CITY OF MILWAUKIE

COUNCIL **RESOLUTION No.** 55-2017

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO ENTER INTO A FIVE-YEAR LEASE WITH PACIFIC OFFICE AUTOMATION FOR MULTI-PURPOSE COPIERS.

WHEREAS, City of Milwaukie's leases for copiers have ended; and

WHEREAS, a new lease is required to continue printing and copying services; and

WHEREAS, staff recommends the use of State of Oregon contract #5624 with Pacific Office Automation for copier services.

Now, Therefore, be it Resolved that the City Manager is authorized to execute a five-year lease with Pacific Office Automation for copiers and maintenance throughout City buildings.

Introduced and adopted by the City Council on 5/16/17.

This resolution is effective on 5/16/17.

Mark Gamba, Mayor

ATTEST:

Scott S. Stauffer, City Recorder

APPROVED AS TO FORM:
Jordan Ramis PC

City Attorney

PACIFIC OFFICE AUTOMATION

The Northwest's own, the nationally recognized copier company

Equipment Lease Agreement

Agreement # _____

EQUIPMENT

Equipment Model & Description	Serial Number	Accessories
See Exhibit A		

☐ See attached schedule for additional Equipment/Accessories

Equipment Location (if different from Billing Address): _____

SUPPLIER

Pacific Office Automation (Branch 10)
Name

14747 NW Greenbrier Parkway
Address

Beaverton | OR | 97006
City | State | Zip

YOU HAVE SELECTED THE EQUIPMENT. THE SUPPLIER AND ITS REPRESENTATIVES ARE NOT OUR AGENTS AND ARE NOT AUTHORIZED TO MODIFY THE TERMS OF THIS LEASE. YOU ARE AWARE OF THE NAME OF THE MANUFACTURER OF EACH ITEM OF EQUIPMENT AND YOU WILL CONTACT EACH MANUFACTURER FOR A DESCRIPTION OF YOUR WARRANTY RIGHTS. WE MAKE NO WARRANTIES TO YOU, EXPRESS OR IMPLIED, AS TO THE MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SUITABILITY, OR OTHERWISE. WE PROVIDE THE EQUIPMENT TO YOU AS-IS. WE SHALL NOT BE LIABLE FOR CONSEQUENTIAL OR SPECIAL DAMAGES.

YOUR PAYMENT OBLIGATIONS ARE ABSOLUTE AND UNCONDITIONAL AND ARE NOT SUBJECT TO CANCELLATION, REDUCTION OR SETOFF FOR ANY REASON WHATSOEVER. BOTH PARTIES AGREE TO WAIVE ALL RIGHTS TO A JURY TRIAL. THIS LEASE SHALL BE GOVERNED BY THE LAWS OF OREGON. YOU CONSENT TO THE JURISDICTION AND VENUE OF FEDERAL AND STATE COURTS IN OREGON.

TO HELP THE GOVERNMENT FIGHT THE FUNDING OF TERRORISM AND MONEY LAUNDERING ACTIVITIES, FEDERAL LAW REQUIRES ALL FINANCIAL INSTITUTIONS TO OBTAIN, VERIFY AND RECORD INFORMATION THAT IDENTIFIES EACH PERSON WHO OPENS AN ACCOUNT. WHAT THIS MEANS TO YOU: WHEN YOU OPEN AN ACCOUNT, WE WILL ASK FOR YOUR NAME, ADDRESS AND OTHER INFORMATION THAT WILL ALLOW US TO IDENTIFY YOU. WE MAY ALSO ASK TO SEE IDENTIFYING DOCUMENTS.

BY SIGNING THIS LEASE, YOU ACKNOWLEDGE RECEIPT OF PAGE 2 OF THIS LEASE, AND AGREE TO THE TERMS ON BOTH PAGES 1 AND 2. ORAL AGREEMENTS OR COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR TO FOREBEAR FROM ENFORCING REPAYMENT OF A DEBT, INCLUDING PROMISES TO EXTEND OR RENEW SUCH DEBT, ARE NOT ENFORCEABLE. TO PROTECT YOU AND US FROM MISUNDERSTANDING OR DISAPPOINTMENT, ANY AGREEMENTS WE REACH COVERING SUCH MATTERS ARE CONTAINED IN THIS WRITING, WHICH IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN US, EXCEPT AS WE MAY LATER AGREE IN WRITING TO MODIFY IT.

