

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is entered into between McLeodUSA Telecommunications Services, Inc. ("McLeodUSA"), an Iowa corporation with its headquarters at One Martha's Way, Hiawatha, IA 52233, and the City of Portland, Oregon ("the City"), a duly incorporated Oregon municipality (together "the parties"):

WHEREAS, the parties have been in dispute concerning McLeodUSA's obligation to pay franchise fees to the City for McLeodUSA's use of the City streets for its telecommunications facilities pursuant to City Franchise Ordinance No. 175061 (the "Franchise"); and

WHEREAS, the City contends that McLeodUSA has not paid full franchise fees to the City since 2001; and

WHEREAS, McLeodUSA denies the City's contention; and

WHEREAS, the Portland City Council has authorized its City Attorney to file suit against McLeodUSA to recover past due franchise fees and interest; and

WHEREAS, the parties now wish to settle the dispute between them;

NOW THEREFORE, in consideration of the mutual promises and other valuable consideration exchanged herein, the parties agree as follows:

1. Within fifteen (15) business days of receiving notice of full execution of this Agreement by the City (which execution may be authorized only by ordinance approved by the City Council), McLeodUSA shall pay to the City \$1,569,878.00.

2. The City hereby waives, releases and forever discharges McLeodUSA and its partners, parents, subsidiaries, affiliates, successors, assigns, shareholders, employees, officers and directors (collectively, the "McLeodUSA Releasees"), from any and all actions, causes of

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action, suits, complaints, arbitrations, debts, liens, liabilities, claims, demands, collections, damages, losses, costs or expenses or other relief of any nature whatsoever, whether known or unknown, matured or unmatured, in law or in equity, which the City has had, now has or may have hereafter against any of the McLeodUSA Releasees for, upon, or by reason of, any matter, cause, or thing whatsoever arising out of or relating to franchise fees, taxes, interest, penalties, or any other charges whatsoever imposed under or related to City Franchise Ordinance No. 175061 or City Code 7.14 due or claimed to be due for the time period from the effective date of City Franchise Ordinance No. 175061 up to and including December 31, 2007. Except as expressly provided in this Agreement, the City otherwise waives any claim to past due franchise fees, taxes, interest, and penalties through December 31, 2007. The foregoing shall not affect McLeodUSA's obligations to comply with all of the provisions of Franchise Ordinance 175061 after December 31, 2007.

3. During the remaining term of City Franchise Ordinance No. 175061, McLeodUSA agrees to pay franchise fees on all revenues derived by McLeodUSA from the provision of Telecommunications Services, as defined in the Franchise, (i) originating or terminating in Portland, Oregon and (ii) charged to a circuit location in Portland, Oregon regardless of where the circuit is billed or paid. Among other things, this includes revenues earned from the provision of "Internet access" and other Internet services and collocation services. McLeodUSA shall quarterly provide the City a comprehensive report of its Portland revenues, along with information showing those revenues on which franchise fees are paid and those revenues on which franchise fees are not paid, according to the terms of the Franchise. In general, revenues excluded from the franchise fee calculation shall be limited to such items as

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customer finance charges, paper billing fees, equipment sales and service, and pass-through taxes or fees collected from customers but not retained by McLeodUSA, including but not limited to universal service fees, 911 taxes, and state and federal excise taxes.

4. McLeodUSA and its partners, parents, subsidiaries, affiliates, successors, assigns, officers and directors (collectively, the "McLeodUSA Releasors") hereby waive, release and forever discharge the City from any and all actions, causes of action, suits, complaints, arbitrations, debts, liens, liabilities, claims, demands, collections, damages, losses, costs, expenses or other relief of any nature whatsoever, whether known or unknown, matured or unmatured, in law or in equity, which any of the McLeodUSA Releasors has had, now has or may have hereafter against the City for, upon, or by reason of, any matter, cause, or thing whatsoever arising out of or relating to the validity or enforceability of Franchise Ordinance 175061 for the time period from the effective date of City Franchise Ordinance No. 175061 up to and including December 31, 2007.

5. The releases described herein shall be effective upon the City's receipt of the payment from McLeodUSA provided for in Paragraph 1 above.

6. The undersigned further represent that they have carefully read the foregoing Agreement, know its contents, have the authority to execute the Agreement and sign the same as their own free act.

7. The parties expressly agree that this Agreement and any and all statements, negotiations, documents, and discussions associated with it, shall not be deemed or construed to be an admission or evidence of any violation of the Franchise or of any statute or law, or of any liability or wrongdoing whatsoever, which are hereby expressly denied.

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8. Miscellaneous

a. The terms set forth herein are contractual and not merely a recital. There is no other agreement, promise or inducement for this Agreement other than as expressed in this Agreement. This Agreement contains the full and entire understanding of the parties. There are no other representations, warranties, statements or agreements between the parties except as expressly set forth in this Agreement.

b. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Facsimile or photocopies of signatures shall be considered as valid, original signatures.

c. Neither party shall be relieved of its respective obligations to comply with any of the terms and conditions of this Agreement by reason of any failure of the other party to require prompt compliance, nor does either party waive or limit any of its rights under this Agreement by reason of such failure or neglect.

d. Any litigation arising under or regarding this Agreement shall occur, if in the state courts, in the Multnomah County Court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the District of Oregon, Portland Division.

e. This Agreement shall be construed according to the law of the State of Oregon, even if Oregon's choice of law rules otherwise would require application of the law of a different jurisdiction.

f. This Agreement may not be amended, except in writing and signed by authorized representatives of both parties.

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IN WITNESS WHEREOF, the parties have set their hands the date and year of the last signature affixed hereto.

City of Portland

McLeodUSA Telecommunications Services, Inc.

By: Amanda Fite

By: Kathy

Title: Commissioner, City of Portland

Title: Vice Corporate TRP

Date: 2/10/2010

Date: 2/4/2010

Approved as to Form: [Signature]

*copy*  
City Attorney