



22500 Salamo Road  
West Linn, Oregon 97068  
<http://westlinnoregon.gov>

# WEST LINN CITY COUNCIL MEETING NOTES August 6, 2018

## [Call to Order](#)

### **Council Present:**

Mayor Russ Axelrod, Council President Brenda Perry, Councilor Teri Cummings, Councilor Bob Martin, and Councilor Richard Sakelik.

### **Staff Present:**

City Manager Eileen Stein, City Recorder Kathy Mollusky, Assistant to the City Manager Dylan Digby, Citizen Engagement Coordinator Courtney Flynn, City Attorney Tim Ramis, Community Development Director John Williams, and Public Works Director Lance Calvert.

## [Planning Docket Review and Direction \[30 min\]](#)

### [Planning Docket Information](#)

### Public Comment

Karie Oakes regarding CDC 98.030(2) for setting the docket. It says each year staff shall present the proposed list to the Planning Commission. The new proposed projects on this list have not been before the Planning Commission. She asked Council to follow the law, the intent is to go to the Planning Commission first.

Mayor Russ Axelrod explained Council has been coordinating with the Planning Commission.

Community Development Director John Williams explained all four items have been discussed in meetings with the Planning Commission. Planning Commission had a Work Session and held a hearing on the mixed-use transitional and the recommendation on the next steps came from that discussion. In the joint meeting with the Planning Commission, Council discussed the review of zoning. The Planning Commission looks at this list annually.

Community Development Director John Williams gave the staff report.

Mayor Russ Axelrod would like to use the same task force for the Willamette considerations. He would like to remove the residential zone on the back of the general store property and turn it into commercial. He wants to take care of items that can be done quickly.

Council President Brenda Perry would like regulations for Airbnbs and a consistent sign code. Developers are doing signs of different sizes and colors in different areas. She want more information distributed about the Haggen's site and Parker site.

Councilor Teri Cummings wants the Planning Commission and Parks and Recreation Advisory Board to get together on the Parks Master Plan prior to Council receiving it.

Councilor Bob Martin would like the Historic Master Plan added to the bottom of the docket and Chapter 96 (Street Improvement Construction) changes. He suggested adding a chapter for each neighborhood association to the code, to have a different code for each neighborhood.

### **[Council Rules Changes: Code of Conduct and Other Sections \[30 min\]](#)**

[Council Rules Information](#)

[Citizen Correspondence re: Council Rules](#)

City Manager Eileen Stein and City Attorney Tim Ramis gave the staff report.

Mayor Russ Axelrod would like the section on Compensation/Reimbursement word changed from compensated to compensation. Under public members, item b, Council will accept items for posting if received by 5:00 pm two days prior to the meeting. Change stipend to salary to be consistent.

Councilor Teri Cummings would like items posted up to one day prior to the meeting.

Council President Brenda Perry does not think workplace is a good description for Council since their workplace is out in the community.

Councilor Bob Martin believes the policy is regarding conduct, not where it happens. He suggested eliminating the word workplace and just say appropriate conduct.

Mayor Russ Axelrod wants to remove Council from any decision making in this one, the findings will be found by an independent body and Council will address how the outcome is handled. Remove the word actions and just use sanctions. He would like to have three investigators for the parties to choose from.

### [Robinwood Station Master Use Agreement \[30 min\]](#)

[Robinwood Use Agreement Information](#)

[FORS Drafted Agreement](#)

Mayor Russ Axelrod explained this is not ready for Council tonight and it is being dropped from the agenda. He would like to come up with an agreement fairly quickly.

Councilor Richard Sakelik reviewed the Friends of Robinwood Station's suggested agreement and it looks good and simple. He would like a Special Meeting to finalize next week.

Councilor Bob Martin wants to make sure they are not endangering the tax-free status of the bond money since they are planning to put a lot of money into improving Robinwood Station which will benefit the non-profit.

### [Adjourn to Special Meeting](#)

### [Approve Agenda](#)

Council President Brenda Perry moved to approve the agenda for the August 6, 2018, West Linn City Council Special Meeting. Councilor Teri Cummings seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Brenda Perry, Councilor Teri Cummings, Councilor Bob Martin, and Councilor Richard Sakelik.**

**Nays: None.**

**The motion carried 5 - 0**

### [Public Comment \[10 min\]](#)

There were none.

### [Agenda Bill 2018-08-06-01: City Council Meeting Notes: May 7 and 14, and June 5 \[5 min\]](#)

[City Council Meeting Notes Information](#)

Councilor Bob Martin corrected a misspelling on page 4 of the June 5 notes, tives should be ties.

Councilor Teri Cummings asked to add to the May 14 public comments, Peggy Kirkendall

offered an opinion, she expressed her concerns about comments by city staff she viewed as electioneering.

Council President Brenda Perry moved to approve the meeting notes for May 7, 14, and June 5 as amended. Councilor Teri Cummings seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Brenda Perry, Councilor Teri Cummings, Councilor Bob Martin, and Councilor Richard Sakelik.**

**Nays: None.**

**The motion carried 5 - 0**

**[Agenda Bill 2018-08-06-02: Residential Parking Permit Zone Amendment. Resolution 2018-19: A RESOLUTION OF THE WEST LINN CITY COUNCIL AMENDING THE RESIDENTIAL PARKING ZONE FOR CITY STREETS AROUND AND NEAR WEST LINN HIGH SCHOOL \[90 min\]](#)**

[Residential Parking Permit Zone Information](#)

[8-2-18 Memo and Attachments](#)

[Citizen correspondence re: HS Parking](#)

Mayor Russ Axelrod explained the two general issues Council is trying to address: (1) The parking issue developed because the high school has expanded; they meet the permit requirements. (2) West A is in need of traffic control/traffic calming. West A does not have sidewalks, the students need safe passage to school. The issue has brought out the best and worst in our community. No one on Council wants to create adverse livability in a neighborhood. Council is faced with a legal challenge and a petition that has the basis to remove the parking zone entirely. Council started looking at this issue last summer, the goal is to achieve a compromise to come up with additional spaces and continue to work on programs to reduce parking and alternatives to get to school. There are opportunities for the school to get more effective policies and procedures in place, to better manage onsite parking so it is utilized better. The latest communication from the school district says they need 100 spaces. Staff approached the Oregon Department of Transportation (ODOT) about parking on the West A and Broadway bridges. ODOT is going to allow parking on the bridges which is about 60 spaces. One of the bridges is going to be removed when they redo I-205; however, that is years away. This gives us time to come up with other alternatives. Council asked the Youth Advisory Council (YAC) to come up with a proposal. They proposed half street parking and came up with around 170 spaces. If parking spaces on the street could be assigned to students, it would avoid the issue of students driving around looking for spaces. If there were open parking, he could see a lot of undesired activity. The feedback was this is unmanageable and it is a legal issues because the school cannot control these spaces. The Petitioners said if the proposal is less than what is on the map, they would proceed with the petition. We could open parking on the east side of West A to keep all the activity on West A. Council has heard from the community, the majority inside the parking zone are not in favor of it. Council is not taking away the zone, just evaluating if we want to possibly open up some designated spaces.