PURCHASE OPTION AT END OF TERM

☒ Fair Market Value

TRANSACTION TERMS

Lease Payment $ 2,882 (plus applicable taxes)

Term 60 months

Billing Period: Monthly

The following additional payments are due on the date this Agreement is signed by you:

Security Deposit $_____

Advance Payment $_____ (plus applicable taxes)

~~Document Fee $75.00 (included on first invoice)~~

LESSEE ("You")

City of Milwaukie
Full Legal Name

10722 SE Main Street
Billing Address

Milwaukie | OR | 97222
City | State | Zip

Brandon Gill | 503-786-7404 | gillb@milwaukieoregon.gov
Contact Name | Phone | E-mail Address

By: X
Name: Ann Ober
Title: City Manager
Date: 5/24/2017
Federal Tax ID: 93-6002212

LESSOR ("We", "Us")

Pacific Office Automation, Inc.

By:
Name: ~~Kayla Seibel~~ Dana Martinez
Title: Branch Administrative Manager
Date: 5/24/2017

Unconditional Personal Guaranty

In consideration of Lessor entering into the Lease in reliance on this guaranty, the undersigned unconditionally and irrevocably guarantees to Lessor, its successors and assigns, the prompt payment and performance of all existing and future obligations to Lessor, including the Lease. I agree that (a) this is a guaranty of payment and not of collection, and that Lessor can proceed directly against me personally without resorting to any security or seeking to collect from Lessee, (b) I waive all suretyship defenses including impairment of collateral, failure to properly perfect a security interest in the collateral, and all notices, including those of protest, presentment and demand, (c) Lessor may renew, extend or otherwise change the terms of the Lease without notice to me and I will be bound by such changes, and (d) I will pay all of Lessor's costs of enforcement and collection, including attorneys' fees. This guaranty survives the bankruptcy of Lessee and binds my administrators, successors and assigns. My obligations under this guaranty continue even if Lessee becomes insolvent or bankrupt or is discharged from bankruptcy and I agree not to seek to be repaid by Lessee in the event I must pay Lessor, until you have been paid all amounts owed. This guaranty shall be governed by the laws of Oregon. I consent to the personal jurisdiction and venue of federal and state courts in Oregon.

Printed Name: _____ By: _____ Individually

POA 1216 (a) r12 11-13

ADDITIONAL TERMS AND CONDITIONS OF LEASE

1. COMMENCEMENT OF LEASE. Commencement of this Lease and acceptance of the Equipment shall occur upon delivery of the Equipment to you. You agree to inspect the Equipment upon delivery and verify by telephone or in writing such information as we may require. If you signed a purchase order or similar agreement for the purchase of the Equipment, by signing this Lease you assign to us all of your rights, but none of your obligations under it. All attachments, accessories, replacements, replacement parts, substitutions, additions and repairs to the Equipment shall form part of the Equipment under this Lease.

~~2. SECURITY DEPOSIT. The Security Deposit will be held by us, without interest, and may be commingled (unless otherwise required by law), until all obligations under this Lease are satisfied, and may be applied at our option against amounts due under this Lease. The Security Deposit will be returned to you upon termination of the Lease, provided you are not in default, or applied to the last Lease Payment or to the amount we may quote for any purchase or upgrade of the Equipment.~~

3. LEASE PAYMENTS. You agree to remit to us the Lease Payment and all other sums when due and payable each Billing Period at the address we provide to you from time to time. Lease Payments are due whether or not you are invoiced. ~~You authorize us to adjust the Lease Payments by not more than 15% to reflect any reconfiguration of the Equipment or adjustments to reflect applicable sales taxes or the cost of the Equipment by the manufacturer/supplier.~~

4. LEASE CHARGES. You agree to: (a) pay all costs and expenses associated with the use, maintenance, servicing, repair or replacement of the Equipment; (b) pay all premiums and other costs of insuring the Equipment; (c) reimburse us for all costs and expenses (including reasonable attorneys' fees and court costs) incurred in enforcing this Lease; and (d) pay all other costs and expenses for which you are obligated under this Lease. You agree, at our discretion, to either (1) reimburse us annually for all personal property and other similar taxes and governmental charges associated with the ownership, possession or use of the Equipment, or (2) remit to us each Billing Period our estimate of the pro-rated equivalent of such taxes and governmental charges. You agree to pay us an administrative fee for the processing of taxes, assessments or fees which may be due and payable under this Lease. We may take on your behalf any action required under this Lease which you fail to take, and upon receipt of our invoice you will promptly pay our costs (including insurance premiums and other payments to affiliates), plus reasonable processing fees. Restrictive endorsements on checks you send to us will not reduce your obligations to us. We may charge you a return check or non-sufficient funds charge of $25.00 for any check which is returned by the bank for any reason (not to exceed the maximum amount permitted by law).

