determined solely by Axon. It is the Agency's responsibility to establish and maintain adequate access to the Internet in order to receive the updates. The Agency is responsible for maintaining the computer equipment necessary for use of Fleet WOS. The maintenance term will be detailed in the Quote.
- 6.5. **Fleet WOS Support.** If the Agency has purchased Fleet WiFi Services, upon request by Axon, the Agency will provide Axon with access to the Agency's store and forward servers for the sole purpose of troubleshooting and maintenance.

- 7 **Axon Fleet Unlimited Storage.** For use of an Axon Fleet Unlimited Evidence.com License, unlimited data may be stored as part of the Axon Fleet unlimited storage only if the data originates from Axon Fleet hardware.

- 8 **Axon Fleet Unlimited.** Axon Fleet Unlimited is a 5-year term. If the Agency purchases Axon Fleet Unlimited, the Axon Fleet camera hardware is covered by a 4-year extended warranty.

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Axon will also provide the Agency with a new front Axon Fleet camera and a new rear Axon Fleet camera that is the same Product or a like Product, at Axon's sole option (**Axon Fleet Upgrade Model**) 5 years after the start of the Axon Fleet Subscription. The Agency may elect to receive the Axon Fleet Upgrade Model anytime in the 5th year of the Axon Fleet Subscription Term so long as the final Axon Fleet Unlimited payment has been made.

If the Agency would like to change product models for the Axon Fleet Upgrade Model, then the Agency must pay the price difference in effect at the time of the upgrade between the MSRP for the offered Axon Fleet Upgrade Model and the MSRP for the model desired. The Agency will be responsible for the installation of any Axon Fleet Upgrade Models received from Axon.

- 9 Fleet Unlimited Termination.** If an invoice for Axon Fleet Unlimited is more than 30 days past due or the Agency defaults on its payments for the Evidence.com Services then Axon may terminate Axon Fleet Unlimited and all outstanding Product related to Axon Fleet Unlimited. Axon will provide notification that Axon Fleet Unlimited coverage is terminated. Once Axon Fleet Unlimited coverage is terminated for any reason, then:
- 9.1.** Axon Fleet Unlimited coverage will terminate as of the date of termination and no refunds will be given.
  - 9.2.** Axon will not and has no obligation to provide the free Axon Fleet Upgrade Models.
  - 9.3.** The Agency will be invoiced for, and is obligated to pay to Axon, the MSRP then in effect for all Spare Products provided under Axon Fleet Unlimited. If the Spare Products are returned within 30 days of the Spare Product invoice date, credit will be issued and applied against the Spare Product invoice.
  - 9.4.** The Agency will be responsible for payment of any missed payments due to the termination before being allowed to purchase any future Axon Fleet Unlimited.



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## Signal Sidearm

### Appendix

Signal Sidearm is an optional purchase the Agency may make. If Signal Sidearm is included on the Quote, this Signal Sidearm Appendix applies.

- 1 **Signal Sidearm Term.** The Signal Sidearm start date is based upon the shipment date of Signal Sidearm. If the shipment of the hardware occurred in the first half of the month, then the Signal Sidearm Term starts on the 1st of the following month. If the shipment of the hardware occurred in the second half of the month, then the Signal Sidearm Term starts on the 15th of the following month. The Signal Sidearm Term length is 30 months from date of shipment.
- 2 **Signal Sidearm Warranty Coverage.** The Signal Sidearm includes the extended warranty coverage described in the current hardware warranty. Signal Sidearm warranty coverage starts at the end of the Hardware Limited Warranty term and continues for the Signal Sidearm Term.

Axon will provide the Agency with two extra batteries for each Signal Sidearm unit upon the initial shipment. In the event the Agency needs additional batteries during the Signal Sidearm Term, the Agency may request the batteries through Axon's RMA process.

- 3 **Third Party Holster Warranty.** Axon provides an additional limited warranty on third party holsters used in conjunction with the Signal Sidearm. As such, for a period of one (1) year from the date of shipment of Signal Sidearm to Agency, Axon will provide a credit based on the MSRP of the holster to the Agency for damage caused to the holster directly by Signal Sidearm, other than holster installation points and ordinary wear and tear, up to a maximum of \$150.00, provided that (a) the Agency has a valid warranty claim for the holster and (b) the third party manufacturer will not honor the warranty claim due to Signal Sidearm voiding the Agency's holster warranty. Axon reserves the right to validate compliance with the above.

This warranty is subject to the proper use and installation of the Signal Sidearm as detailed in the Axon Signal Sidearm Assembly Guide. As such, Axon will not be responsible and this limited warranty does not extend to the repair, replacement or warranty of a holster used in conjunction with the Signal Sidearm that incurs damage not directly caused by use of the Signal Sidearm. Use of the Signal Sidearm with accessories, peripheral equipment and other products of a similar type, condition and standard other than prescribed by the holster manufacturer or Axon will void this warranty. Please refer to the manufacturer for information on your holster warranty. Axon disclaims all other warranties, express or implied.

- 4 **Spare Product.** Axon will provide a predetermined number of spare Signal Sidearm units for those hardware items and accessories listed in the Quote (**Spare Signal Sidearm Units**) to keep at the Agency location to replace broken or non-functioning units in order to improve the availability of the units to officers in the field. The Agency must return to Axon, through Axon's Return Merchandise Authorization (**RMA**) process, any broken or non-functioning units for which a Spare Signal Sidearm Units is utilized, and Axon will repair the non-functioning unit

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or replace with a replacement product. Axon warrants it will repair or replace the unit that fails to function for any reason not excluded by the warranty coverage, during the Signal Sidearm Term with the same product or a like product, at Axon's sole option.

- 5**     **Signal Sidearm Termination.** If an invoice for Signal Sidearm is more than 30 days past due or the Agency defaults on its payments for the Evidence.com services then Axon may terminate Signal Sidearm. Once Signal Sidearm coverage is terminated for any reason, then:
- 5.1.**     If Signal Sidearm is terminated before the end of the term, then (a) the Agency will be invoiced for the remainder of the MSRP for the Signal Sidearm products received and not already paid as part of the Signal Sidearm before the termination date; or (b) only in the case of termination for non-appropriations, return the Signal Sidearm products to Axon within 30 days of the date of termination.
  - 5.2.**     Signal Sidearm warranty coverage, as well as the third party holster warranty coverage, will terminate as of the date of termination and no refunds will be given.
  - 5.3.**     The Agency will be invoiced for and are obligated to pay to Axon the MSRP then in effect for all Spare Signal Sidearm Units provided by Axon. If the Spare Signal Sidearm Units are returned within 30 days of the Spare Signal Sidearm Units invoice date, credit will be issued and applied against the Spare Signal Sidearm Units invoice.

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# Axon Application Programming Interface

## Appendix

If Axon Application Program Interface (API) add-on is on the Quote, this Axon Application Programming Interface applies.

### 1 **Definitions.**

**"API Client"** means the software that acts as the interface between the Agency's computer and the server, which is already developed or to be developed by the Agency.

**"API Interface"** means the software (interconnectivity) implemented by the Agency to configure the Agency's independent API Client Software to operate in conjunction with the API Service for the Agency's authorized Use.

**"Evidence.com Partner API, API or AXON API"** (collectively **"API Service"**) means Axon's API which provides a programmatic means to access data in the Agency's Evidence.com account or integrate the Agency's Evidence.com account with other systems.

**"Use"** means any operation on the Agency's data that is enabled by the supported API functionality.

### 2 **Purpose and License.**

- 2.1. The Agency may use the API Service, and data made available through the API Service, in connection with an API Client developed by the Agency. Axon may monitor the Agency's use of the API Service to ensure quality, improve Axon products and services, and verify compliance with this Agreement. The Agency agrees to not interfere with such monitoring or obscure from Axon the Agency's use of the API Service. The Agency will not use the API Service for commercial use without Axon's prior written approval. The Agency must purchase API licenses for every Evidence.com user in the Agency, even if the user does not have an Axon body camera.
- 2.2. Axon grants the Agency a non-exclusive, non-transferable, non-sublicensable, worldwide, revocable right and license during the Term of this Agreement to use the API Service, solely for the Agency's Use in connection with the Agency's API Client.
- 2.3. Axon reserves the right to set limitations on Agency's use of the API Service, such as a quota on operations, to ensure stability and availability of Axon's API. Axon will use reasonable efforts to accommodate use beyond the designated limits.

### 3 **API Configuration.**

- 3.1. The Agency will work independently to configure the Agency's API Client with the API Service for the Agency's applicable Use.
- 3.2. In order to access the API Service, the Agency will be required to provide certain information (such as identification or contact details) as part of the registration process. Any registration information provided to Axon must be accurate. The Agency will inform Axon promptly of any updates. Upon the Agency's successful registration, Axon will provide documentation outlining relevant API Service information.

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- 4 **Agency's Responsibilities.** When using the API Service, the Agency and its end users may not:
- 4.1. use the API Service in any way other than as expressly permitted under this Agreement;
  - 4.2. use in any way that results in, or could result in, any security breach with respect to Axon;
  - 4.3. perform an action with the intent of introducing any viruses, worms, defect, Trojan horses, malware, or any items of a destructive nature to Axon Products and Services;
  - 4.4. interfere with, modify, disrupt or disable features or functionality of the API Service or the servers or networks providing the API Service;
  - 4.5. reverse engineer, decompile, disassemble, or translate or attempt to extract the source code from the API Service or any related software;
  - 4.6. create an API Interface that functions substantially the same as the API Service and offer it for use by third parties;
  - 4.7. (i) provide use of the API Service on a service bureau, rental or managed services basis or permit other individuals or entities to create links to the API Service, (ii) "frame" "mirror" the API Service on any other server, or wireless or Internet-based device, or (iii) otherwise make available to a third party, any token, key, password or other login credentials to the API Service; or
  - 4.8. take any action or inaction resulting in illegal, unauthorized or improper purposes.
- 5 **API Content.** All content related to the API Service, other than Agency Content or Agency's API Client content, is considered Axon's API Content, including but not limited to: (i) the design, structure and naming of the API Service fields in all responses and requests; (ii) the resources available within the API Service for which the Agency takes actions on, such as evidence, cases, users, reports, etc.; (iii) the structure of and relationship of the API Service resources; and (iv) the design of the API Service, in any part or as a whole.
- 6 **Prohibitions on API Content.** Neither the Agency nor its end users will use API content returned from the API Interface to:
- 6.1. scrape, build databases, or otherwise create permanent copies of such content, or keep cached copies longer than permitted by the cache header;
  - 6.2. copy, translate, modify, create a derivative work of, sell, lease, lend, convey, distribute, publicly display, or sublicense to any third party;
  - 6.3. misrepresent the source or ownership; or
  - 6.4. remove, alter, or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices).
- 7 **API Updates.** Axon may update or modify the API Service from time to time, to better serve the Agency ("**API Update**"). The Agency is required to implement and use the most current version of the API Service and to make any applicable changes to the Agency's API Client that are required as a result of such API Update. API Updates may adversely affect the manner in which the Agency's API Client access or communicate with the API Service or the API Interface. Each API Client must contain means for the Agency to update the API Client to the most current version of the API Service. Axon will provide support for a one (1) year period following the release of an Update for all depreciated API Service versions.
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## Advanced User Management Appendix

If Axon Advanced User Management is on the Quote, this Advanced User Management Appendix applies.