### Public Comment

William Relyea said we all have shared values and hopefully the right priorities like building healthy communities, strengthening our schools, and building strong economies. Public education is on the forefront to build those neighborhoods and a vital community. No matter what the decision is on this matter, he hopes Council brings it to some of the other volunteer groups in the City to use volunteer time to help resolve the issues. Some options are teachers could park offsite, the Bolton Reservoir surplus property could have been used to create overflow parking, and the waterfront project is coming up. Staff is asked to do more with less, share the burden with community members. This needs to be collaborative with the school district.

Don Carver said students are asking for 100 additional parking spaces. The Mayor has offered space inside the parking zone. One hundred and fifty residents in the parking zone have petitioned to leave the zone unchanged. The residents said the zone provides safety and livability, adding parking in the zone is not the best compromise, this would result in substantial loss for residents. They want a win for students, without a loss for residents. Utilize all parking resources, reduce overall demand, drive responsibly, ride a bus, use carpool programs. Add parking programs that have little to no adverse effect by not adding congestion. The Mayor's proposal promotes more unsafe, undesirable spaces. It puts the burden on the neighbors instead of the district.

Ed Moeller regarding students parking on K Street. He has to pick up garbage, there is speeding, there is damage done to City property that he is responsible to maintain. K Street is already being used by illegally parked students. This leadership is not up to the challenges.

Ron Chappell, WLHS Teacher and Coach. WLHS has great kids who excel in many ways, he understands the sacrifices students and parents make. He wants to talk about preserving the livability of a neighborhood. Studies and the Oregon neighborhood street design guide speak to traffic and livability. Speed and amount of traffic affect the community perceptions of comfort. While it may be intangible, it is no less real. On the website four out of five councilors mentioned livability, his family and neighbors chose West Linn for the same reasons.

Jan Chappell said the map Mayor Axelrod showed does not accurately reflect First Court. These homes are 100 years old, some neighbors share a driveway, they could not park in the driveway or they would block their neighbor. She has one spot in her driveway and one car in the street. They would not be able to park their own vehicles if Council removes the parking.

Peggy Dickston shares a driveway, they like the idea of assigning a few parking spaces. Their side of the street could be parked on, not the other side. There would be no place for people coming to do work at the house. Kids for the most part are good to the neighborhood. She likes the idea of knowing who is parking in front on their house.

Doug Dickston said First Court does not have sidewalks. McKillican has sidewalks on one side, although sometimes people walk in the street next to the cars.

Roger Strous likes the idea of using the bridges, it is a fair compromise. He agrees with doing a traffic safety and impact study. He likes assigned parking spaces, alternative transportation, and investing in the planet to keep the community livable and safe.

Pam Martin is disappointed in the school district. They pride themselves in getting through academics, she wants them to teach accountability. She moved there knowing there were parking restrictions. She has not had issues until the last four to five years. She had an issue with a student and gave the name to Officer Halverson who took care of the issue. If she does not leave house before 8:00 am, she might as well stay until 8:45 am because she cannot get out. She likes the compromise if there could be accountability with assigned parking spaces so they could go to the school when there is a problem.

Tom Neff stated the school has not made concessions, he would like to see more pressure put on the school, he likes accountability.

Peter Eddy thinks the school is remiss. People are supportive of assigned parking; however, there is going to have to be something besides the Bolton neighborhood.

Lotte Edgel congratulated Council on the 60 spaces, she asked where will the 40 more come from. If the students do not get the plan, they will go forward, they are looking for it all. The school district needs to be in on this conversation. Give the staff lot to students. Everyone in the parking zone has their own safety story. She has a short, narrow downward dipping driveway and cannot see oncoming vehicles if someone is parked in the street when she is backing out. She is not the only one with this kind of driveway. On all streets there needs to be sidewalks. On K street, there is not room for a sidewalk. The City does not have the power to make this work if the school district is not helping.

Joe Durbin said it is disheartening to hear some community members call our teenagers scofflaws. Council is representative of the community, not the Bolton neighborhood. Their disdain of the automobile is apparent. He understands Bolton's frustration, however, he pays for streets too and would like to use them. Council cannot be selective, give special rights to some people, they need to be fair and equal. These kids work hard and have every right to drive to where they are going to get their work done. If it is unsafe, it is unsafe for everyone, not just kids. No one should get to use it if it is unsafe. Council cannot have it both ways. Analyze this and do the right thing, represent your entire constituency. If Council does compromise, do the right one. Kids have been better behaved. The West Linn under 13 baseball team has qualified for the World Series. In the future, he recommends Council attend an event like that.

Dylan Pakes called the police because he needed help on West A. He checked out a radar gun and monitored the traffic before school, at lunchtime, and when school got out. He took pictures. The highest speed was 65 mph in the school zone. He sent it to the police and they did a stakeout. He wants students to have a safe solution. Letting kids park on West A street is not a solution. He does not feel comfortable walking down the street due to speeding. The whole street is lined with drive like your kids live here signs.

Richard Dickey said this neighborhood is unique. Four of the eight homes on his street have single car driveways, only one house has a garage. Every single house is using the street for parking. The parking district has served them well. There are issues with increasing population in the school. He feels like they are at the bottom of the hill so it rolls down to them to take care of. The streets do not have room.

Rory Bialostosky has seen a lot of Council inaction. This is the fourth meeting opened with the statement we do not have to make a decision tonight. We have spent 16 months fighting this. I have been called a name tonight and have received nasty emails. He supports the resolution, half of six streets would be opened up and the rest would remain residential. He believes the 2,000 parents from the high and middle schools will side with the kids. Some of these neighbors would put trash next to cars, photograph it, and send it in. He hopes the resolution passes, if not he will put in the petition.

