

Council Business Meeting

September 1, 2020

Agenda Item	National League of Cities Service Line Warranty Program-Marketing Agreement for Water and Wastewater Service Line Insurance	
From	Scott Fleury PE	Interim Public Works Director
Contact	Scott.fleury@ashland.or.us ; (541) 552-2412	

SUMMARY

The Council is being asked to authorize the Interim City Administrator to sign a three-year marketing agreement with Utility Service Partners Private Label, Inc. (Utility Service Partners), a provider of insurance on private property service lines (water and sewer). The marketing agreement allows Utility Service Partners a non-exclusive license to use the City's name and logo or other branding on letters, bills and marketing materials to be sent to property owners.

POLICIES, PLANS & GOALS SUPPORTED

City Council Goals (supported by this project):

- Maintain Essential Services
- Continue to leverage resources to develop and/or enhance Value Services

Department Goals:

- Evaluate all city infrastructure regarding planning management and financial resources.

PREVIOUS COUNCIL ACTION

N/A

BACKGROUND AND ADDITIONAL INFORMATION

The City is responsible for repairing and replacing water and sewer main lines throughout the City; however, service laterals that connect the main line to a home are not the City's responsibility and often leave residential property owners frustrated with who to call and how much major repairs actually cost.

Utility Service Partners has been working with over 650 cities in the United States and has received endorsements from the National League of Cities as well as many state leagues including Oregon. Currently 11 Oregon cities have partnered with Utility Service Partners and many others are beginning that conversation.

After internal deliberation and consideration between Public Works, Legal and Administration, Public Works recommends signing an initial three-year marketing agreement with Utility Service Partners to provide a completely voluntary warranty program to our residential customers. This partnership offers each residential customer the option of purchasing a warranty in the case of a water service or sewer lateral failure. This service is provided at no cost to the City. Utility Service Partners completely administers the program including marketing, billing, claims, and customer service.

There are three services that Utility Service Partners offers:

- 1) External water laterals from City main to face of home - \$6.25 per month
- 2) External sewer laterals from City main to face of home - \$7.25 per month
- 3) Interior home water piping and sewer drains - \$9.49 per month

In return, Utility Service Partners provides the residential homeowner with the following services:

- 1) Local licensed contractors to perform the corrective lateral or in-house work.
- 2) Payment for the repair (up to \$8,500 per exterior repair / \$3,000 per incident in home -- requires a 30-day waiting period).
- 3) Education to homeowners on lateral responsibility.

Aging infrastructure is a problem for the City and homeowners. Broken sewer laterals are one of the concerns with the City's inflow and infiltration concerns with the sewer lines. Partnering with Utility Service Partners will help residential customers be covered in case of a broken sewer lateral.



Service Line Warranty Program



OUR SERVICE AND WHAT IT COVERS



SEWER LATERAL & SEPTIC LINE COVERAGE



WATER LINE & WELL LINE COVERAGE

Homeowner repair protection for broken, cracked, or leaking water and sewer lines from the point of utility connection to the home exterior.

Coverage includes:

- Educating homeowners about their service line responsibilities
- Up to \$8,500 coverage per repair incident (includes public street & sidewalk cutting).
- No annual or lifetime limits, deductibles, service fees, forms, or paperwork
- 24/7/365 availability
- No long term contracts - month to month
- No pre-inspections required before coverage begins - 30 day waiting period



FISCAL IMPACTS

There are not fiscal impacts to the City other than staff time expended in associating with bringing item before Council.

STAFF RECOMMENDATION

Staff recommends Council approve the three-year marketing agreement.

ACTIONS, OPTIONS & POTENTIAL MOTIONS

1. I move to authorize the City Administrator to sign and enter into the three-year marketing agreement.
2. I move to deny entering into the three-year marketing agreement.

ATTACHMENTS

Attachment 1: Marketing Agreement

Attachment 2: League of Oregon Cities Letter

MARKETING AGREEMENT

This MARKETING AGREEMENT ("Agreement") is entered into as of _____, 20__ ("**Effective Date**"), by and between the City of Ashland, Oregon ("**City**"), and Utility Service Partners Private Label, Inc. d/b/a Service Line Warranties of America ("**Company**"), herein collectively referred to singularly as "Party" and collectively as the "Parties".

RECITALS:

WHEREAS, sewer and water line laterals between the mainlines and the connection on residential private property are owned by individual residential property owners residing in the City ("**Property Owner**"); and

WHEREAS, City desires to offer Property Owners the opportunity, but not the obligation, to purchase a service plan and other similar products set forth in Exhibit A or as otherwise agreed in writing from time-to-time by the Parties (each, a "**Product**" and collectively, the "**Products**"); and

WHEREAS, Company, a subsidiary of HomeServe USA Corp., is the administrator of the National League of Cities Service Line Warranty Program and has agreed to make the Products available to Property Owners subject to the terms and conditions contained herein; and

NOW, THEREFORE, in consideration of the foregoing recitals, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and with the intent to be legally bound hereby, the Parties agree as follows:

1. **Purpose.** City hereby grants to Company the right to offer and market the Products to Property Owners subject to the terms and conditions herein.