- 1 **Scope.** Advanced User Management allows the Agency to (i) utilize bulk user creation and management; (ii) automate user creation and management through System for Cross-domain Identity Management (SCIM); and (iii) automate group creation and management through SCIM.
- 2 **Pricing.** The Agency must purchase Advanced User Management for every Evidence.com user in the Agency, even if the user does not have an Axon body camera.
- 3 **Advanced User Management Configuration.** The Agency will work independently to configure the Agency's Advanced User Management for the Agency's applicable Use. Upon request, Axon will provide general guidance to the Agency, including documentation that details the setup and configuration process.

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# Axon Third Party Data Ingestion Services

## Appendix

- 1 **Term.** The term of this Appendix commences on the Effective Date. The actual work to be performed by Axon is not authorized to begin until Axon receives the signed Quote or a purchase order for the services described in this Appendix (**Data Ingestion Services**), whichever is first.
- 2 **Scope of Data Ingestion Services.** The Agency currently has third party data outside of Evidence.com (**Third Party Data**) that the Agency desires to store in Evidence.com. The project scope will consist of Axon transferring and ingesting the Agency's Third Party Data into Evidence.com. Axon will run a SHA on all Third Party Data. Axon will then transfer the data to cloud storage, and then run a hash on the Third Party Data to confirm it is the same. Once this is confirmed, Axon will extract, transform, and load the Third Party Data into Evidence.com.

Axon is responsible to perform only the Data Ingestion Services described in this Appendix and any additional services discussed or implied that are not defined explicitly by this Appendix will be considered outside the scope of this Agreement and may result in additional fees.

- 3 **Pricing.** All Data Ingestion Services performed by Axon will be rendered in accordance with the fees and payment terms set forth in the Quote.
- 4 **Delivery of Data Ingestion Services.**
  - 4.1. **Project Management.** Axon will assign a Project Manager that will provide the expertise to execute a successful ingestion. The Project Manager will have significant knowledge and experience with all phases of the project management lifecycle and with all application modules being implemented. The Project Manager will work closely with the Agency's project manager and project team members and will be responsible for completing the tasks required to meet all contract deliverables on time and on budget.
  - 4.2. **Changes to Services.** Changes to the scope of the Data Ingestion Services must be documented and agreed upon by the Parties in a change order. If the changes cause an increase or decrease in any charges or cause a scheduling change from that originally agreed upon, an equitable adjustment in the charges or schedule will be agreed upon by the Parties and included in the change order, signed by both Parties.
  - 4.3. **Warranty.** Axon warrants that it will perform the Data Ingestion Services in a good and workmanlike manner.
- 5 **Agency's Responsibilities.** Axon's successful performance of the Data Ingestion Services depends upon the Agency's:
  - 5.1. Making available its relevant systems for assessment by Axon (including making these systems available to Axon via remote access if possible);
  - 5.2. Providing access to the building facilities and where Axon is to perform the Data Ingestion Services, subject to safety and security restrictions imposed by the Agency (including providing security passes or other necessary documentation to Axon representatives performing the Data Ingestion Services permitting them to enter and

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exit Agency premises with laptop personal computers and any other materials needed to perform the Data Ingestion Services);

- 5.3. Providing all necessary infrastructure and software information (TCP/IP addresses, node names, and network configuration) necessary for Axon to provide the Data Ingestion Services;
- 5.4. Ensuring that all appropriate data backups are performed;
- 5.5. Providing Axon with remote access to the Agency's Evidence.com account when required for Axon to perform the Data Ingestion Services;
- 5.6. Notifying Axon of any network or machine maintenance that may impact the performance of the Data Ingestion Services; and
- 5.7. Ensuring the reasonable availability by phone or email of knowledgeable staff and personnel, system administrators, and operators to provide timely, accurate, complete, and up-to-date documentation and information to Axon (these contacts are to provide background information and clarification of information required to perform the Data Ingestion Services).

The "Delta Logo," the "Axon + Delta Logo," Axon, Axon Commander, Axon Convert, Axon Detect, Axon Dock, Axon Five, Axon Forensic Suite, Axon Interview, Axon Mobile, Axon Signal Sidearm, Evidence.com, Evidence Sync, TASER, and TASER CAM are trademarks of Axon Enterprise, Inc., some of which are registered in the US and other countries. For more information visit [www.axon.com/legal](http://www.axon.com/legal). All rights reserved. © 2018 Axon Enterprise, Inc.

**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible acceptance of public improvements for the Autumn Colors Phase 4 Subdivision, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 26, 2018**
3. Agenda Category: **SUBDIVISION**
4. Time Required: **5 Minutes**
5. Background Information: **Council approved the Final Map for Autumn Colors Phase 4 on May 9, 2017. The developer has substantially completed the public improvements in accordance with the approved plans; a final inspection of the subdivision was completed on December 8, 2017. Due to temperature constraints, some of the punchlist items could not be addressed until recently. The City is in receipt of the required certification of the project by the Engineer of Record. The developer shall post a maintenance bond in the amount of \$52,679.00 with the City for the twelve-month maintenance period upon acceptance of the public improvements. JD**
6. Budget Information:  
    Appropriation Required: **N/A**  
    Budget amount available: **N/A**  
    Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **None**
9. Recommended Motion: **Accept Autumn Colors Phase 4 Public Improvements**
10. Prepared By: **Jeremy Draper, PE, Development Manager**
11. Committee/Other Agency Review:
12. Council action:
13. Council Agenda Distribution: **Jon Bailey, [jbaileype@gmail.com](mailto:jbaileype@gmail.com)**



**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible acceptance of public improvements for the Autumn Hills Subdivision, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 26, 2018**
3. Agenda Category: **SUBDIVISION**
4. Time Required: **5 Minutes**
5. Background Information: **Council approved the Final Map for Autumn Hills on December 8, 2015. The developer has substantially completed the public improvements in accordance with the approved plans; a final inspection of the subdivision was completed on September 15, 2017. Due to temperature constraints, some of the punchlist items could not be addressed until recently. The City is in receipt of the required certification of the project by the Engineer of Record. The developer shall post a maintenance bond in the amount of \$20,052.00 with the City for the twelve-month maintenance period upon acceptance of the public improvements. JD**
6. Budget Information:  
    Appropriation Required: **N/A**  
    Budget amount available: **N/A**  
    Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **None**
9. Recommended Motion: **Accept Autumn Hills Public Improvements**
10. Prepared By: **Jeremy Draper, PE, Development Manager**
11. Committee/Other Agency Review:
12. Council action:
13. Council Agenda Distribution: **Jon Bailey, [jbaileype@gmail.com](mailto:jbaileype@gmail.com)**

**City of Elko  
Agenda Action Sheet**

1. Title: **Consideration and possible adoption of a Resolution amending the Airport Tie-Down Fees to include a monthly tie-down fee for Elko County Residents, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 26, 2018**
3. Agenda Category: **RESOLUTION**
4. Time Required: **5 Minutes**
5. Background Information: **At the Airport Advisory Board meeting on March 23, 2018, a motion was made and passed to charge \$70.00 for a monthly tie-down fee. Staff feels this is a reasonable rate for a monthly tie-down fee. Currently, the Airport does not have a monthly rate, only a per day rate for tie-downs. JF**
6. Budget Information:  

Appropriation Required:     \$ \_\_\_\_\_

Budget amount available:     \$ \_\_\_\_\_

Fund name:
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Resolution 16-18**
9. Recommended Motion: **Move to adopt Resolution 16-18.**
10. Prepared By: **Jim Foster, Airport Manager**
11. Committee/Other Agency Review: **N/A**
12. Council Action:
13. Agenda Distribution:

Upon introduction by \_\_\_\_\_, seconded by \_\_\_\_\_  
\_\_\_\_\_, the following Resolution and Order was passed and adopted:

**CITY OF ELKO  
RESOLUTION NO. 16-18**

**A RESOLUTION AMENDING THE AIRPORT TIE-DOWN FEES**

**WHEREAS**, pursuant to Elko City Code allowing the City to impose by resolution various fees for services, and

**WHEREAS**, the Elko City Council has identified the need to add a monthly tie-down fee for Elko County residents at the City of Elko Regional Airport.

**NOW THEREFORE BE IT RESOLVED AND ORDERED** by the City Council that the following fee schedule at the Elko City Regional Airport be adopted until further action is taken by the Elko City Council to amend, delete, or otherwise change same.

**Tie-Down Fees**

Aircraft	Tie-Down Fee
Single/Multi-Engine Piston	\$5.00/day
Single/Multi-Engine Turbine	\$10.00/day
Jets Under 20,000 lbs	\$25.00/day
All Other Jets	\$50.00/day

**Monthly tie down fee for Elko County Resident \$70.00.**

**IT IS FURTHER RESOLVED**, that upon adoption of this Resolution by the City Council, it shall be signed by the Mayor and attested to by the City Clerk and shall be in full force and effect July 1, 2018.

Passed and adopted this \_\_\_\_ day of \_\_\_\_\_, 2018.