Diane Brown thanked Council President Perry for her comment on how the kids conducted themselves. It is a disgrace how some citizens treated these kids. Kids that have to get to school early and stay late are tutors and band students. She appreciates the school district not putting money in this, we want them educating our students. She applauded the school district. They are meeting the parking amounts they are supposed to have. This is a City issue, these are public streets, and this is the only area that has restricted parking. This is part of living in the City. She is empathetic to people in the neighborhood. If there is an issue of safety, call the police and they deal with the problem. She would like Council to compromise tonight.

Andrew Brown agrees with Mr. Bialostosky. It seems like a fair compromise and he supports the compromise. He thanked Mr. Bialostosky for being a partner and the community for their support. He does not want to bring this to a vote because it is not in the best interest of the City. They have a solution of 100 spots, if it goes to a vote, it will open more.

Karie Oakes is disappointed this was on the agenda tonight. The Agenda Bill was incomplete because it did not have the Mayor's proposal until four days prior to this meeting. The information was insufficient to weigh in on. This is a reaction to a lawsuit filed by the student that goes to court Wednesday. She has seen Council working hard and long to come to a solution. She sees this as a school district problem. The school district information on the discussion is not public unless make you make a records request. She does not share the Mayor's concern that they will lose parking district authority if the petition succeeds and goes to a vote. She thinks the majority of citizens want to maintain safety. The Mayor's and

student's proposals are insufficient, there are no traffic studies. Sixty places are now available on the bridge, the rest of the parking should be done by the school district. Could be on an as-needed basis rather than lottery. She supports sustainability and does not support either of these.

Mayor Russ Axelrod thanked everyone for their time and for giving testimony.

Councilor Bob Martin thanked everyone involved in this. This is not an easy problem. A solution for 200 spaces is not going to work for a 600 space problem and vice versa. Council, staff, the school board, and school administration are trying to solve this problem. The school board is not in power to tell the school superintendent how to solve the problem. The letter sent to the school board in June received a response. They are engaged, feel a responsibility, and want to work with Council. It is all of our problem to work together to solve. He is a little disheartened about the back and forth and some of the testimony. We do want to preserve the livability. He gave kudos to Mayor Axelrod for getting the bridge parking. He likes the idea of assignable spaces.

Council President Brenda Perry said this started a year ago when high school students came to Council and asked for more parking. Council increased the parking zone. The students have been getting tickets for parking in areas that were not even zoned. Council made it harder. She sees both sides. She does not like everyone painted with the same brush. Some teenagers litter, but not all of them, the majority of them are responsible. There is trash in parks, a few people do it. Council has had multiple emails and they heard the testimony. What she is not hearing is neighbors getting together, looking at areas, and bringing suggestions to Council. It is your neighborhood. We hear concerns about speeding on A Street. If we put parking there, it will narrow the street and will slow down traffic. We can police it as much as we like, but it still does not stop it. It is a cut-through to get to Sunset so it is not always students. They need to make it safer for residents. She wants to hear more about compromise. The students have been very respectful. This is a very difficult place to get to school. It is not easy for parents to be available to pick up and drop off students. She would prefer to do this with the neighborhood. There will be a better solution if they work together. She would love to hear suggestions of what would work. If the petition goes through, you might lose. Who would police assigned spots on the street? We do not have police to do it and the school district cannot police our streets. It would be extremely costly to police or it will be abused. Let's compromise.

Councilor Richard Sakelik asked how did this problem occur? The school district added students. We can look at our Code. Mr. Bialostosky testified in June 2017. Council wanted to meet with the school board. Council spoke with Mr. Bialostosky. Council met with the school district nine months later. A resident brought up that we have not done a traffic study. I have not seen any experts that could give us good guidance in this room. We have been working with ODOT. The City stepped up and found 60 spots. That is more than we had a year ago. The school board said they can do an additional 40 spots; however, they do not have the money.

Maybe an inexpensive 25 spots could be done, we do not know. The school board should do an analysis. If they come back and say it will be \$1 million, that is not reasonable, \$75,000 is reasonable. They have until February before it gets on the ballot. He has not seen the school board engage, he would like to see that, more facetime and collaboration. He would like to help the students out. It is an incredible, different task to please everyone. A traffic study is the first step.

Councilor Bob Martin said we have many potential solutions. Until we zero in on one solution, how could you do a traffic study? It is premature until we have a solid proposal.

Councilor Teri Cummings supports the idea of the student body and City working together. It is a complicated situation. It is up to the City on how we regulate streets and up to the school how they manage the daily schedule, bus schedule, and budget. We have entertained 20 meetings and a lot of time and emails. This is a very emotional issue both for people who live in the area and the students. She understands West Linn High School has always had a tradition of providing parking spaces for the students. That is no longer possible. There is only 277 parking spaces. The process outlined in the handbook is no longer the case. A lot of schools have managed their parking without adding spaces, our district could too. There are carpools. Those who carpool, get a space. Portland Community College signs says parking in the neighborhood kills unicorns and rots teeth. Not really, but will cost you \$25. Residential zones are specifically for the purpose of livability have been upheld in the supreme court. There is a permit zone around the high school for seven hours. If there is a basketball or football game, it is a free for all. That is a compromise. Most colleges ask you to not bring your car to college. Riding a bus is fun and relaxing. She would partner with the school to carpool, ride a bus, bike, or walk. What can we do to encourage kids to use the busses more? The City's job is regulation. She would support School Board Chair Fitch's recommendation adding another 42 spaces. With the 60 spaces we have on the bridge, that is getting pretty close. If not, she would see if Council would agree to reconfigure parking spaces on their property. This is a Conditional Use. Churches have contained their site. The petition would be very harmful. The Willamette area has been asking for some protection. We have to be able to do this kind of thing to maintain livability and sustainability in West Linn.

Councilor Bob Martin said it is not appropriate to talk about conditional use here. Once the school is built, there is no applicability of conditional use to this problem. The school board said it was possible to build 42 spaces; however, they do not have the money to do it. We have to take responsibility for this and do something, that is the relationship we have with the school district that we want to continue to cultivate. What can we do, in our power, to solve this problem to get those 42 spaces.

Mayor Russ Axelrod appreciates Council President Perry's comments about coming up with a solution. He does not think Council made it harder or more difficult. Council put resolutions together where there were deficiencies and added a couple of houses on West A. Using Wilderness Park is not the right thing to do, it is not appropriate use of our park space and safe

for the students. We cannot use our own building, the mill is striping those spots, they are not in our control. On traffic studies, he agrees he would like to have a better idea what we are doing for changes before implementing a traffic study. Different striping, safe access for pedestrian pathways, parking on West A could help calm traffic down. We are all onboard with encouraging the school district and student body with ways to reduce demand on parking. He heard there is interest in assigned parking, we have been pushing this on residents. Who would be willing to have assigned parking in front of their house? Could we come up with 40 to 50 people in the community to offer those spaces? It is not going to be some stranger throwing trash out of their car. There are some places that make sense for parking and some that do not make any sense at all. The bridge can be accessed from the other streets. They will walk through the neighborhood, not drive through it. If we could get 100 spaces now, we could work on these other pieces to move forward.