5. LATE CHARGES. For any payment which is not received by its due date, you agree to pay a late charge equal to the higher of 10% of the amount due or $22.00 (not to exceed the maximum amount permitted by law) as reasonable collection costs.

6. OWNERSHIP, USE, MAINTENANCE AND REPAIR. We own the Equipment and you have the right to use the Equipment under the terms of this Lease. If this Lease is deemed to be a secured transaction, you grant us a security interest in the Equipment to secure all of your obligations under this Lease. You hereby assign to us all of your rights, but none of your obligations, under any purchase agreement for the Equipment. We hereby assign to you all our rights under any manufacturer or supplier warranties, so long as you are not in default hereunder. You must keep the Equipment free of liens. You may not remove the Equipment from the address indicated on the front of this Lease without first obtaining our approval. You agree to: (a) keep the Equipment in your exclusive control and possession; (b) USE THE EQUIPMENT ONLY IN THE LAWFUL CONDUCT OF YOUR BUSINESS, AND NOT FOR PERSONAL, HOUSEHOLD OR FAMILY PURPOSES; (c) use the Equipment in conformity with all insurance requirements, manufacturer's instructions and manuals; (d) keep the Equipment repaired and maintained in good working order and as required by the manufacturer's warranty, certification and standard full service maintenance contract; and (e) give us reasonable access to inspect the Equipment and its maintenance and other records.

7. INDEMNITY. You are responsible for all losses, damage, claims, infringement claims, injuries and attorneys' fees and costs ("Claims"), incurred or asserted by any person, in any manner relating to the Equipment, including its use, condition or possession. You agree to defend and indemnify us against all Claims, although we reserve the right to control the defense and to select or approve defense counsel. This indemnity continues beyond the termination of this Lease, for acts or omissions which occurred during the Term of this Lease. You also agree that this Lease has been entered into on the assumption that we will be entitled to certain tax benefits available to the owner of the Equipment. You agree to indemnify us for the loss of any income tax benefits caused by your acts or omissions inconsistent with such assumption or this Lease. In the event of any such loss, we may increase the Lease Payments and other amounts due to offset any such adverse effect.

8. LOSS OR DAMAGE. If any item of Equipment is lost, stolen or damaged you will, at your option and cost, either: (a) repair the item or replace the item with a comparable item reasonably accept- able to us; or (b) pay us the sum of: (i) all past due and current Lease Payments and Lease Charges, (ii) the present value of all remaining Lease Payments and Lease Charges for the item, discounted at the rate of 6% per annum (or the lowest rate permitted by law, whichever is higher) and (iii) the Fair Market Value of the Equipment. We will then transfer to you all our right, title and interest in the Equipment AS-IS AND WHERE-IS, WITHOUT ANY WARRANTY AS TO CONDITION, TITLE OR VALUE. Insurance proceeds shall be applied toward repair, replacement or payment hereunder, as applicable. In this Lease, "Fair Market Value" of the Equipment means its fair market value at the end of the Term, assuming good order and condition (except for ordinary wear and tear from normal use), as estimated by us.

9. INSURANCE. You agree, at your cost, to: (a) keep the Equipment insured against all risks of physical loss or damage for its full replacement value, naming us as loss payee; and (b) maintain public liability insurance, covering personal injury and Equipment damage for not less than $300,000 per occurrence, naming us as additional insured. You have a choice in how you satisfy these insurance requirements. You may obtain coverage on your own and provide us with evidence of insurance coverage. The policy must be issued by an insurance carrier rated B+ or better by A.M. Best Company, must provide us with not less than 15 days' prior written notice of cancellation, non-renewal or amendment, and must provide deductible amounts acceptable to us. If you do not provide acceptable insurance within 30 days after the start of this Lease, we have the right but no obligation to obtain insurance covering our interest (and only our interest) in the Equipment for the Lease Term and any renewals as would be further described on a letter from us to you. Any insurance we obtain will not insure you against third party or liability claims and may be cancelled at any time. In the event that we elect to obtain such insurance, you will be required to pay us an additional amount each Billing Period for the cost of such insurance and an administrative fee, the cost of which insurance and administrative fee may be more than the cost to obtain your own insurance. We may make a profit on these programs.

10. DEFAULT. You will be in default under this Lease if: (a) you fail to remit to us any payment within ten (10) days of the due date or breach any other obligation under this Lease; (b) a petition is filed by or against you or any Guarantor under any bankruptcy or insolvency law; or (c) you default under any other agreement with us.