CITY OF ELKO

\_\_\_\_\_  
**CHRIS JOHNSON, Mayor**

ATTEST:

\_\_\_\_\_  
**SHANELL OWEN, City Clerk**

AYES:

NAYS:

ABSENT:

ABSTAIN:

**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval of Resolution No. 17-18, a resolution waiving the fee for farmer market vendors at farmer markets, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 26, 2018**
3. Agenda Category: **RESOLUTION**
4. Time Required: **5 Minutes**
5. Background Information:
6. Budget Information:  

Appropriation Required: **NA**  
Budget amount available: **NA**  
Fund name: **NA**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **A draft copy of Resolution No. 17-18**
9. Recommended Motion: **Adopt Resolution No. 17-18.**
10. Prepared By: **Shanell Owen, City Clerk**
11. Committee/Other Agency Review:
12. Council Action: **(to be completed by City Clerk)**
13. Agenda Distribution:

Upon introduction and motion by \_\_\_\_\_ and seconded by \_\_\_\_\_,  
the following Resolution and Order was passed and adopted:

**CITY OF ELKO  
RESOLUTION NO. 17-18**

**A RESOLUTION WAIVING THE FEE FOR FARMER MARKET VENDORS  
AT FARMER MARKETS.**

**WHEREAS**, the City of Elko desires to waive the fee for farmer market vendors at farmer markets.

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** by the City Council of the City of Elko that the special event fees shall be amended as follows:

**PROCESSING FEE:** The City of Elko hereby establishing a processing fee of \$25.00 for all new Business License Types, including: Regular Businesses, Apartment House, Hotel, Motel, Boarding Houses and/or Lodging House, Mobile Home Parks, Trailer Courts, Solicitors, Peddlers, Temporary Merchants, Banks, Savings and Loan Association and Other Banking Business License Regulations

**REGULAR BUSINESS LICENSE FEES:** Unless exempted by the provisions of Section 4-1-7 of this Code, the rates or amounts of business license fees for all businesses and professions shall be established based on the yearly gross sales receipts or revenues of the business or profession unless the rate is established by some other method as set forth in this Code. In the case of a business making sales and rendering services, the gross revenue from both sales and services shall be considered the equivalent of gross sales and pay the following fee:

\$ 0.00	-	\$25,000.00	\$ 34.50
25,000.01	-	50,000.00	55.20
50,000.01	-	100,000.00	69.00
100,000.01	-	200,000.00	103.50
200,000.01	-	225,000.00	138.00
225,000.01	-	250,000.00	172.50
250,000.01	-	300,000.00	207.00
300,000.01	-	350,000.00	241.50
350,000.01	-	400,000.00	276.00
400,000.01	-	500,000.00	310.50
Over	-	500,000.00	310.50
			plus \$6.90 for each full \$50,000.00 over \$500,000.00

**NEW BUSINESS GROSS NOT ESTABLISHED:**

For every person or entity that makes application for a business license and no gross has been established as defined in Section 4-1-8 of this Code the fee shall be as follows:

Regular license	\$25.00 processing fee and \$34.50 for one year
-----------------	---

Providing further that if at the time of filing the application for a license, the application is for transfer of ownership of an established business, the fee for the initial year shall be the same as the fee for a new regular business license.

**APARTMENT HOUSE, HOTEL, MOTEL, BOARDING HOUSES AND OR LODGING HOUSE:**

Every person or entity in the business of rentals of apartment houses renting rooms shall obtain an annual license and shall pay a license fee as follows:

3	to	5	rooms	\$ 20.70
6	to	15	rooms	34.50
16	to	25	rooms	48.60
26	to	50	rooms	69.00
51	to	75	rooms	103.50
76	to	150	rooms	172.50
151	to	300	rooms	310.50
301 rooms or over				517.50

**MOBILE HOME PARKS, TRAILER COURTS:**

Every person or entity operating a mobile home park or trailer court shall pay an annual fee according to the following schedule:

3	to	5	Spaces	\$ 20.70
6	to	15	Spaces	34.50
16	to	25	Spaces	48.60
26	to	50	Spaces	69.00
51	to	75	Spaces	103.50
76	to	150	Spaces	172.50
151	to	300	Spaces	310.50
301 Spaces or over				517.50

**SOLICITORS, PEDDLERS, TEMPORARY MERCHANTS (Section 4-1-15 of this Code)**Temporary outdoor display of merchandise:

Period of time from 1 to 30 days each business shall pay the sum of \$103.50.

Solicitors and Peddlers- door to door sales:

Period of time from 1 to 30 days each business shall pay the sum of \$103.50.

Period of time from 31 to 90 days each business shall pay the sum of \$207.00.

Period of time in excess of 90 days up to 1 year going door to door the sum of \$690.00 for each business.

**SPECIAL EVENTS (Section 4-1-16 of this Code):**

License fee for vendors on private property shall be computed as follows:

\$6.00 times the number of days of the event, times the total number of vendors having a space or booth, who would have been required (but for the Special Events License Ordinance) to obtain a business license. No fee shall be charged for a business that holds an Elko City Business License for a business that is physically located in the City limits. No fee shall be charged for a nonprofit organization. **No fee shall be charged for a farmer's market vendor at a farmer's market.**

License fee for vendors on public property shall be computed as follows:

\$34.50 per vendor per event. No fee shall be charged for a business that holds an Elko City Business License for a business that is physically located in the City limits. No fee shall be charged for a nonprofit organization. **No fee shall be charged for a farmer's market vendor at a farmer's market.**

**AUCTION; AUCTIONEER LICENSE (Section 4-1-17 of this Code):**

\$138.00 per day

**BANKS, SAVINGS AND LOAN ASSOCIATIONS AND OTHER BANKING BUSINESS LICENSE AND REGULATIONS (Sections 4-1-18 of this Code):**

Every person, entity of corporation engaged in the business of banking or savings and loan association as defined in Section 4-1-18 of this Code shall pay for and obtain annual license fee rate as follows:

The license fee is \$55.20 per million dollars of total average deposits or fraction thereof with a minimum of \$55.20 per bank or branch per year.

A tabulation setting forth total deposits in the bank, association or branch on the last day of each of the previous four (4) calendar year quarters must be submitted along with fee.

**TRAVELING SHOWS (Section 4-1-19 of this Code):**

For each traveling show as defined in Section 4-1-2 of this Code the license fee shall be as follows: \$138.00 per day

**UTILITY COMPANIES:**

The fee for all utilities as defined in Section 4-1-21 of this Code shall be as follows:

Gross Receipts of:

Initial Fee for new License	to		
\$ 0.00		\$200,000.00	\$1,200.00 + \$25.00 Processing Fee
200,000.01	to	300,000.00	1,725.50
300,000.01	to	400,000.00	3,450.00
400,000.01	to	500,000.00	3,630.00
Over		500,000.00	4,200.00

**CHILDCARE:**Childcare Center

Facility providing care for more than twelve (12) children. Required to file with City Planner.

Childcare Group Home

Facility providing care for not less than seven (7) children and not more than twelve (12) children. Required to only file Home Occupation with the Planning Department.

Childcare Family Home

Facility providing care for not less than five (5) children and not more than six (6) children. Regular license required.

**BROTHEL:**

The fee for all brothels as defined in Section 4-9-12 of the Elko City Code shall be as follows:

Every licensee shall pay three thousand dollars (\$3,000.00) per year, for the privilege of operating a house of prostitution in the city. Said fees shall be paid annually or semiannually and shall accompany the annual renewal application form, which shall be due on or before December 31 of each year. The license fee may be increased from time to time by resolution of the city council. The license fee for any licenses granted for a portion of a calendar year before June 30 of any year, shall be three thousand dollars (\$3,000.00). The license fee for any licenses granted for a portion of a calendar year after June 30 of any year shall be one thousand five hundred dollars (\$1,500.00).

**ACCESSORY (TEMPORARY) SEXUALLY ORIENTED BUSINESS:**

The fee for a temporary sexually oriented business as defined in Section 4-10-2 of the Elko City Code shall be as follows: \$60.00 per event

**PRINCIPAL SEXUALLY ORIENTED BUSINESS:**

The fee for a principal sexually oriented business as defined in Section 4-10-6 of the Elko City Code shall be as follows: \$1,200.00

**LIQUOR LICENSE:**

The fee for all liquor licenses as defined in Section 4-5-12 of the Elko City Code shall be as follows:

Retail Liquor License – One bar	\$ 222.00 per quarter
Each Additional Bar, including service bar	117.00 per quarter
Retail Wine and/or Beer	117.00 per quarter
Brew Pub	117.00 per quarter
Wholesale Liquor	132.00 per quarter
Wholesale Beer and/or Wine	108.00 per quarter
Packaged Liquor	192.00 per quarter
Packaged Beer and/or Wine	102.00 per quarter
Fraternal, Social and Civic Club License	30.00 per quarter



Special Events Liquor	60.00 per day
Special Events Beer and/or Wine	24.00 per day
Caterer's Liquor License	60.00 per quarter

# **GAMING LICENSES:**

The fee for all gaming licenses as defined in Section 4-4-2 of the Elko City Code shall be as follows:

Twenty-One	\$ 60.00 per quarter
Black Jack	60.00 per quarter
Slot Machines	18.00 per quarter
Stud/Draw Poker	36.00 per quarter
Faro, Monte, Fan-Tan	60.00 per quarter
Sports Book	120.00 per quarter
Keno	60.00 per quarter
Craps	60.00 per quarter
Bingo, Klondyke	60.00 per quarter
Race Horse Keno	120.00 per quarter
Roulette	60.00 per quarter
Seven and half, Big Injun	60.00 per quarter

**IT IS FURTHER RESOLVED**, that upon adoption of this Resolution by the City Council, it shall be signed by the Mayor and attested to by the City Clerk and shall be in full force and effect.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

CITY OF ELKO

\_\_\_\_\_  
**CHRIS J. JOHNSON, Mayor**

ATTEST:

\_\_\_\_\_  
**SHANELL OWEN, City Clerk**

VOTE:

AYES:

NAYS:

ABSENT:

ABSTAIN:

**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval of Resolution No. 18-18, a resolution authorizing budget transfers for Fiscal Year 2017/2018 for various funds of the City pursuant to NRS 354.598005, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 26, 2018**
3. Agenda Category: **RESOLUTION**
4. Time Required: **5 Minutes**
5. Background Information: **This is the annual year-end housekeeping item to transfer funds between functions, and funds as required to fund all budgetary changes that occurred during the fiscal year. JJ**
6. Budget Information:  
    Appropriation Required: **N/A**  
    Budget amount available:  
    Fund name:
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Resolution No. 18-18**
9. Recommended Motion: **Approve Resolution No. 18-18 authorizing budget transfers for Fiscal Year 2017/2018 for all listed funds pursuant to NRS 354.598005**
10. Prepared By: **Jonnye Jund, Administrative Services Director**
11. Committee/Other Agency Review:
12. Council Action:
13. Agenda Distribution:

Upon introduction and motion by Councilman \_\_\_\_\_, and seconded by Councilman \_\_\_\_\_, the following Resolution and Order was duly passed and adopted.

**CITY OF ELKO  
RESOLUTION NO. 18-18**

**A RESOLUTION PROVIDING FOR THE  
TRANSFER OF APPROPRIATIONS BETWEEN ACCOUNTS  
WITHIN THE CITY OF ELKO 2017/2018 FISCAL BUDGET  
PURSUANT TO N.R.S. 354.598005**

WHEREAS, the City of Elko 2017/2018 fiscal year budget has the need for transfers of appropriations between functions and accounts.