Councilor Bob Martin suggested setting up a website so people can contact the City who feel they could do that and see how many we could get.

Mayor Russ Axelrod suggested direct mailing to the neighbors.

Councilor Richard Sakelik previously suggested this. He told the Youth Advisory Council (YAC) to walk through the neighborhood to ask if spots were available. It would be a good thing for the YAC to do, that would solve the problem for now. We are looking at an inner-city shuttle. The need might be reduced or go away. Everyone in the city could get behind an inner-city shuttle. I know there are people who would give up a spot.

Mayor Russ Axelrod said a lot of these other places that have restricted zones have alternative modes of transportation, we do not, we need to get creative. Smart is coming here from Wilsonville, perhaps we can work out a deal with them.

Councilor Teri Cummings said students have a choice with a bus, but they do not use it. The students do not like to use it because sometimes it can take an hour to get home. Some of the letters we received were because their kids have to go to school early. Does our city have a fee for a parking permit? It is common to charge a fee, it helps offset some of the cost of administering it. We do not want the students paying the residents for that. She still wants to see carpooling, it will prepare our kids for life in the world. I wonder if our students have even ridden the bus.

Council President Brenda Perry said carpooling is great, but a car full of teenagers driving through the streets is distracted and not safe. She does not think it is safe to send our students door-to-door, have staff handle that.

Councilor Teri Cummings suggested a working group would be better, people who listen to each other.

Mayor Russ Axelrod said we have 60 spaces and two resolutions in front of us. Maybe look at West A where it will not have the impacts on the inner neighborhood. The next step is to see what would the community/residents offer voluntarily? Could the school district restripe some of their areas? Can they come up with 20 to 40 spots? Maybe we can get 30 to 40 from residents volunteering, working together as a community. This could go to a vote.

City Manager Eileen Stein spoke with the superintendent at the break, she would like to explore more with the superintendent. New drivers are prohibited from riding with other people due to state law. There has been a lot of ideas and information requests, this became a big issue with a lot of people involved. There is not a YAC right now. There are bits and pieces coming together, like parking on the bridges. In a good faith effort, the petition and litigation were withdrawn.

Council President Brenda Perry would like to ask the Bolton neighborhood who would be willing to give up spaces in front of their house by October. If we have sufficient spaces and can move forward, it will not need to go to a petition.

Mayor Russ Axelrod asked if we could have the Traffic Safety Group get together on strategies to calm traffic on West A.

Councilor Teri Cummings asked what level of interest there is in a working group look at different carpool policies, sign up services, liability. This is intended for juniors and seniors, it would be signed by parents, as kids drive with parent's permission.

Councilor Bob Martin would like to cooperate with the school district to solve what might be a larger problem.

Mayor Russ Axelrod said this is a long-term thing, it is good to have stakeholders. He does not want to form another group that would greatly extend the timeframe. He asked citizens to send thank you emails for the bridge parking to Rian Windsheimer, ODOT, rian.m.windsheimer@ODOT.state.or.us.

Mayor Russ Axelrod thanked the public and youth for their patience.

Councilor Teri Cummings acknowledged the superintendent for staying at the meeting so late. \$271,234 is what we spend on bussing for West Linn High School.

[\*\*Agenda Bill 2018-08-06-03: Oregon Department of Transportation Right-of-Way Services IGA \(OR-43 Multimodal Improvement Project\) \[10 min\]\*\*](#)

[ODOT Hwy 43 Multimodal Improvement ROW IGA Information](#)

#### Public Comment

William Relyea stated he does not agree that comments should be for or against an agenda

item. Sometimes it is about bringing issues to light so Council is aware of them and can address them. Having a mechanism in the code to allow for each of the neighborhoods to address based on their demographics should be allowed and also, allowing common interests to be addressed. He felt the City is conceding its right-of-way to ODOT. There is a lack of oversight in departments that are given the authority to control projects that are different than how the project was asked for by the community. He discussed Rosemont Road as an example.

Public Works Director Lance Calvert explained the background on this project.

Councilor Richard Sakelik said for the Highway 43 Concept Plan, the church testified it was going to be a hardship. He asked how their concerns were mitigated.

Public Works Director Lance Calvert explained there has been much conversation with the church and the daycare. All their concerns have been addressed. He discussed the status of the project and plans for public outreach. In 2020, there will be right-of-way details and utility coordination. Construction will probably begin in 2021. He reminded the Council that there are federal dollars on this project which requires a lot of process and steps involved.

Council President Brenda Perry moved to approve the IGA with ODOT for right-of-way services for the OR-43 Multimodal Improvement Project and direct the City Manager to sign the agreement. Councilor Bob Martin seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Brenda Perry, Councilor Teri Cummings, Councilor Bob Martin, and Councilor Richard Sakelik.**

**Nays: None.**

**The motion carried 5 - 0**

### **[Business from the City Council \[10 min\]](#)**

#### **a. Public Safety Advisory Board Appointment**

Council President Brenda Perry gave an updated on the Clackamas County Coordinating Committee (C4) meeting about the Urban Growth Boundary (UGB) expansion for Wilsonville. During the meeting, she discussed West Linn's concerns on Stafford. She abstained on the vote for the Metro housing bill since she does not have clear direction from Council. She also reported on the County vehicle registration fee and the RTP letter which the mayors put together.

Mayor Russ Axelrod said the mayors want to vote on the housing bond measure in September, he needs feedback by September 5. He suggested to Wilsonville that a good cycle track design is important to establish on Stafford Road as part of their proposed development.

Councilor Richard Sakelik commented on the parking discussion being posted on Nextdoor, the

City should do that for everything.

Citizen Engagement Coordinator Courtney Flynn replied it was just to inform the public that the parking discussion would begin around 6:30 pm.

City Manager Eileen Stein added she thought people might come out at 5:00 pm so she wanted to let them know.

Councilor Richard Sakelik said the Citizen Advisory Group party is delayed until October. They will do it at the Adult Community Center or Youth Music Project. He asked what the budget is for the party.