11. REMEDIES. If you default, we may do one or more of the following: (a) recover from you, AS LIQUIDATED DAMAGES FOR LOSS OF BARGAIN AND NOT AS A PENALTY, the sum of: (i) all past due and current Lease Payments and Lease Charges, (ii) the present value of all remaining Lease Payments and Lease Charges, discounted at the rate of 6% per annum (or the lowest rate permitted by law, whichever is higher) and (iii) the Fair Market Value of the Equipment; (b) declare any other agreements between us in default; (c) require you to return all of the Equipment in the manner outlined in Section 12, or take possession of the Equipment, in which case we shall not be held responsible for any losses directly or indirectly arising out of, or by reason of the presence and/or use of any and all proprietary information residing on or within the Equipment, and to lease or sell the Equipment or any portion thereof, and to apply the proceeds, less reasonable selling and administrative expenses, to the amounts due hereunder; (d) charge you interest on all amounts due us from the due date until paid at the rate of 1-1/2% per month, but in no event more than the lawful maximum rate; (e) charge you for expenses incurred in connection with the enforcement of our remedies including, without limitation, repossession, repair and collection costs, attorneys' fees and court costs. These remedies are cumulative, are in addition to any other remedies provided for by law, and may be exercised concurrently or separately. Any failure or delay by us to exercise any right shall not operate as a waiver of any other right or future right.

12. END OF TERM OPTIONS; RETURN OF EQUIPMENT. If you are not in default, at ~~least 90 days (but not more than 120 days)~~ prior to the end of the Term (or the Renewal Term) you shall give us written notice of your intention at the end of the Term (or the Renewal Term) which election cannot be revoked, to either (a) return all of the Equipment, or (b) purchase all of the Equipment AS-IS AND WHERE-IS, WITHOUT ANY WARRANTY AS TO CONDITION, TITLE OR VALUE, for the Fair Market Value plus applicable sales and other taxes. IF YOU FAIL TO PROVIDE US WITH SUCH ~~90-DAY~~ PRIOR WRITTEN NOTICE, OR HAVING NOTIFIED US, YOU FAIL TO RETURN THE EQUIPMENT, THE TERM OF THIS LEASE SHALL AUTOMATICALLY RENEW FOR ~~ONE ADDITIONAL TERM OF TWELVE (12) MONTHS~~ (the "Renewal Term") and all of the provisions of this Lease shall continue to apply, including your obligation to remit Lease Payments and Lease Charges. If you are in default or you do not purchase the Equipment at the end of the Term (or the Renewal Term), ~~you shall return all of the Equipment, freight and insurance prepaid at your cost and risk, to wherever we indicate in the continental United States, in good order and condition (except for ordinary wear and tear from normal use), packed per the shipping company's specifications. You shall securely remove all data from any and all disk drives or magnetic media prior to returning the Equipment.~~ You will pay us for any loss in value resulting from the failure to maintain the Equipment in accordance with this Lease or for damages incurred in shipping and handling.

13. ASSIGNMENT. You may not assign or dispose of any rights or obligations under this Lease or sub-lease the Equipment, without our prior written consent. We may, without notifying you, (a) assign this Lease or our interest in the Equipment; and (b) release information we have about you and this Lease to the manufacturer, supplier or any prospective investor, participant or purchaser of this Lease. If we do make an assignment under subsection 13(a) above, our assignee will have all of our rights under this Lease, but none of our obligations. You agree not to assert against our assignee claims, offsets or defenses you may have against us.

14. MISCELLANEOUS. Notices must be in writing and will be deemed given 5 days after mailing to your (or our) business address. You represent that: (a) you have authority to enter into this Lease and by so doing you will not violate any law or agreement; and (b) this Lease is signed by your authorized officer or agent. This Lease is the entire agreement between us, and cannot be modified except by another document signed by us. This Lease is binding on you and your successors and assigns. All financial information you have provided is true and a reasonable representation of your financial condition. You authorize us or our agent to: (a) obtain credit reports and make credit inquiries; (b) furnish payment history to credit reporting agencies; and (c) be your attorney-in-fact for the sole purpose of signing Uniform Commercial Code ("UCC") financing statements. Any claim you have against us must be made within two (2) years after the event which caused it. If a court finds any provision of this Lease to be unenforceable, all other terms shall remain in effect and enforceable. You authorize us to insert or correct missing information on this Lease, including your proper legal name, serial numbers and any other information describing the Equipment. THE PARTIES INTEND THIS TO BE A "FINANCE LEASE" UNDER ARTICLE 2A OF THE UCC. YOU WAIVE ALL RIGHTS AND REMEDIES CONFERRED UPON A LESSEE BY ARTICLE 2A OF THE UCC.