NOW, THEREFORE BE IT RESOLVED, that pursuant to N.R.S. 354.598005, the attached transfers of appropriations be accomplished:

**A detailed schedule is attached to this Resolution and by reference is made a part thereof.**

IT IS FURTHER RESOLVED, that upon adoption of this Resolution by the Elko City Council, it shall be signed by the Mayor and attested to by the City Clerk and shall be in full force and effect after its adoption.

PASSED AND ADOPTED THIS 26th day of June 2018.

\_\_\_\_\_  
Chris J. Johnson, Mayor

ATTEST:

\_\_\_\_\_  
Shanell Owen, City Clerk

VOTE:

AYES:

NAYS:

ABSENT:

ABSTAIN:

**City of Elko**  
**FY 2017/2018 Budget Transfers**

Description	Debit	Credit	Net Change
Manager - Salaries	8,500.00		
Clerk - Salaries	1,000.00		
Clerk Benefits Health Insurance	5,200.00	-	
Info Systems Salaries	5,500.00		
Info Systems - S & S Phone Expense	15,000.00		
Finance - Salaries Full Time	9,500.00		
Finance - Benefits PERS	1,000.00		
Central Services Benefits Group Health		130,000.00	
Central Services Liability Insurance		115,000.00	
Planning & Zoning Salaries	1,300.00		
Planning & Zoning Benefits PERS	13,000.00		
Planning & Zoning S/S Other Consulting Fees		20,000.00	
Municipal Court Legal Counsel Fees	15,000.00		
Economic Development - NENRDA	1,500.00		
<b>Total General Government</b>	<b>76,500.00</b>	<b>265,000.00</b>	<b>(188,500.00)</b>
Police Salaries		55,000.00	
Police Benefits PERS Public Safety		50,000.00	
Police S & S -Labor Related Legal	35,000.00		
ARFF Fire Station Salaries Overtime	70,000.00	-	
<b>Total Public Safety</b>	<b>105,000.00</b>	<b>105,000.00</b>	<b>-</b>
Streets Salaries	12,000.00		
Streets Capital Outlay	150,000.00		
Fleet Salaries	14,000.00		
Fleet Benefits - PERS	10,000.00		
Engineering - Salaries	1,500.00		
Engineering - Benefits PERS	1,000.00		
<b>Total Public Works</b>	<b>188,500.00</b>	<b>-</b>	<b>188,500.00</b>
Cemetery Salaries		12,000.00	
Cemetery Benefits Group Health	12,000.00		
<b>Total Health</b>	<b>12,000.00</b>	<b>12,000.00</b>	<b>-</b>
<b>Total General Fund</b>	<b>382,000.00</b>	<b>382,000.00</b>	<b>-</b>
Recreation - Bonding Expenses	-		
Recreation - Repair Supplies/Materials - Park Lot Mtn	-		
Recreation - Capital Outlay - Golf Course Irrigation Retention	60,000.00	-	
Recreation - Parks Capital Outlay -		85,000.00	
Transfer to Youth Recreation Fund	25,000.00		
<b>Total Recreation Fund</b>	<b>85,000.00</b>	<b>85,000.00</b>	<b>-</b>
Capital Equip - Engineering	-	50,000.00	
Capital Equip - Transfer to Redevelopment Agency Fund	50,000.00		
<b>Total Capital Equipment Reserve Fund</b>	<b>50,000.00</b>	<b>50,000.00</b>	<b>-</b>
Water Wells Salaries	75,000.00		
Water Wells Benefits Group Health	20,000.00		
Water Wells Well Pumping		125,000.00	
Water Depreciation	30,000.00		
<b>Total Water Fund</b>	<b>125,000.00</b>	<b>125,000.00</b>	<b>-</b>
Sewer Administration - Salaries		15,000.00	

**City of Elko**  
**FY 2017/2018 Budget Transfers**

Description	Debit	Credit	Net Change
Sewer Administration Office Supplies	15,000.00		
<b>Total Sewer Fund</b>	<b>15,000.00</b>	<b>15,000.00</b>	<b>-</b>
Landfill Operations - Other Consulting Services		20,000.00	
Landfill Operations - Gasoline		30,000.00	
Landfill Operations - Depreciation Expense	50,000.00		
<b>Total Landfill Fund</b>	<b>50,000.00</b>	<b>50,000.00</b>	<b>-</b>
Golf Administration - Salaries	800.00		
Golf Administration - Benefits Group Health Insurance	-	800.00	
<b>Total Golf Fund</b>	<b>800.00</b>	<b>800.00</b>	<b>-</b>

**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval of Resolution No. 19-18, a resolution designating components of the fund balance of all required governmental funds pursuant to GASB Statement #54, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 26, 2018**
3. Agenda Category: **RESOLUTION**
4. Time Required: **5 Minutes**
5. Background Information: **The Governmental Accounting Standards Board (GASB) issued Statement No. 54 Fund Balance Reporting and Governmental Fund Type Definitions, with the intent of improving financial reporting by providing fund balance categories that will be more easily understood. Resolution No. 19-18 further designates the components of all qualifying governmental fund balances. JJ**
6. Budget Information: **N/A**  

Appropriation Required: **NA**  
Budget amount available: **NA**  
Fund name: **NA**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Resolution No. 19-18, and Fund Balance Policy**
9. Recommended Motion: **Approve Resolution No. 19-18 committing the fund balance of all required governmental funds pursuant to GASB Statement 54.**
10. Prepared By: **Jonnye Jund, Administrative Services Director**
11. Committee/Other Agency Review:
12. Council Action:
13. Agenda Distribution:

Upon introduction and motion by Councilman \_\_\_\_\_, and seconded by Councilman \_\_\_\_\_, the following Resolution and Order was duly passed and adopted.

**CITY OF ELKO  
RESOLUTION NO. 19-18**

**A RESOLUTION DESIGNATING  
COMPONENTS OF THE FUND BALANCE  
OF ALL REQUIRED GOVERNMENTAL FUNDS  
PURSUANT TO GASB STATEMENT No. 54**

WHEREAS, the Governmental Account Standards Board (GASB) has issued Statement No. 54 (GASB 54), *Fund Balance Reporting and Governmental Fund Type Definitions*, with the intent of improving financial reporting by providing fund balance categories that will be more easily understood.

WHEREAS, the Elko City Council wishes to comply with GASB 54 as required with fiscal year July 1, 2017 – June 30, 2018, and

WHEREAS, the Elko City Council wishes to designate certain “Committed” funds per the GASB 54 Policy; and

NOW, THEREFORE BE IT RESOLVED, the committed fund balances for fiscal year 2018 ending June 30, 2018 are as follows:

General Fund Commitment – Commit \$2,072,742 for use in the General Fund operating budgets for fiscal year 2018/2019 of the City to provide service levels as designated during the budget approval process. Commit - \$150,000 for unsettled collective bargaining agreement. Commit – \$1,913,779 from the Revenue Stabilization Fund Balance. For purposes of complying with GASB 54 and financial reporting only, the revenue stabilization fund balance may be combined with the general fund balance pursuant to GASB 54. The revenue stabilization fund balance in its total shall be committed pursuant NRS 354.6115 which allows the City to establish a fund to stabilize the operations of local government and mitigate effects of natural disaster. The Elko City Council did establish the Revenue Stabilization Fund by passing Resolution 12-02 May 14, 2002. Pursuant to NRS 354.6115 the money in the fund must be used only if the total actual revenue of the local government falls short of the total anticipated revenue in the general fund for the fiscal year in which the local government uses that money; or to pay expenses incurred by the local government to mitigate the effects of a natural disaster. The fund balance of the revenue stabilization fund is further committed by the Elko City Council pursuant to Elko City Code Title 1, Chapter 7, Section 2.

Unassigned balance \$1,791,555 (NRS recommended ending fund balance requirement of 8.3%)

Recreation Fund Commitment – Commit \$122,056 reserve for the Recreational Facilities Bond payment pursuant to bond documents.

Commit 100% of remaining fund balance to be used for culture and recreation capital projects as listed on the Recreation priority list and as approved by the City Council each budget year.

Youth Recreation Fund Commitment – Commit 100% of fund balance to be used for all recreation programs, both youth and adults that are administered by the fund. All user fee and sponsor fee revenues of the fund are committed to be used for recreational programs for youth and adults of the community participating in the programs.

Capital Construction Fund Commitment – Commit 100% of fund balance for the purpose of constructing roads and infrastructure relating to roads.

Ad Valorem Capital Projects Fund Commitment – Commit 100% of fund balance pursuant to NRS 354.598155.

Capital Equipment Fund Commitment – Commit 100% of fund balance for the purchase of City capital equipment pursuant to Elko City Resolution No. 19-01 passed June 12, 2001.

Debt Service Fund Commitment – Commit 100% of fund balance for the payment of principal and interest for the 2010 Street Projects Bond, the 2014 Public Safety Projects Bond, and the Recreational Facilities Bond and to establish a one-year reserve for all required bond payments.

IT IS FURTHER RESOLVED, that upon adoption of this Resolution by the Elko City Council, it shall be signed by the Mayor and attested to by the City Clerk and shall be in full force and effect after its adoption.

PASSED AND ADOPTED THIS 26<sup>th</sup> day of June 2018.

\_\_\_\_\_  
Chris J. Johnson, Mayor

ATTEST:

\_\_\_\_\_  
Shanell Owen, City Clerk

VOTE:

AYES:

NAYS:

ABSENT:

ABSTAIN:



## CITY OF ELKO FUND BALANCE POLICY

### General Policy:

The Fund Balance Policy is intended to provide guidelines during the preparation and execution of the annual budget to ensure that sufficient reserves are maintained for unanticipated expenditures or revenue shortfalls. It also is intended to preserve flexibility throughout the fiscal year to make adjustments in funding for programs approved in connection with the annual budget. The Fund Balance Policy is established based upon a long-term perspective recognizing that stated thresholds are considered minimum balances. The main objective of establishing and maintaining a Fund Balance Policy is for the City of Elko to be in a strong fiscal position that will allow for better position to weather negative economic trends.

The Fund Balance consists of five categories: Non-spendable, Restricted, Committed, Assigned, and Unassigned – as defined below:

- **Non-spendable Fund Balance** consists of funds that cannot be spent due to their form (e.g. inventories and prepaids) or funds that legally or contractually must be maintained intact.
- **Restricted Fund Balance** consists of funds that are mandated for a specific purpose by external parties (e.g. creditors, grantors, contributors, or laws or regulations or other governments), or by law through constitutional provisions or enabling legislation.
- **Committed Fund Balance** consists of funds that are set aside for a specific purpose by the City's highest level of decision making authority (governing City Council). Formal action must be taken prior to the end of the fiscal year (June 30). The same formal action must be taken to remove or change the limitation placed on the funds.
- **Assigned Fund Balance** consists of funds that are set aside with the intent to be used for a specific purpose by the City Manager or by the Administrative Services Director. Assigned funds cannot cause a deficit in unassigned fund balance.
- **Unassigned Fund Balance** consists of excess funds that have not been classified in the previous four categories. All funds in this category are considered spendable resources. This category also provides the resources necessary to meet unexpected expenditures and revenue shortfalls.