City Manager Eileen Stein said it is a new event, so there is no budget. She asked Council to identify how much and prioritize their spending.

Council discussed how much money should be spent on the event

Mayor Russ Axelrod said the Oregon Mayor's Association meeting is coming in September.

#### **[City Manager Report \[5 min\]](#)**

City Manager Eileen Stein asked Council if they were interested in having a work session on September 4 since September 3rd is Labor Day. She suggested an afternoon meeting at 1:00 pm. The Council's next regular business meeting is September 10.

#### **[City Attorney Report \[5 min\]](#)**

City Attorney Tim Ramis will speak to Oregon City's legal counsel about a common interest confidentiality agreement with Oregon City. He stated there will need to be an executive session on litigation in September.

#### **[Adjourn](#)**

Notes approved 10-8-18.



CITY OF

# West Linn

I wish to speak during Public Comments on a non-agenda related item (limited to five minutes):

Please specify topic (required): \_\_\_\_\_

I wish to speak during the Business Meeting on the agenda item listed below (limited to five minutes):

Please specify agenda report number(s) or topic(s) (required):

Bill 2018-08-06-02  
Residential Parking

Please print:

Name: William Rehyer

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): 3016 Sabo Lane

City: West Linn State: OR Zip: 97068

Email (Optional): \_\_\_\_\_ Phone (Optional): \_\_\_\_\_

This form is subject to public records laws. If requested, it may be disclosed to another party unless exempt from disclosure under Oregon Public Records Law.



CITY OF

# West Linn

I wish to speak during Public Comments on a non-agenda related item (limited to five minutes):

Please specify topic (required): Highschool Parking

I wish to speak during the Business Meeting on the agenda item listed below (limited to five minutes):

Please specify agenda report number(s) or topic(s) (required):

\_\_\_\_\_  
\_\_\_\_\_

Please print:

Name: DON CARVER

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): \_\_\_\_\_

City: West Linn State: ORE Zip: 97068

Email (Optional): \_\_\_\_\_ Phone (Optional): \_\_\_\_\_

This form is subject to public records laws. If requested, it may be disclosed to another party unless exempt from disclosure under Oregon Public Records Law.



# CITY OF West Linn

I wish to speak during **Public Comments** on a non-agenda related item (limited to five minutes):

Please specify topic (required): Parking

I wish to speak during the **Business Meeting** on the agenda item listed below (limited to five minutes):

Please specify agenda report number(s) or topic(s) (required):

Student Parking

Please print:

Name: ED MOELLER

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): 5132 K ST

City: W L State: \_\_\_\_\_ Zip: 97068

Email (Optional): \_\_\_\_\_ Phone (Optional): \_\_\_\_\_

This form is subject to public records laws. If requested, it may be disclosed to another party unless exempt from disclosure under Oregon Public Records Law.



# CITY OF West Linn

I wish to speak during **Public Comments** on a non-agenda related item (limited to five minutes):

Please specify topic (required): \_\_\_\_\_

I wish to speak during the **Business Meeting** on the agenda item listed below (limited to five minutes):

Please specify agenda report number(s) or topic(s) (required):

Parking

Please print:

Name: Ron & Janet Chappell

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): 5541 First Court

City: West Linn State: OR Zip: 97068

Email (Optional): \_\_\_\_\_ Phone (Optional): 971-533-0512

This form is subject to public records laws. If requested, it may be disclosed to another party unless exempt from disclosure under Oregon Public Records Law.



CITY OF

# West Linn

I wish to speak during Public Comments on a non-agenda related item (limited to five minutes):

Please specify topic (required): \_\_\_\_\_

I wish to speak during the Business Meeting on the agenda item listed below (limited to five minutes):

Please specify agenda report number(s) or topic(s) (required):

Parking

Please print:

Name: Peggy & Doug Dickston

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): 5533 1st Ct

City: West Linn State: OR Zip: 97068

Email (Optional): \_\_\_\_\_ Phone (Optional): \_\_\_\_\_

This form is subject to public records laws. If requested, it may be disclosed to another party unless exempt from disclosure under Oregon Public Records Law.



CITY OF

# West Linn

I wish to speak during Public Comments on a non-agenda related item (limited to five minutes):

Please specify topic (required): sd

I wish to speak during the Business Meeting on the agenda item listed below (limited to five minutes):

Please specify agenda report number(s) or topic(s) (required):

Parking Zone

Please print:

Name: Roger Strauss

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): 2002 Parkside Ct

City: WL State: \_\_\_\_\_ Zip: \_\_\_\_\_

Email (Optional): \_\_\_\_\_ Phone (Optional): \_\_\_\_\_



CITY OF

# West Linn

I wish to speak during Public Comments on a non-agenda related item (limited to five minutes):

Please specify topic (required): High School Parking

I wish to speak during the Business Meeting on the agenda item listed below (limited to five minutes):

Please specify agenda report number(s) or topic(s) (required):  
Residential Parking Permit Zone Amendment

Please print:

Name: Pam Martin

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): 5716 west 'A' st

City: WL State: OR Zip: 97068

Email (Optional): Momentsofjoy@yahoo.com Phone (Optional): 971-998-3676

This form is subject to public records laws. If requested, it may be disclosed to another party unless exempt from disclosure under Oregon Public Records Law.



CITY OF

# West Linn

I wish to speak during Public Comments on a non-agenda related item (limited to five minutes):

Please specify topic (required): SIDEWALK REQUMTS

I wish to speak during the Business Meeting on the agenda item listed below (limited to five minutes):

Please specify agenda report number(s) or topic(s) (required):  
5d

Please print:

Name: TOM NEFF

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): 671 MARYHURST CIR

City: WL State: OR Zip: 97068

Email (Optional): Tomneff@comcast.net Phone (Optional): 971-220-0855

This form is subject to public records laws. If requested, it may be disclosed to another party unless exempt from disclosure under Oregon Public Records Law.



CITY OF

# West Linn

I wish to speak during **Public Comments** on a non-agenda related item (limited to five minutes):

Please specify topic (required): Parking Zone

I wish to speak during the **Business Meeting** on the agenda item listed below (limited to five minutes):

Please specify agenda report number(s) or topic(s) (required):

Parking zone

**Please print:**

Name: Dr. Peter Eddy

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): 5739 Broadway

City: WL State: \_\_\_\_\_ Zip: \_\_\_\_\_

Email (Optional): eddy@wv.edu Phone (Optional): \_\_\_\_\_

This form is subject to public records laws. If requested, it may be disclosed to another party unless exempt from disclosure under Oregon Public Records Law.