30 Days X____

Month-to-Month X____

FISCAL FUNDING ADDENDUM

LESSEE	
Full Legal Name	City of Milwaukie
DBA Name (If Any)	
Billing Address	10722 SE Main Street
Phone Number	
City	Milwaukie
County	Clackamas
State	OR
Zip Code	97222
Lease Number	
Lease Date	

Lessee warrants that it has funds available to pay all rents (the "Lease Payments") payable under the above - identified Lease until the end of Lessee's current appropriation periods. If Lessee's legislative body or other funding authority does not appropriate funds for Lease Payments for any subsequent appropriation period and Lessee does not otherwise have funds available to lawfully pay the Lease Payments (a "Non-Appropriation Event") Lessee may, subject to the conditions herein and upon prior written notice to Lessor (the "Non-Appropriation Notice"), effective 60 days after the later of Lessor's receipt of same or the end of the Lessee's current appropriation period (the "Non-Appropriation Date"), terminate the Lease and be released of its obligation to make all Lease Payments due Lessor coming due after the Non-Appropriation Date. As a condition to exercising its rights under the Addendum Lessee shall (1) provide in the Non-Appropriation Notice a certification of a responsible official that a Non-Appropriation Event has occurred, (2) deliver to Lessor an opinion of Lessee's counsel (addressed to Lessor) verifying that the Non-Appropriation Event as set forth in the Non-Appropriation Notice has occurred, (3) return the equipment subject to the Lease (the "Equipment") on or before the Non-Appropriation Date to Lessor or a location designated by Lessor, in the condition required by, and in accordance with the return provisions of, the Lease and at Lessee's expense, and (4) pay Lessor all sums payable to Lessor under the Lease up to the Non-Appropriation Date.

In the event of any Non-Appropriation Event, Lessor shall retain all sums paid hereunder or under the Lease by Lessee, including the Security Deposit (if any) specified in the Lease.

This Addendum is not intended to permit Lessee to terminate the Lease at will or for convenience.

YOU AGREE THAT A FACSIMILE COPY OF THIS DOCUMENT WITH FACSIMILE SIGNATURES MAY BE TREATED AS AN ORIGINAL AND WILL BE ADMISSIBLE AS EVIDENCE IN A COURT OF LAW.

LESSEE SIGNATURE	
Signature X	(MUST BE SIGNED BY AUTHORIZED REPRESENTATIVE OR OFFICER OF GOVERNMENT ENTITY)
Print Name	Ann Ober
Title	City Manager
Date	5/24/2017
Name of Government Entity	City of Milwaukie

ACCEPTED BY LESSOR	
Signature X	
Print Name	Dana Martinez
Title	BAM
Date	
Name of Corporation or Partnership	Pacific office Automation, Inc.

050EDOC098

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PACIFIC OFFICE AUTOMATION
— PROBLEM SOLVED —

Image Management Contract

No._____

SOLD TO:

City of Milwaukie
CUSTOMER NAME
10722 SE Main Street
BILLING ADDRESS
Milwaukie | OR | 97222
CITY | STATE | ZIP
(503) 786-7407
TELEPHONE
Accounts Payable
ATTENTION

SHIP TO:

City of Milwaukie
CUSTOMER NAME
Various Locations
SHIPPING ADDRESS
CITY | STATE | ZIP
( )
TELEPHONE
KEY OPERATOR

ORDER DATE	PO#	ORDERED BY	SOLD BY
			J. Simon/C. Stone

QTY	ITEM	TYPE	DESCRIPTION	UNIT PRICE	TOTAL
			See Exhibit A for new leased equipment		$2,882/mo

Minimum Monthly Payment (plus applicable taxes) $ 2,882.00 Term 60 Months

Service/Supply Commitment	Models	Monthly Minimum Number of Images	Excess Per Image Charge	Excess Billing Cycle
B&W	All A3 Machines	By Usage	$0.007	☐ Monthly ■ Quarterly ☐ Semi-Annual ☐ Annual
Color	All A3 Machines	By Usage	$0.055	
B&W	All A4 Machines	By Usage	$0.0175	
Color	All A4 Machines	By Usage	$0.14	

Device Management	
Automated Meter Reading	
Auto Toner Replenishment	
Advanced Scanning	
Security	
MFP Network Support	
Power Filter	
Delivery	
Subtotal	
Sales Tax	
Total	

CONDITIONS OF SALE, CONTINGENCIES OR COMMENTS

Includes cancellation of all copier leases. Includes delivery, installation, and training. All toner, parts, and labor included

State of Oregon contract 5624.

POA to provide monthly usage reporting by device.