It is the responsibility of the Administrative Services Director to report all Restricted Funds appropriately in the City's financial statements.

## **Classifying Fund Balance Accounts**

When both restricted and unrestricted funds are available for expenditure, restricted funds should be spent first unless legal requirements disallow it.

When committed, assigned and unassigned funds are available for expenditure, committed funds should be spent first, assigned funds second, and unassigned funds last; unless the City Council has provided otherwise in its commitment or assignment actions.

## **Authority to Commit Funds**

The City Council has the authority to set aside funds for a specific purpose. Any funds set aside as Committed Fund Balance requires passage of a resolution by a simple majority vote. The passage of a resolution must take place prior to June 30<sup>th</sup> of the applicable fiscal year. If the actual amount of the commitment is not available by June 30<sup>th</sup>, the resolution must state the process or formula necessary to calculate the actual amount as soon as information is available. The removal or modification of the committed fund balances also requires the passage of a resolution by a simple majority vote of the City Council. Committed fund balance does not lapse at year-end.

## **Authority to Assign Funds**

Upon passage of the Fund Balance Policy, authority is given to the Administrative Services Director, as reviewed and approved by the City Manager, to assign funds for specific purposes. Any funds set aside as Assigned Fund Balance must be reported to the City Council at their next regular meeting. The City Council has the authority to remove or change the assignment of the funds with a simple majority vote.

## **Unassigned Fund Balance**

Unassigned Fund Balance is the residual amount of Fund Balance in the General Fund. It represents the resources available for future spending. An appropriate level of Unassigned Fund Balance should be maintained in the General Fund in order to cover unexpected expenditures and revenue shortfalls.

Unassigned Fund Balance may be accessed in the event of unexpected expenditures upon approval of a budget revision by the City Council. In the event of projected revenue shortfalls, it is the responsibility of the Administrative Services Director to report the projections to the City Council on a quarterly basis.

**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval of Resolution No. 20-18, a resolution authorizing augmentation of the 2017/2018 Fiscal Year Budget of the Youth Recreation Fund, increasing appropriations to \$238,906 to account for \$25,000 in unanticipated revenues, pursuant to NRS 354.598005, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 26, 2018**
3. Agenda Category: **RESOLUTION**
4. Time Required: **5 Minutes**
5. Background Information: **The Youth Fund received \$25,000 in additional revenues from transfers in from the Recreation Fund. This revenue was not budgeted and was unanticipated during the budgeting process. In order to pay for the expenses associated with this revenue it is necessary to augment the budget. JJ**
6. Budget Information:  

**Appropriation Required: \$25,000**  
**Budget amount available: \$25,000**  
**Fund name: Youth Recreation Fund**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Resolution No. 20-18**
9. Recommended Motion: **Approve Resolution No. 20-18 augmenting the Youth Recreation Fund in the amount of \$25,000 pursuant to NRS 354.598005.**
10. Prepared By: **Jonnye Jund, Administrative Services Director**
11. Committee/Other Agency Review:
12. Council Action:
13. Agenda Distribution:

Upon introduction and motion by Councilman \_\_\_\_\_ and seconded by Councilman \_\_\_\_\_, the following Resolution and Order was duly passed and adopted.

**CITY OF ELKO  
RESOLUTION NO. 20-18**

**A RESOLUTION AUGMENTING THE 2017/2018  
BUDGET OF THE CITY OF ELKO  
YOUTH RECREATION FUND**

WHEREAS, the total resources of the Youth Recreation Fund of the City of Elko 2017-2018 fiscal budget were budgeted at \$213,906 on July 1, 2017, and are now determined to be \$238,906, and;

WHEREAS, the transfers in to the Youth Recreation Fund of the City of Elko 2017-2018 fiscal budget were budgeted at \$31,939 July 1, 2017, and are now determined to be \$56,939, and;

WHEREAS, said sources of additional unanticipated revenues are from transfers in from the Recreation Fund in the total amount of \$25,000;

WHEREAS, there is a need to apply these additional revenues to the Youth Recreation Fund;

NOW, THEREFORE, IT IS HEREBY RESOLVED that the City shall augment its 2017-2018 Youth Recreation Fund budget by appropriating \$25,000 for use in the Youth Recreation Fund, thereby increasing the appropriations from \$213,906 to \$238,906.

IT IS FURTHER RESOLVED, that the City shall forward the necessary documents to the Department of Taxation, State of Nevada.

IT IS FURTHER RESOLVED, that upon adoption of this Resolution by the Elko City Council, it shall be signed by the Mayor and attested to by the City Clerk and shall be in full force and effect after its adoption.

PASSED AND ADOPTED THIS 26<sup>th</sup> day of June 2018.

\_\_\_\_\_  
Chris J. Johnson, Mayor

ATTEST:

\_\_\_\_\_  
Shanell Owen, City Clerk

VOTE:

AYES:

NAYS:

ABSENT:

ABSTAIN:

Budget Augmentation

	1  Final Budget	2 Budget Year Ended 6/30/2018	
		Augmentation	3 Augmented Budget
<b>Revenues</b>			
Intergovernmental Revenue			-
Charges for Services			-
Fun Factory Fees	55,000		55,000
Other Charges	88,000		88,000
		-	-
Miscellaneous Revenue			
Interest	250		250
Other Miscellaneous Revenue	16,000		16,000
			-
<b>Total All Revenues</b>	<b>159,250</b>	<b>-</b>	<b>159,250</b>
<b>Other Financing Sources</b>			
Medium-Term Financing			-
Operating Transfers in (Schedule T)			
General Fund	-		-
Recreation Fund	31,939	25,000	56,939
<b>Total Operating Transfers In</b>	<b>31,939</b>	<b>25,000</b>	<b>56,939</b>
<b>Total Other Financing Sources</b>	<b>31,939</b>	<b>25,000</b>	<b>56,939</b>
<b>Beginning Fund Balance</b>			
Reserved			
Unreserved	22,717	-	22,717
<b>Total Beginning Fund Balance</b>	<b>22,717</b>	<b>-</b>	<b>22,717</b>
Prior Period Adjustments			
Residual Equity Transfer			
<b>Total Available Resources</b>	<b>213,906</b>	<b>25,000</b>	<b>238,906</b>

Expenditures by Function and Activity	Final Budget	Augmentation	Augmented Budget
<b>Function Summary</b>			
Latchkey Program (Fun Factory)			
Salaries / Wages	92,775	25,000	117,775
Employee Benefits	42,360	-	42,360
Services / Supplies	76,450	-	76,450
Capital Outlay	-		-
			-
			-
<b>Total Expenditures All Functions</b>	<b>211,585</b>	<b>25,000</b>	<b>236,585</b>
<b>Other Uses</b>			
Contingency			-
Operating Transfers Out (Sch T)			-
	-		-

Budget Augmentation

			-
<b>Total Other Uses</b>	-	-	-
<b>Total Expenditures and Other Uses</b>	<b>211,585</b>	<b>25,000</b>	<b>236,585</b>
<b>Ending Fund Balance</b>			
Reserved			
Unreserved	2,321	-	2,321
<b>Total Ending Fund Balance</b>	<b>2,321</b>	<b>-</b>	<b>2,321</b>
<b>Total General Fund Commitments and Fund Balance</b>	<b>213,906</b>	<b>25,000</b>	<b>238,906</b>

City of Elko  
(Local Government)  
Schedule B - Youth Recreation Fund  
Revised Revenue/Expenditure Schedule

**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval of Resolution No. 21-18, a Resolution providing for the transfer of the City's 2018 Private Activity Bond Cap to the Nevada Rural Housing Authority, and other matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 26, 2018**
3. Agenda Category: **RESOLUTIONS**
4. Time Required: **10 Minutes**
5. Background Information: **The City of Elko has previously transferred its portion of the tax-exempt private activity bond cap to the Nevada Rural Housing Authority. This year the Nevada Rural Housing Authority is requesting the City's allocation of the bonds for the purpose of providing a means of financing the costs of single family residential housing that will provide decent, safe and sanitary dwellings at affordable prices for persons of low and moderate income. A request letter from Nevada Rural Housing Authority and Resolution No. 21-18 have been enclosed in the agenda packet for review. CC**
6. Budget Information:  
    Appropriation Required: **N/A**  
    Budget amount available: **N/A**  
    Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Resolution #21-18, Nevada Rural Housing Authority Letter**
9. Recommended Motion: **Pleasure of the Council**
10. Prepared By: **Curtis Calder, City Manager**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution:

Upon introduction by \_\_\_\_\_, seconded by \_\_\_\_\_ following Resolution and Order was passed and adopted:

**RESOLUTION NO. 21-18**

RESOLUTION OF THE CITY COUNCIL OF ELKO, NEVADA PROVIDING FOR THE TRANSFER OF THE CITY'S 2018 PRIVATE ACTIVITY BOND VOLUME CAP TO THE NEVADA RURAL HOUSING AUTHORITY; AND OTHER MATTERS RELATED THERETO

WHEREAS, pursuant to the provisions of Chapter 348A of the Nevada Revised Statutes ("NRS") and Chapter 348A of the Nevada Administrative Code ("NAC"), there has been allocated to the City of Elko, Elko County, Nevada (the "City," "County" and "State," respectively), the amount of \$1,095,582.22 in tax-exempt private activity bond volume cap for year 2018 (the "2018 Bond Cap"); and

WHEREAS, the Nevada Rural Housing Authority (the "NRHA"), has requested that the City transfer its 2018 Bond Cap to the NRHA for the purpose of providing a means of financing the costs of single family residential housing that will provide decent, safe and sanitary dwellings at affordable prices for persons of low and moderate income ("*Single Family Programs*"); and

WHEREAS, the City is a local government as defined by NAC 348A.070; and

WHEREAS, Section 348A.180 of the NAC provides a procedure whereby the City may, by resolution, transfer to any other local government located within the same county, all or any portion of its 2018 Bond Cap; and

WHEREAS, pursuant to NRS 315.983(1)(a), the NRHA is an instrumentality, local government and political subdivision of the State; and

WHEREAS, the NRHA is located within the County, pursuant to NRS 315.963, which defines the NRHA's area of operation as "any area of the State which is not included within the corporate limits of a city or town having a population of 150,000 or more."