2. **City Obligations.**

A. Grant of License. City hereby grants to Company a non-exclusive license ("**License**") to use City's name and logo or other branding ("**Marks**"), on letters, bills and marketing materials to be sent to Property Owners from time to time, and to be used in advertising (including on the Company's website), all at Company's sole cost and expense and subject to City's prior review and approval, which will not be unreasonably conditioned, delayed, or withheld. Company's use of the Marks in accordance with this Agreement will not infringe any other party's rights. In the event that City extends a similar license to a competitor of Company during the Term and any Renewal Term of this Agreement, the City shall provide thirty (30) days' notice prior to such grant of license and Company may immediately terminate this Agreement.

B. Property Owner Data. If City elects to do so, City may provide Company with Property Owner Data for use by Company in furtherance of the advertisement, marketing, and sale of the

Products. Any name, service address, postal address, and any other appropriate or necessary data for Property Owners in City is defined as "**Property Owner Data**". Property Owners Data shall be and remain City's property. For any Property Owner Data provided by City to Company, City warrants that Property Owner Data has been and will be collected in compliance with all laws, statutes, treaties, rules, codes, ordinances, regulations, permits, official guidelines, judgments, orders and interpretations ("**Applicable Laws**"); and City is permitted by Applicable Laws and by any applicable privacy policy to provide Property Owner Data to Company and to permit Company to use Property Owner Data for the purposes of this Agreement. A Property Owner who has purchased a Product is a member ("**Member**") and, following such purchase, all data in Company's control or possession relating to Members is Company's property.

3. **Term.** The term of this Agreement ("**Initial Term**") shall be for three (3) years from the Effective Date. The Agreement will automatically renew for additional one (1) year terms (each a "**Renewal Term**", and collectively with the Initial Term, the "**Term**") unless one of the Parties gives the other written notice at least ninety (90) days prior to end of the Initial Term or of a Renewal Term that the Party does not intend to renew this Agreement. In the event that Company is in material breach of this Agreement, the City may terminate this Agreement thirty (30) days after giving written notice to Company of such breach, if said breach is not cured during said thirty (30) day period. Company will be permitted to complete any marketing initiative initiated or planned prior to termination of this Agreement after which time, neither Party will have any further obligations to the other and this Agreement will terminate.

4. **Confidentiality.** Each party will treat all non-public, confidential and trade secret information received from the other party as confidential, and such party shall not disclose or use such information in a manner contrary to the purposes of this Agreement. Notwithstanding the foregoing, the City shall not be liable for any disclosure of confidential information that is required to be disclosed under any applicable public records act or under court order. City shall provide notice to Company prior to any such disclosure.

5. **Code Change.** The Parties understand that the pricing of the Products and compensation provided for in this Agreement are based upon the currently applicable City, municipal or similar codes. In the event Company discovers a code change, Company shall have the ability to reassess the pricing in this Agreement.

6. **Indemnification.** Each Party (the "**Indemnifying Party**") hereby agrees to protect, indemnify, and hold the other Party, its officers, employees, contractors, subcontractors, and agents (collectively or individually, "**Indemnitee**") harmless from and against any and all third party claims, damages, losses, expenses, suits, actions, decrees, judgments, awards, reasonable attorneys' fees and court costs (individually or collectively, "**Claim**"), which an Indemnitee may suffer or which may be sought against or are recovered or obtainable from an Indemnitee, as a result of or arising out of any breach of this Agreement by the Indemnifying Party, or any negligent or fraudulent act or omission of the Indemnifying Party or its officers, employees, contractors, subcontractors, or agents in the performance of this Agreement; provided that the applicable Indemnitee notifies the Indemnifying Party of any such Claim within a time that does

not prejudice the ability of the Indemnifying Party to defend against such Claim. Any Indemnitee hereunder may participate in its, his, or her own defense, but will be responsible for all costs incurred, including reasonable attorneys' fees, in connection with such participation in such defense.

7. **Notice.** Any notice required to be given hereunder shall be deemed to have been given when notice is (i) received by the Party to whom it is directed by personal service, (ii) sent by electronic mail (provided confirmation of receipt is provided by the receiving Party), or (iii) deposited as registered or certified mail, return receipt requested, with the United States Postal Service, addressed as follows:

To: City:
ATTN: Scott Fleury
City of Ashland
90 N. Mountain Ave.
Ashland, OR 97520-2014
Email: fleurys@ashland.or.us
Phone: (541) 552-2412

To: Company:
ATTN: Chief Sales Officer
Utility Service Partners Private Label, Inc.
4000 Town Center Boulevard, Suite 400
Canonsburg, PA 15317
Phone: (866) 974-4801

8. **Modifications or Amendments/Entire Agreement.** Except for the list of available Products under the Agreement, which may be amended from time to time by the Parties in writing and without signature (including by email), any and all of the representations and obligations of the Parties are contained herein, and no modification, waiver or amendment of this Agreement or of any of its conditions or provisions shall be binding upon a Party unless in writing signed by that Party.