CITY OF

# West Linn

I wish to speak during **Public Comments** on a non-agenda related item (limited to five minutes):

Please specify topic (required): Parking Permit Zone

I wish to speak during the **Business Meeting** on the agenda item listed below (limited to five minutes):

Please specify agenda report number(s) or topic(s) (required):

5.d. Resid. PKg Permit Zone

**Please print:**

Name: Lotte Edgel

Phonetic spelling, if difficult to pronounce: Lah-tee Edge-L

Address (Optional): — on record

City: West Linn State: OR Zip: 97068

Email (Optional): — Phone (Optional): —



CITY OF

# West Linn

I wish to speak during Public Comments on a non-agenda related item (limited to five minutes):

Please specify topic (required): \_\_\_\_\_

I wish to speak during the Business Meeting on the agenda item listed below (limited to five minutes):

Please specify agenda report number(s) or topic(s) (required):

Parking

Please print:

Name: Joe Durbin

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): 1710 Santa Anita Dr.

City: WL State: OR Zip: 97069

Email (Optional): \_\_\_\_\_ Phone (Optional): \_\_\_\_\_

This form is subject to public records laws. If requested, it may be disclosed to another party unless exempt from disclosure under Oregon Public Records Law.



CITY OF

# West Linn

I wish to speak during Public Comments on a non-agenda related item (limited to five minutes):

Please specify topic (required): \_\_\_\_\_

I wish to speak during the Business Meeting on the agenda item listed below (limited to five minutes):

Please specify agenda report number(s) or topic(s) (required):

Agenda Bill 2018-08-06-02 Residential parking

Please print:

Name: Dylan Pakes

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): West A Street

City: WL State: OR Zip: 97068

Email (Optional): \_\_\_\_\_ Phone (Optional): \_\_\_\_\_



CITY OF West Linn

I wish to speak during Public Comments on a non-agenda related item (limited to five minutes):

Please specify topic (required): Residential Parking District - Support

I wish to speak during the Business Meeting on the agenda item listed below (limited to five minutes):

Please specify agenda report number(s) or topic(s) (required):

Residential Parking District

Please print:

Name: Richard Dickey

Phonetic spelling, if difficult to pronounce:

Address (Optional): 1766 Buse Street

City: West Linn State: OR Zip:

Email (Optional): Phone (Optional):

This form is subject to public records laws. If requested, it may be disclosed to another party unless exempt from disclosure under Oregon Public Records Law.



CITY OF West Linn

I wish to speak during Public Comments on a non-agenda related item (limited to five minutes):

Please specify topic (required):

I wish to speak during the Business Meeting on the agenda item listed below (limited to five minutes):

Please specify agenda report number(s) or topic(s) (required):

Parking

Please print:

Name: Ross Bilogostsky

Phonetic spelling, if difficult to pronounce:

Address (Optional):

City: West Linn State: OR Zip: 97068

Email (Optional): Phone (Optional):

This form is subject to public records laws. If requested, it may be disclosed to another party unless exempt from disclosure under Oregon Public Records Law.



CITY OF West Linn

I wish to speak during Public Comments on a non-agenda related item (limited to five minutes):

Please specify topic (required): Bar

I wish to speak during the Business Meeting on the agenda item listed below (limited to five minutes):

Please specify agenda report number(s) or topic(s) (required):

Parking

Please print:

Name: Diane Brann

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): \_\_\_\_\_

City: WL State: OR Zip: 97068

Email (Optional): \_\_\_\_\_ Phone (Optional): \_\_\_\_\_

This form is subject to public records laws. If requested, it may be disclosed to another party unless exempt from disclosure under Oregon Public Records Law.



CITY OF West Linn

I wish to speak during Public Comments on a non-agenda related item (limited to five minutes):

Please specify topic (required): \_\_\_\_\_

I wish to speak during the Business Meeting on the agenda item listed below (limited to five minutes):

Please specify agenda report number(s) or topic(s) (required):

Parking

Please print:

Name: Andrew Brown

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): \_\_\_\_\_

City: West Linn State: OR Zip: 97068

Email (Optional): \_\_\_\_\_ Phone (Optional): \_\_\_\_\_

This form is subject to public records laws. If requested, it may be disclosed to another party unless exempt from disclosure under Oregon Public Records Law.



CITY OF

# West Linn

I wish to speak during **Public Comments** on a non-agenda related item (limited to five minutes):

Please specify topic (required): \_\_\_\_\_

I wish to speak during the **Business Meeting** on the agenda item listed below (limited to five minutes):

Please specify agenda report number(s) or topic(s) (required):

AB 2018-08-06-02 - Residential Parking Permit Zone Amendment  
Resolution 2018-19

**Please print:**

Name: Karie Oakes

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): \_\_\_\_\_

City: West Linn resident State: \_\_\_\_\_ Zip: \_\_\_\_\_

Email (Optional): \_\_\_\_\_ Phone (Optional): \_\_\_\_\_

This form is subject to public records laws. If requested, it may be disclosed to another party unless exempt from disclosure under Oregon Public Records Law.



CITY OF

# West Linn

I wish to speak during **Public Comments** on a non-agenda related item (limited to five minutes):

Please specify topic (required): Work Session item #12

I wish to speak during the **Business Meeting** on the agenda item listed below (limited to five minutes):

Please specify agenda report number(s) or topic(s) (required):

Planning Pocket

**Please print:**

Name: Karie Oakes

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Email (Optional): \_\_\_\_\_ Phone (Optional): \_\_\_\_\_

This form is subject to public records laws. If requested, it may be disclosed to another party unless exempt from disclosure under Oregon Public Records Law.



22500 Salamo Road  
West Linn, Oregon 97068  
<http://westlinnoregon.gov>

## Revised CITY COUNCIL AGENDA

Monday, September 10, 2018

4:30 p.m. – Executive Session – Rosemont Room

Per ORS 192.660(2)(e) To conduct deliberations with persons designated by the governing body to negotiate real property transactions.