NOW, THEREFORE, the City Council of the City does hereby find, resolve, determine and order as follows:

*Section 1. Recitals.* The recitals set forth herein above are true and correct in all respects.

*Section 2. Transfer of Private Activity Bond Volume Cap.* Pursuant to NAC 348A.180, the City hereby transfers 2018 Bond Cap in the amount of \$1,095,582.22 56 to the NRHA for its Single Family Programs.

*Section 3. Use of 2018 Bond Cap.* The NRHA will use the 2018 Bond Cap for single family purposes in calendar year 2018, or carry forward any remaining amount according to the Internal Revenue Code of 1986, as amended, for such purposes.



*Section 4. Representative of City.* Pursuant to NAC 348A.180(1), the Director may contact Curtis Calder, regarding this Resolution at (775) 777-7110 or in writing at 1751 College Avenue, Elko, NV 89801.

*Section 5. Additional Action.* The Mayor and Clerk of the City are hereby authorized and directed to take all actions as necessary to effectuate the transfer of the 2018 Bond Cap, and carry out the duties of the City hereunder, including the execution of all certificates pertaining to the transfer as required by NAC Ch. 348A.

*Section 6. Direction to the NRHA.* The NRHA shall notify the Director in writing as soon as practicable of the occurrence or nonoccurrence of any term or condition that would affect the disposition of the 2018 Bond Cap.

*Section 7. Representative of the NRHA.* Pursuant to NAC 348A.180(3), the Director may contact Diane Arvizo, Director of Homeownership Programs of the NRHA regarding this Resolution at (775) 886-7900 or in writing at Nevada Rural Housing Authority, 3695 Desatoya Drive, Carson City, Nevada 89701.

*Section 8. Obligation of the City.* This Resolution is not to be construed as a pledge of the faith and credit of or by the City, or of any agency, instrumentality, or subdivision of the City. Nothing in this Resolution obligates or authorizes the City to issue bonds for any project or to grant approvals for a project or constitutes a representation that such bonds will be issued.

*Section 9. Enforceability.* If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution. This Resolution shall go into effect immediately upon its passage.

ADOPTED, SIGNED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2018.

CITY OF ELKO, NEVADA

By \_\_\_\_\_  
Chris J. Johnson, Mayor

ATTEST:

By \_\_\_\_\_  
Shanell Owen, City Clerk

VOTE:

AYES:

NAYS:

ABSENT:

ABSTAIN:

**CERTIFICATE OF TRANSFER OF VOLUME CAP**

I, Shanell Owen, am the duly chosen and qualified City Clerk of the City of Elko, Nevada (the "*City*") and in the performance of my duties as City Clerk do hereby certify to the Office of Business Finance and Planning in accordance with Section 348A.260 of the Nevada Administrative Code ("*NAC*"), that the 2018 private activity bond volume cap allocated to the City in the amount of \$1,095,582.22 has been transferred as follows:

\$1,095,582.22 has been transferred pursuant to NAC 348A.180 from the City, a local government, located in Elko County to the Nevada Rural Housing Authority, a local government, located within Elko County for the purpose of providing a means of financing the costs of single family residential housing that will provide decent, safe and sanitary dwellings at affordable prices for persons of low and moderate income.

This certificate is being filed within five (5) days of the transfer being made in accordance with NAC 348.260.

CITY OF ELKO, NEVADA

By \_\_\_\_\_  
Shanell Owen, City Clerk

cc: Diane Arvizo, Nevada Rural Housing Authority



June 4, 2018

The Honorable Chris J. Johnson  
Mayor, City of Elko  
1751 College Ave  
Elko, NV 89801

Dear Mayor Johnson:

On behalf of the Nevada Rural Housing Authority (NRHA), I would like to thank you for your longstanding and valuable partnership with NRHA. Because of our strong partnership, **NRHA has invested \$58.2 million and helped 283 families in your community** to obtain their dream of affordable homeownership, which is critical to building healthy communities. This accomplishment would not have been possible without you! NRHA's ability to continue serving your community with the most innovative rural homebuyer programs is predicated on receiving a transfer from your Private Activity Bond Cap (PABC), which will be combined with transfers from other cities and counties to fund NRHA's Single-Family Housing program.

As Nevada experiences continued rapid growth in population and a long-hoped-for economic recovery, a record number of families seek our help. NRHA helps families overcome barriers to homeownership through our flagship Home At Last™ programs - currently offering Mortgage Credit Certificates, Down Payment Assistance, and soon a new lease-to-own option. In the past three years, the NRHA Home At Last™ program has twice received the prestigious National Association of Local Housing Finance Agencies (NALHFA) Single-Family Housing Excellence award. As a national award-winning program, NRHA continuously strives to meet our mission to promote, provide and finance affordable housing opportunities for all rural Nevadans. As a result, our programs provide unprecedented access to credit, resulting in doors being opened so that rural Nevadans can afford to own a home of their own.

To expedite the transfer of your PABC allocation to NRHA, we simply need a board resolution and the corresponding transfer certificate (see attached). **Please accept this letter as our formal request to schedule this action (or consent) item for your June 26, 2018 City Council meeting.**

Once the resolution and transfer certificate are signed, **within 5-days of board approval**, please email a copy to [Diane@NVRural.org](mailto:Diane@NVRural.org) and submit the original transfer documents to:

Attn: Carrie Foley  
Nevada Department of Business & Industry  
3300 W. Sahara Ave., Suite 425  
Las Vegas, NV 89102

The transfer of PABC does not obligate the City of Elko in any way. If you have any questions about the transfer, please consult your counsel or NRHA's tax counsel, Ryan Bowen at (312) 845-3277.

We look forward to our continued partnership and to helping more Nevadans into homeownership.

Sincerely,

  
William L. Brewer  
Deputy Director

Enclosures: 3  
Attachment 1: 2018 Distribution of PABC  
Attachment 2: Resolution  
Attachment 3: Transfer Certificate

3695 Desatoya Drive Carson City, NV 89701 • P: 775-887-1796 • F: 775-887-1798  
TDD: 800-545-1833 ext. 545 • [NVRural.org](http://NVRural.org) • [Diane@NVRural.org](mailto:Diane@NVRural.org)  
This institution is an equal opportunity provider and employer.





A Program of  
**Nevada Rural  
Housing Authority**  
[HomeAtLastNV.org](http://HomeAtLastNV.org)

NRHA's mission to promote, provide and finance affordable housing opportunities for all rural Nevadans is truly at the epicenter of building thriving rural communities. Home At Last™ is an integral part of expanding and ensuring homeownership opportunities in rural Nevada, which is a key component to successful economic development throughout the state.

NRHA's Home At Last™ program has twice been the recipient of the distinguished Single-Family Housing Excellence Award from the National Association of Local Housing Finance Agencies (NALHFA). As a result of our accomplishments, residents and communities in the Silver State have seen a positive impact: more home purchases, stronger economic recovery and neighborhood stabilization.

Innovation requires commitment and collaboration which in turn produce synergy that captures all parties involved and drives effective change. We take pride in working with our local communities to open doors so that every rural Nevadan has a home they can afford, which is the cornerstone for building healthy communities. Our motto of **"Getting You Home"** expands vastly beyond geographical boundaries of rural Nevada. We are excited when other housing agencies can replicate our revolutionized programs into their market.

Pursuant to NRS 315.977, NRHA operates under the oversight of a board of commissioners consisting of five commissioners appointed by the Nevada Association of Counties and Nevada League of Cities and Municipalities. NRS 315.983 defines that NRHA is an instrumentality, local government and political subdivision of the State, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out the purposes and provisions of NRS 315.961 to 315.99874, inclusive. NRHA's area of operation is defined per NRS 315.9835, as follows: The State Authority may operate in any area of the State which is not included within the corporate limits of a city or town having a population of 150,000 or more.

### **TOTAL PROGRAM PERFORMANCE (since Home At Last™ launch in 2006):**

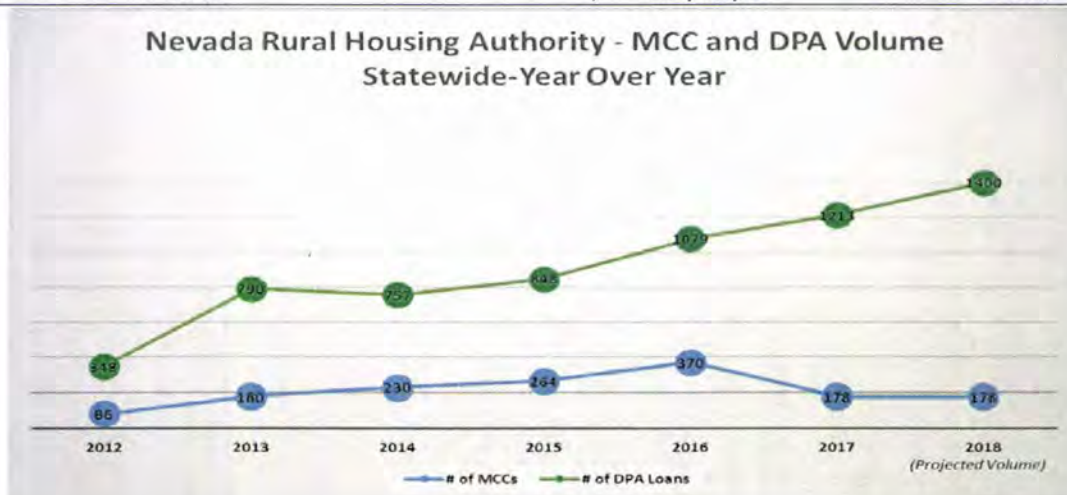
**\$1.3 BILLION** in Mortgages Provided  
**7,259 FAMILIES ASSISTED** with Mortgage Credit Certificates and/or Down Payment Assistance  
**\$24.5 MILLION** in tax savings - reinvested into local communities  
**\$41.5 MILLION** in Down Payment Assistance

### **ELKO COUNTY**

Township	Loan Volume	# of Loans
Elko	\$ 58,245,552	283
Carlin	\$ 3,377,402	23
Charleston	\$ 123,068	1
Lamoille	\$ 583,344	2
Spring Creek	\$ 46,761,999	229
Wells	\$ 2,080,964	14
Wendover	\$ 3,017,288	20
<b>Total</b>	<b>\$ 114,189,617</b>	<b>572</b>