POA to email a monthly report that will include supplies ordered (date requested and date fulfilled) and support tickets (include ticket number, date open, person who opened, and close date) to helpdesk@milwaukieoregon.gov

By signing this Contract, Customer acknowledges and agrees: (a) this Contract is NON-CANCELABLE; (b) all terms and conditions on the reverse side are an integral part of this Contract; (c) to fully understand all terms and conditions stated herein; and (d) this Contract is the entire Agreement between Customer and Pacific Office Automation relating to the equipment and services described herein, and can be changed only by written agreement signed by both parties.

Customer Authorization

SIGNATURE
City Manager — TITLE
5-16-17 — DATE

Approved by Pacific Office Automation

BY
BAM — TITLE
5/16/2017 — DATE

Revision 3.0

SERVICE/SUPPLY COMMITMENT TERMS AND CONDITIONS

As consideration for Customer's payment as set forth on the front of the Contract, Pacific Office Automation ("POA") agrees to provide parts and labor service for the equipment purchased or leased hereunder pursuant to the following terms and conditions. POA will provide:

- Replacement of all parts found defective or worn as a result of normal equipment use.
- Labor to repair and properly maintain the equipment.
- All preventative maintenance done at intervals specified by the manufacturer.
- Loaner equipment in the event the equipment requires shop work to repair.
- Replacement of photoconductors and heater rollers found defective or worn as a result of normal use.
- Replacement of black and color toner, black developer, brushes, and filters.
- Factory recommended retrofits and improvements in the equipment.

If color toner is included in the Service/Supply Commitment, the color toner will be supplied within the cost per copy charge based upon the standard manufacturer's yield. Excess toner will be billed at standard manufacturer's retail price. Not included in the Service/Supply Commitment are paper, staples, and network support. Service calls by POA covered under the Service/Supply Commitment will only be made during the hours of 8 a.m. to 5 p.m., Monday through Friday, excluding holidays. Service billed at any other time will be billed at standard overtime rates. For products or services acquired hereunder, the terms of payment are net ten (10) days.

Customer agrees to pay POA the minimum monthly payment and overage charges agreed to on the front of the Contract and agrees that excess images over the allotted minimum amount during the billing cycle will be billed to Customer at the agreed to rate. If not noted, excess images will be charged at POA's book rates. If the Service/Supply Commitment combines two or more pieces of equipment of different operating costs, POA reserves the right to adjust image allocation and pricing to fairly reflect actual usage should the actual usage rate of the equipment vary by more than 10% from the expected usage rates. ~~Customer agrees that POA may increase the Minimum Monthly Payment each year during any term by an amount not to exceed 10% of such charge.~~ Service may include reasonable use of Customer's image allotments and materials. Customer's failure to abide by all payment obligations may result in termination of service.

This Service/Supply Commitment shall continue for the term stated on the front of the Contract. The Service/Supply Commitment shall automatically renew for successive one (1) year terms, unless either party provides written notice to the other party of their intent to terminate prior to thirty (30) days before the expiration of the original term or any subsequent renewal term.

GUARANTEES

POA extends to Customer the following express limited guarantees under the Service/Supply Commitment.

1. **STANDARD LIMITED WARRANTY:** POA warrants New equipment to be free of defect in materials and workmanship for a period of 90 days from installation. This warranty does not extend to replacement of supply items or consumables, including, but not limited to photo conductors, heater rollers, fuser, cleaning kits, toner, developer, or paper. For purposes of this paragraph, New equipment shall be defined as equipment with usage up to 5,000 copies. Used equipment will receive a 30-day warranty.
2. **LIFETIME POWER PROTECTION GUARANTEE:** If a POA Power Filter is included in the Service/Supply Commitment, repairs of damage to covered equipment caused by power surges and/or lightning will be covered.
3. **RESPONSE TIME WARRANTY:** POA guarantees four hour average response time for emergency services for equipment that is within fifty miles of POA branch offices. If POA does not perform guaranteed response time for a period of one year, upon written request, Customer will receive a 5% credit towards Customer's next service or supply purchase from POA.
4. **UPGRADE, TRADE-IN LIMITED GUARANTEE:** For all New equipment purchased hereunder continuously covered under a POA Service/Supply Commitment, POA will guarantee a trade-in value on New equipment sold by POA up to 90% during the first 36 months after acquisition and a minimum guaranteed trade-in value of 10% thereafter.