5:00 p.m. – Pre-Meeting Work Session – Rosemont Room

6:30 p.m. – Business Meeting – Council Chambers

- 
1. Call to Order and Pledge of Allegiance to the Flag
  2. Approval of Agenda
  3. Public Comments [10 min]
  4. Proclamations, Recognitions and Scheduled Presentations to the Council [20 min]
    - a. American Public Works Association (APWA) Accreditation Presentation
    - b. **Constitution Week Proclamation**
    - c. **Home Inventory Proclamation**
  5. Business Meeting [60 min]
    - a. Agenda Bill 2018-09-10-01: ORDINANCE 1677, ESTABLISHING A CODE OF CONDUCT FOR THE CITY COUNCIL, OTHER ELECTED AND APPOINTED OFFICIALS, AND CITY VOLUNTEERS  
**Moved to September 17 Work Session. To be approved at October 8 Council Meeting.**
    - b. Agenda Bill 2018-09-10-02: ORDINANCE 1687, ESTABLISHING FAIR REPRESENTATION OF ALL SERVED LIBRARY PATRONS ON THE LIBRARY ADVISORY BOARD
    - c. Agenda Bill 2018-09-10-03: RESOLUTION 2018-20, SUPPORTING A CLACKAMAS COUNTY-WIDE TOBACCO RETAIL LICENSE PROGRAM
    - d. Agenda Bill 2018-09-10-04: Amendment 3 to the Cooperative Intergovernmental Agreement between the Library District of Clackamas County and Library Cities
    - e. Agenda Bill 2018-09-10-05: Fields Bridge Park Shelters Contract Award  
<https://bids.westlinnoregon.gov/rfp/fields-bridge-park-shelters-project>

6. Mayor and City Council Reports [20 min]
  - a. Appointment to the Public Safety Advisory Board
  - b. Appointment to the Library Advisory Board
7. City Manager Report [10 min]
8. City Attorney Report [5 min]
9. Adjourn

**PROCLAMATION**  
**West Linn, Oregon**

**WHEREAS**, September 17, 2018 marks the two hundred and thirtieth anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

**WHEREAS**, it is fitting and proper to officially recognize this magnificent document and the anniversary of its creation; and

**WHEREAS**, it is fitting and proper to officially recognize the patriotic celebrations which will commemorate the occasion; and

**WHEREAS**, it is the privilege and duty of the American people to commemorate the two hundred thirtieth anniversary of the drafting of the Constitution of the United States of America with appropriate ceremonies and activities; and

**WHEREAS**, public law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as constitution week.

**NOW, THEREFORE, BE IT PROCLAIMED BY THE CITY OF WEST LINN**, that the week of September 17 through September 23 is

**CONSTITUTION WEEK**

And we urge all citizens to study the Constitution and reflect on the privilege of being an American with all the rights and responsibilities which that privilege involves.

DATED THIS 10TH DAY OF SEPTEMBER, 2018.

---

RUSSELL B. AXELROD, MAYOR

ATTEST:

---

KATHY MOLLUSKY, CITY RECORDER

**PROCLAMATION**  
**West Linn, Oregon**

**WHEREAS**, each September is recognized as National Preparedness Month; and

**WHEREAS**, Oregonians have witnessed and experienced natural disasters in our own community; and

**WHEREAS**, every community member can take active steps to protect their families and neighbors from natural and manmade disasters; and

**WHEREAS**, every family and business in West Linn is encouraged to take active steps to be financially secure after a disaster; and

**WHEREAS**, every community member is encouraged to make sure they are properly insured against fire, flood, earthquakes, and storms; and

**WHEREAS**, every community member is encouraged to create a home inventory to include as part of their disaster preparedness kit,

**NOW, THEREFORE, BE IT PROCLAIMED BY THE CITY OF WEST LINN**, that the week of September 16 through September 22 is

**HOME INVENTORY WEEK**

And we join cities across Oregon to encourage everyone to build a home inventory of their personal property, and speak with an insurance agent to make sure they are financially prepared for a disaster.

DATED THIS 10TH DAY OF SEPTEMBER, 2018.

---

RUSSELL B. AXELROD, MAYOR

ATTEST:

---

KATHY MOLLUSKY, CITY RECORDER

**Agenda Bill 2018-09-10-02**

Date: August 29, 2018

To: Russ Axelrod, Mayor  
Members, West Linn City Council

From: Doug Erickson, Library Director DE

Through: Eileen Stein, City Manager *ES*

Subject: Library Advisory Board Composition: Ordinance 1687 Creating Fair Representation

---

**Purpose**

To modify the Library Advisory Board composition to comply with the 2011 Clackamas County/City of West Linn Library Capital Intergovernmental Agreement (IGA).

**Question(s) for Council:**

Does the Council desire to modify the representation of the City's Library Advisory Board in a manner that is consistent with the IGA and ensure fair representation of served West Linn library patrons?

**Public Hearing Required:**

None required.

**Background & Discussion:**

In the Clackamas County/City of West Linn Library Capital IGA, section 2.4 references the composition of city library boards, stating that "The City shall provide for *fair representation* of served library patrons on the City's library board, including patrons from unincorporated Clackamas County."

In past Library District Advisory Council (LDAC) meetings, the County Administrator (who is also the Library District Administrator) and County Counsel have determined that the definition of "fair representation" is "proportional representation", namely that the proportion of city versus unincorporated residents on a local library board reflects the overall proportion of the city versus the unincorporated residents within a library's service area.

The West Linn Library Service Area population includes approximately 13% unincorporated Clackamas County residents. On a seven member board, one member is about 13% of the total. Having one appointed member within West Linn's Library Service Area coming from its unincorporated Clackamas County constituents would reflect proportional representation.

The existing language in Municipal Code, section 2.035, prohibits the City Council from appointing a library patron from the West Linn Service Area (i.e. outside the city limits) to the Library Advisory Board, causing the City of West Linn to be out of compliance with the IGA. The language proposed in Ordinance 1678 provides the flexibility to ensure that the Library Advisory Board is composed in a manner that meets the fair representation requirement in the IGA.

**Budget Impact:**

No direct or indirect budget impact.

**Sustainability Impact:**

Not directly applicable, but the City’s codes should be in compliance with intergovernmental agreements that City enters into.

**Council Options:**

1. Adopt Ordinance 1678 to create compliance with the IGA.
2. Do not adopt Ordinance 1678 and continue to be out of compliance with the IGA.
3. Provide other direction to staff.

**Staff Recommendation:**

Option 1. To adopt Ordinance 1678 and create compliance with the IGA.

**Potential Motion:**

Conduct a first and second reading of Ordinance 1678: AN ORDINANCE ESTABLISHING FAIR REPRESENTATION OF ALL SERVED LIBRARY PATRONS ON THE LIBRARY ADVISORY BOARD

**Attachments:**

1. Ordinance 1687
2. Cooperative IGA between Clackamas County and City of West Linn
3. Map of West Linn Library Service Area

**ORDINANCE NO. 1687**

**AN ORDINANCE ESTABLISHING FAIR REPRESENTATION OF ALL SERVED LIBRARY PATRONS ON THE LIBRARY ADVISORY BOARD**

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are ~~bold lined through~~ and additions are bold underlined.