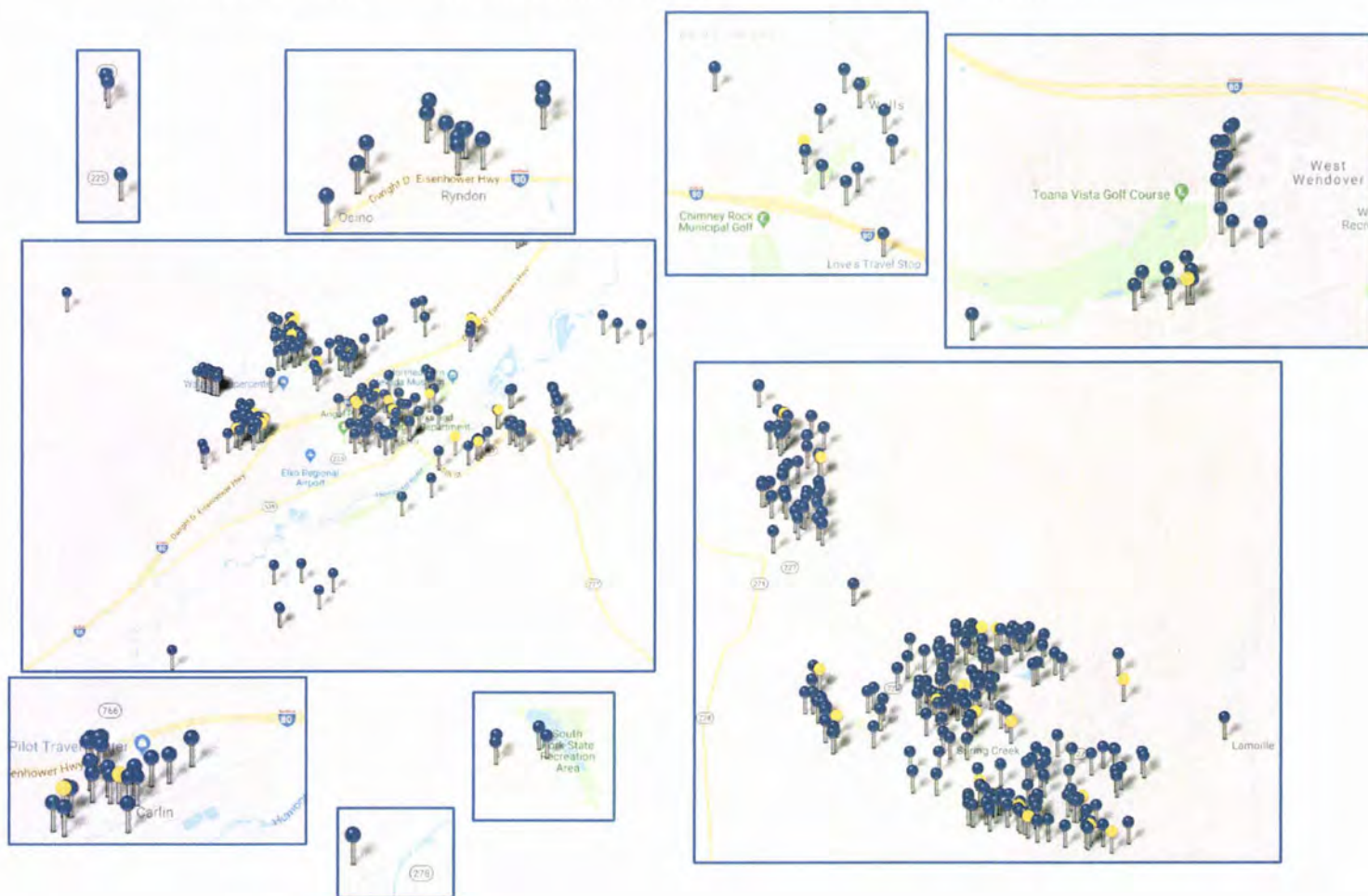
  

Program	Loan Volume	# of Loans
Down Payment Assistance Loans	\$ 103,022,442	516
Mortgage Credit Certificates	\$ 11,167,175	56
<b>Total</b>	<b>\$ 114,189,617</b>	<b>572</b>





**Average Loan Size: \$199,632.20**





**Elko City Council  
Agenda Action Sheet**

1. Title: **Second reading, public hearing and possible adoption of Ordinance No. 831, an ordinance amending Title 4, Chapter 1, of the Elko City Code entitled "Business Regulations", and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 26, 2018**
3. Agenda Category: **PUBLIC HEARING**
4. Time Required: **10 Minutes**
5. Background Information:
6. Budget Information:  

Appropriation Required: **N/A**  
Budget amount available: **N/A**  
Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Ordinance No. 831**
9. Recommended Motion: **Conduct second reading, public hearing and adopt Ordinance No. 831.**
10. Prepared By: **Shanell Owen, City Clerk**
11. Committee/Other Agency Review: **City Attorney**
12. Council Action:
13. Agenda Distribution:

**CITY OF ELKO  
ORDINANCE NO. 831**

**AN ORDINANCE AMENDING TITLE 4, CHAPTER 1 OF THE ELKO CITY CODE,  
ENTITLED “BUSINESS REGULATIONS” AND MATTERS RELATED THERETO**

**WHEREAS**, the City of Elko desires to amend the Business Regulations Code pertaining to farmers market vendors;

**WHEREAS**, the City of Elko desires to amend the Business Regulations Code pertaining to the vendor permit process;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELKO, NEVADA**

*For amendment purposes, words which are underlined are additions to the Ordinance, and words which are lined through are deleted from the Ordinance.*

SECTION 1. Title 4, Chapter 1, Section 2 of the Elko City Code entitled “Definitions” is hereby amended as follows:

**4-1-2: DEFINITIONS:**

For the purpose of this ~~Chapter~~chapter, unless the context otherwise requires, the following words shall have the meanings set forth in this ~~Chapter~~chapter:

**AUCTION SALE:** A sale of property by public outcry to the highest bidder.

**AUCTIONEERS:** Any person who shall by public outcry, sell or offer to sell to the highest bidder at public offering, any goods, merchandise, livestock, real estate or interest in real estate, security or any personal property at any place within the City where any and all persons who choose to do so are permitted to attend and offer bids; or any person who shall advertise or in any other manner hold himself out as an auctioneer for public patronage.

**BUSINESS:** Any ~~business~~, commercial enterprise, trade, occupation, calling, profession, vocation or activity conducted by any person, or the person's ~~his~~ agent or employee, for the purpose of gain, benefit or advantage, either direct or indirect.

**CITY:** City of Elko.

**CITY COUNCIL:** Elko City Council.

**COMMERCIAL RENTAL PROPERTY:** Any rented or leased nonresidential unit or units of



commercial or industrial property.

**COMMERCIAL TRAVELER:** Any person, ~~firm, company, corporation, association or employee~~, traveling either by foot, motor vehicle, or any other type of conveyance, from business to business, taking or attempting to take orders for the sale of goods, wares and merchandise, for future delivery to said business for their use or resale by them in the normal course of their business.

**COMMUNICATION/UTILITY COMPANY:** Any business that provides ~~conducted for the purpose of selling~~ gas, geothermal and/or electric power, telecommunication services, broadband access and/or services, cable television communication services or telephone/telegraph communication services ~~shall obtain an annual business license~~.

**EMPLOYEE:** A person in the service of another under any appointment or contract of hire, express or implied, oral or written, where the employer has the power or right to control and direct the employee in the material details of how the work is to be performed.

**ESTABLISHMENT:** Any business conducted in or upon any premises, including any buildings, improvements, equipment and facilities used or maintained in connection with such business.

~~**EVENT VENDORS PERMIT:** A permit required of any organizer or sponsor of an event, program or show at which the public is invited and vendors are present.~~

**FARMER'S MARKET:** A special event that primarily features booths, tables or stands where vendors sell unprocessed fruits, vegetables, meats, dairy products and non-alcoholic beverages.

**FARMER'S MARKET VENDOR:** A business that operates a physical retail market featuring foods sold directly to consumers at a farmer's market.

**FIXED PLACE OF BUSINESS:** The premises within the City limits where a business is conducted from day to day and regularly kept open for the purpose of conducting business. The term "regular place of business," as used in this Chapter, ~~for the purpose of this definition~~, has the same meaning as "fixed place of business."

**GOODS:** Personal property that can be sold, including merchandise and wares.

**GROSS REVENUES:** The total amount of revenues received in the business of offering any service.

**GROSS SALES RECEIPTS:**

A. ~~**Retail:**~~ The total amount received from the sale of goods within the municipal boundaries

of the City ~~of the sales price of all goods sold originating in the City,~~ regardless of the destination of the goods; and.

B. ~~Service/trade:~~ The total amount charged or received for the performance of any act, service or employment of any nature, whether or not such service, act or employment is performed as part of or in connection with the sale of goods, ~~wares and/or merchandise.~~

C. ~~Wholesale: The total amount of the sales price of all sales originating in the City regardless of destination.~~

HOME OCCUPATION: A business customarily carried on in a business establishment that is permitted to be carried out in a residence as long as the use as a business is incidental to the primary residential purpose and the residential character of the property is not changed. ~~Every person permitted to carry on a home occupation shall obtain an annual business license.~~

HOME SALES PARTY: A party or social gathering held at a residence for the purpose of selling merchandise to the attendees.

INDEPENDENT CONTRACTOR: A person who provides service to another for remuneration, is conclusively presumed to be an "independent contractor" for State wage and hour purposes pursuant to Nevada Revised Statutes 608.0155 and is not an "employee" as that term is defined in this section.

LICENSE FEE: Any monies required by law to be paid to obtain or renew a business license.

PERSON: Except where otherwise indicated, a natural person, any form of business or social organization and any other nongovernmental legal entity including, but not limited to, a sole proprietorship, limited liability company, corporation, partnership, association, trust or unincorporated organization, or a government, governmental agency or political subdivision of a government.

RESIDENTIAL RENTAL PROPERTY: Any rented or leased residential unit or units, excluding commercial or industrial property. Residential rental houses, duplexes, triplexes, apartment houses, hotels, boarding and rooming houses are all included within this definition.

RETAIL BUSINESS: Every business conducted for the purpose of selling or offering for sale any goods, ~~wares or merchandise~~, other than as a part of a "wholesale business," as defined in this section.

SOLICITOR OR PEDDLER: Any person, ~~firm, company, corporation, association or employee~~, traveling either by foot, motor vehicle, or any other type of conveyance, from place to place, or from house to house, or from street to street, taking or attempting to take orders for the sale of goods, ~~wares and merchandise, personal property~~ of any nature whatsoever for future



delivery, or for services to be furnished or performed in the future; or carrying, conveying or transporting goods, ~~wares or merchandise~~, offering and exposing the same for sale.

**SPECIAL EVENT:** An organized event, whether indoor or outdoor (1) that is held on public property or streets, non-profit organization property, or non-residential private property; (2) that can reasonably be expected to cause a public gathering; (3) where **two or more vendors are present or where the public is charged admission** for entry; and (4) that is not part of the normal course of business at the location.