GENERAL TERMS & CONDITIONS

(1) Unless provided, the terms of sale are ten (10) days net. POA agrees to provide reasonable assistance to Customer in its efforts to finance the purchase or lease of the equipment and/or Service/Supply Commitment; however, Customer understands and acknowledges such financing cannot be guaranteed by POA. Customer shall be ultimately responsible for payment of the purchase price of equipment sold or leased. If not provided, the purchase price is the Manufacturer's Suggested Retail Price of the equipment and/or solutions plus the cost of any lease buyouts, delivery charges, installation charges, and the total Service/Supply Commitment.
(2) If equipment is delivered to Customer before final payment, Customer shall grant to POA a security interest in the equipment and agrees to execute and deliver all documentation necessary to perfect such interest.
(3) If customer defaults in the payment of the purchase price or any other obligation as provided herein, Customer agrees to pay to POA a service charge of 1.5% per month and all of POA's related attorney's fees and collection costs, even if no suit or action is filed.
(4) The sales price herein includes the initial installation of the manufacturer's software onto Customer's computers. Prior to such installation, Customer shall perform and complete a system backup. POA shall not be liable for loss or damage of any kind to data or equipment as a result of the installation of the manufacturer's software. Customer shall be solely responsible for the cost of any cables or additional hardware required to connect equipment to a network. POA shall not be responsible for any updates or problems arising after the initial installation due to a change in Customer's computers and/or Network.
(5) POA MFP Network Service solely provides coverage for services related to the connectivity between the covered equipment and the Customer's Network. MFP Network Service does not provide coverage for services for the Customer's Network itself.
(6) **DISCLAIMER:** EXCEPT AS SPECIFICALLY PROVIDED HEREIN, POA DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. EQUIPMENT IS SUBJECT TO A MANUFACTURER'S WARRANTY. UNDER NO CIRCUMSTANCES WILL POA BE RESPONSIBLE FOR ANY CONSEQUENTIAL OR INCIDENTAL DAMAGES.
(7) Customer shall make arrangements to protect or remove sensitive and private data that may become stored on Customer's equipment. While POA may provide options for data removal and protection, Customer is solely responsible for selecting an appropriate data removal standard that meets Customer's business needs. POA is not recommending any particular option, and POA is not liable for damages arising from Customer's failure to fully remove and protect its data. Please note that regardless of which standard Customer chooses, Customer must return leased equipment in full working order at the end of any lease term.

EXHIBIT A

Equipment Replacement Plan

Building	Network Printer Name	Model #	Location	Monthly Black AMU Count	Black CPC Rate (A3)	Monthly Color AMU Count	Color CPC Rate (A3)	Monthly Black Expense	Monthly Color Expense	Lease or Owned	Lease #	Monthly Lease Expense
City Hall	CH-KM-HR	C258	HR - 2nd Floor	1,631	0.007	525	0.055	$ 11.42	$ 28.86	Lease	TBD	$138.00
	CH-KM-CMgr-PCL (PS)	C258	City Mgr's Office	3,452	0.007	797	0.055	$ 24.17	$ 43.84	Lease	TBD	$148.00
	CH-KM-RIM-PCL (PS)	C654e	OCR - 2nd Floor	3,194	0.007	3084	0.055	$ 22.36	$ 169.60	Lease	TBD	$487.00
Ledding Library	LL-KM-PUBLIC	C308	Adult Library	2,070	0.007	1365	0.055	$ 14.49	$ 75.10	Lease	TBD	$192.00
Public Safety	PS-KM-Records	C368	1st Floor Records	7,234	0.007	1945	0.055	$ 50.64	$ 106.97	Lease	TBD	$197.00
	PS-KM-SQUAD	C368	MPD Squad Room	2,195	0.007	1868	0.055	$ 15.37	$ 102.74	Lease	TBD	$232.00
		C258	Public Safety 2nd floor	2,527	0.007	1008	0.055	$ 17.69	$ 55.41	Lease	TBD	$138.00
Johnson Creek - OPS	PW-OPS-Floor2-PCL	C258	2nd Floor OPS	945	0.007	822	0.055	$ 6.61	$ 45.19	Leased	TBD	$136.00
	PW-KM-OPS-PCL (PS)	C368	1st Floor OPS	2,175	0.007	1793	0.055	$ 15.23	$ 98.59	Lease	TBD	$232.00
Johnson Creek - Main	PW-PUB-BizHub PW-PUB-BizHub-PS	C368	Common Area Main Building	2,887	0.007	4130	0.055	$ 20.21	$ 227.14	Lease	TBD	$195.00
	PW-KM-CopyRoom	C654e	Copy room Main Building	3,459	0.007	5039	0.055	$ 24.21	$ 277.16	Lease	TBD	$505.00
TOTALS				**31,771**		**22,374**		**$ 222.40**	**$ 1,230.60**			**$2,600.00**