9. **Assignment.** Neither Party may assign its rights or delegate its duties under this Agreement without the prior written consent of the other Party unless such assignment or delegation is to an affiliate or to an acquirer of all or substantially all of the assets of the transferor.

10. **Counterparts/Electronic Delivery; No Third Party Beneficiary.** This Agreement may be executed in counterparts, all such counterparts will constitute the same contract and the signature of any Party to any counterpart will be deemed a signature to, and may be appended to, any other counterpart. Executed copies hereof may be delivered by e-mail and upon receipt will be deemed originals and binding upon the Parties hereto, regardless of whether originals are delivered thereafter. Nothing expressed or implied in this Agreement is intended, or should be construed, to confer upon or give any person or entity not a party to this agreement any third-

party beneficiary rights, interests, or remedies under or by reason of any term, provision, condition, undertaking, warranty, representation, or agreement contained in this Agreement.

11. **Choice of Law/Attorney Fees.** The Parties shall maintain compliance with all Applicable Laws with respect to its obligations under this Agreement. The governing law shall be the laws of the State of Oregon, without regard to the choice of law principles of the forum state. THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHT THAT MAY EXIST TO HAVE A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED UPON OR ARISING OUT OF, UNDER, OR IN ANY WAY CONNECTED WITH, THIS AGREEMENT.

12. **Incorporation of Recitals and Exhibits.** The above Recitals and Exhibit A attached hereto are incorporated by this reference and expressly made part of this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day and year first written above.

CITY OF ASHLAND

Name:

Title:

UTILITY SERVICE PARTNERS PRIVATE LABEL, INC.

Name: Michael Backus

Title: Chief Sales Officer

Exhibit A
NLC Service Line Warranty Program
City of Ashland
Term Sheet
August 10, 2020

I. Initial Term. Three years

II. License Conditions.

City logo and name on letterhead, advertising, signature line, billing and marketing materials.

III. Products. In exchange for the license conditions above, Company will offer the following discounted rates to Property Owners:

- a. External water service line plan (initially, \$6.25 per month)
- b. External sewer/septic line plan (initially, \$7.25 per month)
- c. Interior plumbing and drainage plan (initially, \$9.49 per month)

Company may adjust the foregoing Product fees; provided, that any such adjustment shall not exceed \$.50 per month in any 12-month period, unless otherwise agreed by the Parties in writing.

IV. Scope of Coverage.

- a. External water service line plan:
 - Property Owner responsibility: From the main to the external wall of the home.
 - Covers thawing of frozen external water lines.
 - Covers well service lines if applicable.
- b. External sewer/septic line plan:
 - Property Owner responsibility: From the external wall of the home to the main.
 - Covers septic lines if applicable.
- c. Interior plumbing and drainage plan:
 - Water supply pipes and drainage pipes within the interior of the home.

V. Marketing Campaigns. Company shall have the right to conduct up to three campaigns per year, comprised of up to six mailings and such other channels as may be mutually agreed. Initially, Company anticipates offering the Interior plumbing and drainage plan Product via in-bound channels only.



Paula Brown
Public Works Director
City of Ashland-OR
20 East Main Street
Ashland, OR 97520

July 30, 2019

Dear Paula:

The League of Oregon Cities (LOC) is pleased to recommend the National League of Cities (NLC) Service Line Warranty Program, administered by Utility Service Partners (USP). Offered at no cost to League members, the NLC Service Line Warranty Program educates homeowners about their service line responsibilities and offers affordable protection from unanticipated service line repair costs. Homeowners in participating cities are eligible to purchase low-cost repair service plans for broken or leaking outside water and sewer lines, covering up to \$8,500 per occurrence.

Benefits to residents and municipalities include:

- Educates homeowners and reduces local officials' frustration
- No cost for Oregon cities to participate
- Affordable rates for residents
- Increases citizen satisfaction

Important features of the program:

1. USP pays for the repairs, not your residents
2. Customers are provided with a 24/7/365 repair hotline staffed with live agents
3. All repairs performed to local code by rigorously vetted, licensed and insured local contractors
4. USP is responsible for all aspects of the program, including marketing, billing, customer service, and performing all repairs

The cities of Reedsport, Winston, Hines, Bandon, Coos Bay, Newberg, Glendale, Estacada, Hermiston and Cottage Grove currently offer the program, which has saved Oregon homeowners over \$600,000 in repair costs over the past three years. The LOC has chosen to recommend USP, a HomeServe company, because of its outstanding national reputation. USP is a BBB Accredited Business with an A+ rating, and they maintain a customer satisfaction rating of 4.7 out of 5 stars. This is the only protection program endorsed by the National League of Cities and multiple state municipal leagues.

We encourage you to consider joining more than 600 U.S. cities in adopting the NLC Service Line Warranty Program for your municipality.

For more information, please contact Dennis Lyon of USP. He can be reached at 724-749-0301 or DLyon@UtilitySP.net. Their website is www.utilitysp.net.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Cully", with a horizontal line extending to the right.

Mike Cully
Executive Director
League of Oregon Cities