TEMPORARY MERCHANT: Any person, firm, company, corporation, association or employee who engages in a temporary business of selling and delivering goods, ~~wares, merchandise~~ or providing services; and who may, in furtherance of such purposes, hire, lease, use or occupy any building, structure, tent, room in a hotel, shop or other place for the exhibition and sale of such goods, ~~wares and merchandise~~ or the provision of such services, either privately or at public auction.

TRAVELING SHOW: Any circus, carnival, concert, exhibition or any show intending to exhibit in the open air or under a tent, in a public or private hall, club room, assembly hall or theater where moveable scenery, theatrical equipment or props are used in a performance or exhibition.

UNIT: A unit of commercial or residential rental property is any separate rental space (whether within a building or ground space) of commercial, industrial or residential property.

**VENDOR:** Any person offering goods and/or services for sale to the public.

WHOLESALE BUSINESS: Every business conducted solely for the purpose of selling goods, ~~wares or merchandise~~ in wholesale lots to retail merchants for resale.

SECTION 2. Title 4, Chapter 1, Section 7 of the Elko City Code entitled "Exemptions From License" is hereby renamed "Exemptions From Licenses and License Fees" and is hereby amended as follows:

**4-1-7: EXEMPTION FROM LICENSE** **EXEMPTIONS FROM LICENSES AND LICENSE FEES:**

A. Charitable Organization: No business license **fee** shall be required of any institution, corporation, organization or association organized for charitable civic purposes.

B. Nonprofit Organization: No business license **fee** shall be required of any nonprofit organization so registered with the secretary of state of the state of Nevada.

C. Commercial Traveler: No business license shall be required of any "commercial traveler", as

defined in section 4-1-2 of this chapter.

D. Home Sales Parties: No business license shall be required of any person hosting a "home sales party", as defined in section 4-1-2 of this chapter.

E. Residential ~~And~~ and Commercial Rentals: No business license is required for a person who owns a residential or commercial rental if the rental is managed by a person who holds a city business license as a state licensed property manager.

**F. Farmer's Market Vendors: No business license fee shall be required for a farmer's market vendor at a farmer's market.**

SECTION 3. Title 4, Chapter 1, Section 16 of the Elko City Code entitled "Vendor Permit" is hereby renamed "Special Event Vendor Business License" and is hereby amended as follows:

**4-1-16: SPECIAL EVENT VENDOR BUSINESS LICENSE ~~VENDOR PERMIT:~~**

A. Application: Every organizer/sponsor of a special event ~~an event, program or show at which the public is invited and vendors are present must apply to the City Clerk's office for an a~~ special event vendor business license ~~permit through the city clerk's office.~~ **In the event there are two or more organizers/sponsors of a single special event, the organizers/sponsors shall jointly apply for the special event vendor business license.**

B. Multiple Organizers/Sponsors: ~~The city clerk shall determine if there is more than one primary organizer/sponsor of any event, program or show and shall require each primary organizer/sponsor to apply for an event vendor business permit and, upon approval of the application, pay the appropriate license fee.~~

BC. Issuance: The City Clerk ~~city clerk~~ shall issue an a special event vendor business license ~~permit~~ to the organizer/sponsor of a special event on behalf of the participating vendors upon approval of the application. The special event vendors business license may only be issued after the following criteria have been met:

1. No special event vendor business license ~~permit~~ shall be issued for any special event to be held on city ~~City~~-owned property, including public rights-of-way, unless approved by the city council pursuant to Section ~~section~~ 8-11-2 of this Code ~~code~~.

2. ~~An~~ A special event vendor business license ~~permit~~ will be issued only after the organizer/sponsor has provided a list of all participating vendors to the City Clerk's ~~city clerk's~~ office, which list shall be appended to and incorporated into the license.



CD. Additional Licensing: No Fee Required for Certain Vendors: A vendor All vendors listed as part of on a the special event vendors business license permit shall not be required to pay a license fee obtain any license under this chapter for said vendor's activities at the event, show or program if the vendor. This does not apply to those businesses (1) operates a place of business that physically located within the City or (2) who normally conducts conduct peddling operations or sales as a normal or seasonal part of the vendor's their business; provided, vendors that are subject to either of the foregoing exceptions must obtain all other required business licenses and pay all other required license fees for their operations or sales prior to the special event. Vendors that are entitled to the foregoing exception shall be so identified on the license application.

D-E. Discretion of Organizer/Sponsor of Event Recognition Of Authority: The city recognizes that the This Chapter shall not be interpreted as restricting the lawful discretion of the organizer/sponsor of any special event, show or program to determine which vendors may or may not participate has all control and authority over the decision to allow or refuse participation by any individual vendor.

F. Special Event Vendor Business License Fee: Except as otherwise provided in this Chapter, each vendor participating in a special event that is required to obtain a special event vendor business license shall pay a fee to the City in an amount established by resolution of the City Council. All fees required pursuant to this subsection shall be collected from the vendors by the organizer/sponsor(s) of the special event and shall thereafter be paid to the office of the City Clerk at the time the license application is submitted. No additional business license fee shall be charged to the organizer/sponsor in connection with the special event.

Each organizer/sponsor of an event, show or program, upon issuance of an event vendor business permit shall pay a license fee as established by a resolution of the city council. The license fee shall be based on the number of vendors at the event.

G. Transferability: An A special event vendor business license permit is nontransferable.

H. Investigation: The City Clerk city clerk may reserves the right to require a police investigation prior to issuing a special event vendors business license if it appears (1) that the organizer/sponsor or a vendor applicant has failed to truthfully provide all information required by this Chapter or (2) that the holding of the proposed special event or a vendor's proposed business activity at the special event violates any City ordinance, or any Federal or state law is in violation of any ordinance or law of the city, state or federal government.

SECTION 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed, but only to the extent of such conflict.

SECTION 5. If any section, paragraph, clause or provision of this Ordinance shall for any reason

be held to be invalid, unenforceable or unconstitutional by any court of competent jurisdiction, the invalidity, unenforceability of such section, paragraph, clause or provision shall not affect any remaining provision of this Ordinance.

SECTION 6. Upon adoption, the City Clerk of the City of Elko is hereby directed to have this ordinance published by title only, together with the Councilman voting for or against its passage in a newspaper of general circulation within the time established by law, for at least one publication.

SECTION 7. This Ordinance shall be effective upon the publication outlined in Section 6.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2018, by the following vote of the Elko City Council.

VOTE:

AYES:

NAYES:

ABSENT:

ABSTAIN:

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2018.

**CITY OF ELKO**

By: \_\_\_\_\_  
**CHRIS JOHNSON, Mayor**

**ATTEST:**

\_\_\_\_\_  
**SHANELL OWEN, City Clerk**

**Elko City Council  
Agenda Action Sheet**

1. Title: **Second reading, public hearing and possible adoption of Ordinance No. 832, an ordinance amending Title 4, Chapter 6, of the Elko City Code entitled "Transient Lodging Tax", amending Section 12 relating to the penalty for delinquent transient lodging tax, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 26, 2018**
3. Agenda Category: **PUBLIC HEARING**
4. Time Required: **10 Minutes**
5. Background Information: **City Staff is recommending changes in accordance with NRS 268.096. SO**
6. Budget Information:  

Appropriation Required: **N/A**  
Budget amount available: **N/A**  
Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Ordinance No. 832**
9. Recommended Motion: **Conduct second reading, public hearing and adopt Ordinance No. 832.**
10. Prepared By: **Shanell Owen, City Clerk**
11. Committee/Other Agency Review: **City Attorney**
12. Council Action:
13. Agenda Distribution:

**CITY OF ELKO  
ORDINANCE NO. 832**

**AN ORDINANCE AMENDING TITLE 4, CHAPTER 6 OF THE ELKO CITY CODE  
ENTITLED "TRANSIENT LODGING TAX," AMENDING SECTION 12 RELATING  
TO THE PENALTY FOR DELINQUENT TRANSIENT LODGING TAX, AND  
MATTERS RELATED THERETO.**

**WHEREAS**, the City desires to amend the penalty for delinquent transient lodging tax in accordance with NRS 268.096.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELKO, NEVADA.**

**For amendment purposes, words which are bold and underlined are additions to the Ordinance, and words which are lined through are deleted from the Ordinance.**

**SECTION 1:** Title 4, Chapter 6, Section 12 entitled "Penalties and Interest" of the Elko City Code is hereby amended as follows:

**4-6-12: PENALTIES AND INTEREST:**

If the transient lodging tax is not paid on or before 5:00 p.m. on the fifteenth day of the month in which it becomes due, or if such day falls on a Saturday, Sunday or legal holiday, by 5:00 p.m. on the next succeeding day not a Saturday, Sunday or legal holiday, then the licensee shall pay a penalty of ~~fifteen percent (15%)~~ ten percent (10%) of the unpaid, due and delinquent transient lodging tax, and the licensee shall also pay the costs of collection of the tax, penalty, court costs and attorney fees. In addition, the licensee shall pay interest on the amount due at the rate of 1.5 percent per month from the date on which the tax became due until the date of payment. If payment of the transient lodging tax is not received within sixty (60) calendar days following the fifteenth day of the month when due, the City may thereafter place a lien on the property upon which the transient lodging rental business is located in the manner set forth in NRS 268.095, as amended. If payment of the transient lodging tax is not received within seventy (70) calendar days following the fifteenth day of the month when due, the City may terminate, suspend or revoke the transient lodging rental business's Business License in the manner outlined in Elko City Code Section 4-1-14.

**SECTION 2:** All ordinances in conflict herewith are hereby repealed, but only to the extent of such conflict.

**SECTION 3:** If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid, unenforceable or unconstitutional by any court of competent jurisdiction, the invalidity, unenforceability or unconstitutionality of such section, paragraph, clause or provision shall not affect any remaining provisions of this Ordinance.



**SECTION 4:** That adoption, the City Clerk of the City of Elko is hereby directed to have this Ordinance published, by title only, together with the Councilmen voting for or against its passage, in the Elko Daily Free Press newspaper, a newspaper printed and published in the City of Elko, for at least one publication.

**SECTION 5:** This Ordinance shall be effective upon the publication mentioned in Section 4.

**PASSED AND ADOPTED** this       day of                               by the following vote of the Elko City Council.

AYES :

NAYS:

ABSENT:

ABSTAIN:

**APPROVED** this       day of                               , 2018.

**CITY OF ELKO**

By: \_\_\_\_\_  
**CHRIS JOHNSON, Mayor**

**ATTEST:**

\_\_\_\_\_  
**SHANELL OWEN, City Clerk**