Building	Network Printer Name	Model #	Location	Monthly Black AMU Count	Black CPC Rate (A4)	Monthly Color AMU Count	Color CPC Rate (A4)	Monthly Black Expense	Monthly Color Expense	Lease or Owned	Lease #	Monthly Lease Expense
City Hall	CH-KM-Payroll	N/A	Payroll on 1st Floor	567	0.0175		0.14	$ 9.92	$ -	Owned		
	CH-KM-FINANCE-PCL (PS)	N/A	Finance - 2nd Floor	-	0.0175		0.14	$ -	$ -	Owned		
	CH-KM-Reception	C3350	Main Reception 1st Floor	5,938	0.0175	214	0.14	$ 103.92	$ 29.90	Lease	TBD	$47.00
	CH-LM-Chambers	N/A	Chambers 2nd Floor	66	0.0175		0.14	$ 1.16	$ -	Owned		
	CH-KM-Mayor	N/A	Mayor on 2nd Floor	-	0.0175		0.14	$ -	$ -	Owned		
		C3350 (HP M604DN to stay)	Front Desk	2,999	0.0175		0.14	$ 52.48	$ -	Lease	TBD	$47.00
				2,935	0.0175	978	0.14	$ 51.36	$ 136.87			
Ledding Library	LL-KM-ADULTREF	N/A	Adult Reference Desk	-	0.0175		0.14	$ -	$ -	Owned		
		N/A	Ledding Library	306	0.0175		0.14	$ 5.36	$ -	Owned		
	LL-KM-WRKRM	C3350	Middle Workroom	1,006	0.0175	1140	0.14	$ 17.60	$ 159.53	Lease	TBD	$47.00
	LL-KM-STAFF	C3350	Upstairs 2nd Floor	1,173	0.0175	427	0.14	$ 20.53	$ 59.80	Lease	TBD	$47.00
Public Safety	PS-KM-CHIEF	N/A	Police Chief	69	0.0175		0.14	$ 1.21	$ -	Owned		
	PS-KM-ReportWrite	N/A	MPD Report Writing	-	0.0175		0.14	$ -	$ -	Owned		
	PS-KM-EOC	N/A	EOC	3	0.0175		0.14	$ 0.06	$ -	Owned		
		N/A		882	0.0175		0.14	$ 15.44	$ -	Owned		
	PS-KM-IST	N/A	IST- Director's Office	245	0.0175	5	0.14	$ 4.29	$ 0.65	Lease	TBD	$0.00
	PS-KM-SGT	N/A	Sergeant's Offices	586	0.0175		0.14	$ 10.26	$ -	Owned		
	PS-KM-Admin	N/A	Jill Tate	-	0.0175		0.14	$ -	$ -	Owned		
	PS-KM-MPDEvidence	C3350	PSB - Evidence Room	22	0.0175	0	0.14	$ 0.39	$ 0.06	Lease	TBD	$47.00
Johnson Creek - Fleet	PW-KM-FLEET	C3350	Fleet Office	225	0.0175	0	0.14	$ 3.94	$ -	Lease	TBD	$47.00
Johnson Creek - Main	PW-BLDG-FAX	C3350	Permits	-	0.0175	0	0.14	$ -	$ -	Owned		
TOTALS				**17,024**		**2,763**		**$ 297.91**	**$ 386.80**			**$282.00**

SUMMARY

	CURRENT	PROPOSED	VARIANCE (SAVINGS)
Total Monthly Lease Expense:	**3,350**	**2,882**	**(468)**
A3 (Standalone) MFP Color Usage Expense	**1,850**	**1,231**	**(619)**
A3 (Standalone) MFP B&W Usage Expense	**372**	**222**	**(150)**
A4 (Desktop) Printer/MFP B&W Usage Expense	**93**	**298**	**205**
A4 (Desktop) Printer/MFP Color Usage Expense	**387**	**387**	**0**
Estimated Monthly Total:	**6,052**	**5,020**	**(1,032)**

CITY OF MILWAUKIE

COUNCIL **RESOLUTION No.** 55-2017

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO ENTER INTO A FIVE-YEAR LEASE WITH PACIFIC OFFICE AUTOMATION FOR MULTI-PURPOSE COPIERS.

WHEREAS, City of Milwaukie's leases for copiers have ended; and

WHEREAS, a new lease is required to continue printing and copying services; and

WHEREAS, staff recommends the use of State of Oregon contract #5624 with Pacific Office Automation for copier services.

Now, Therefore, be it Resolved that the City Manager is authorized to execute a five-year lease with Pacific Office Automation for copiers and maintenance throughout City buildings.

Introduced and adopted by the City Council on 5/16/17.

This resolution is effective on 5/16/17.

Mark Gamba, Mayor

ATTEST:

Scott S. Stauffer, City Recorder

APPROVED AS TO FORM:
Jordan Ramis PC

City Attorney