**WHEREAS**, Chapter II, Section 4, of the West Linn City Charter provides:

Powers of the City. The City shall have all powers which the Constitution, statutes and common law of the United States and of this State now or hereafter expressly or implied grant or allow the City, as fully as though this Charter specifically enumerated each of those powers;

**WHEREAS**, the City has entered intergovernmental agreements with Clackamas County to work in a cooperative manner to support and provide library services to all residents; inside and outside city limits.

**WHEREAS**, the Clackamas County intergovernmental agreement for capital improvements stipulates that the City of West Linn “shall provide for fair representation of served library patrons on the City’s Library Board, including patrons from unincorporated Clackamas County;”

**WHEREAS**, the City Council recognizes the West Linn Public Library service area includes both City residents and residents of unincorporated Clackamas County.

**WHEREAS**, the City Council wishes to honor the intent of the intergovernmental agreement and the fact that our Library regularly services residents outside city limits by providing for fair representation of served library patrons on our Library Advisory Board.

**NOW, THEREFORE, THE CITY OF WEST LINN ORDAINS AS FOLLOWS:**

**SECTION 1. Amendment and Addition.** West Linn Municipal Code Section 2.035 [Membership] is amended and 2.091 [Library Advisory Board] is added to read as follows:

2.035 Membership.

All citizen advisory groups shall consist of seven members each, except for the Citizens’ Budget Committee, which shall consist of five members. All members shall be residents of the City and shall be selected based on their qualifications, unless otherwise provided in Sections 2.080 to ~~2.090~~ 2.096.

**2.096 Library Advisory Board**

**Membership on the Library Advisory Board shall provide for fair representation of all served library patrons, including Board membership from outside city limits.**

**SECTION 2. Severability.** The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

**SECTION 3. Savings.** Notwithstanding this amendment/repeal, the City ordinances in existence at the

time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions of the ordinance were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

**SECTION 4. Codification.** Provisions of this Ordinance shall be incorporated in the City Code and the word “ordinance” may be changed to “code”, “article”, “section”, “chapter” or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections [2-5]) need not be codified and the City Recorder or his/her designee is authorized to correct any cross-references and any typographical errors.

**SECTION 5. Effective Date.** This ordinance shall take effect on the 30<sup>th</sup> day after its passage.

The foregoing ordinance was first read by title only in accordance with Chapter VIII, Section 33(c) of the City Charter on the \_\_\_\_ day of \_\_\_\_\_, 2018, and duly PASSED and ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2018.

---

RUSSELL B. AXELROD, MAYOR

---

KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

---

CITY ATTORNEY

COOPERATIVE INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
CLACKAMAS COUNTY  
AND  
THE CITY OF WEST LINN

THIS COOPERATIVE INTERGOVERNMENTAL AGREEMENT (this "Agreement"), is entered into this 28 day of July, 2011, by and between the Clackamas County (the "County") a political subdivision of the State of Oregon, and the City of West Linn a municipal corporation (the "City").

WHEREAS, the County has formed the Library District of Clackamas County (the "District"), a county service district dedicated to supporting the provision of library services within its boundaries; and

WHEREAS, as part of the preparatory process for the formation of the District, the Board of County Commissioners proposed a one-time contribution from the County general fund to each city providing library services in the District for the sole purpose of capital improvements to the libraries therein (the "Capital Contribution"); and

WHEREAS, the City and other cities within the District have entered into a separate intergovernmental agreement dated July 23, 2009 with the District for the distribution of District funds for the purposes of operating, maintaining and enhancing services at the libraries within the District (the "District IGA"); and

WHEREAS, the County is entering into similar intergovernmental agreements with city library service providers ("Library Cities") for their respective Capital Contributions; and

WHEREAS, the parties desire to enter into this Agreement to reflect the terms of the Capital Contribution by the County;

NOW, THEREFORE, the County and City each covenant and agree to the following:

**Section 1      Obligations of the County**

- 1.1 County Capital Contribution. The County shall provide a one-time capital contribution of One Million and No/100 Dollars (\$1,000,000.00) to the City for the purposes set forth in Section 2.2 (the "Capital Contribution"), which will be distributed in one or more distributions pursuant to Section 1.3 hereof. The goal of distributing such capital funds is to assist libraries in meeting the Service Standards as defined in the District IGA.

- 1.2 Library Capital Trust Fund. The County shall allocate a guaranteed amount per fiscal year to a County-managed dedicated library capital trust fund (the “Capital Fund”) as scheduled and set forth in Exhibit A ( the “Disbursement Schedule”).
- 1.3 Capital Fund Distribution. The County shall disburse the Capital Contribution from the Capital Fund to the City and other Library Cities based on the Disbursement Schedule. The County shall make distributions up to the maximum available amount for that fiscal year. Such distribution will be made by the County no earlier than January of such fiscal year and no later than 60 days after the City submits to the County a capital plan identifying how the City will use the Capital Contribution. If requests for distributions in a given fiscal year are for a total amount less than the total amount in the Capital Fund, the County shall carry forward such balance to the next fiscal year for distribution as requested.
- 1.4 Changes In Capital Fund Disbursement Schedule. To the extent the City desires a change in the schedule of disbursement, the City shall meet with representatives of the other Library Cities as constituted by the Library District Advisory Committee or otherwise and arrive at a mutually agreeable reordering of the Disbursement Schedule, which shall then be presented to the County Board for its approval. The City hereby consents to an alteration of the Disbursement Schedule without requiring the adoption of a specific amendment upon presentation of a resolution agreed to by a majority of the representatives of the Library Cities consenting to such change and upon approval of the requested change by the Board of County Commissioners.
- 1.5 Library Network. The County currently funds and operates the Library Network of Clackamas County (the “Network”) to support the provision of services by the libraries in Clackamas County. The County shall fund the Network to provide the following services at an overall service level at least equal to that being provided by Network in fiscal year 2008/2009:
  - 1.5.1 Automated library system and related telecommunications and technical support;
  - 1.5.2 Courier services;
  - 1.5.3 Administration;
  - 1.5.4 Database management services including creating/acquiring MARC format bibliographic records;
  - 1.5.5 Inter-library loan services;
  - 1.5.6 Inter and intra-regional cooperative library planning;
  - 1.5.7 Shared online databases for public use; and
  - 1.5.8 Internet Service Provider for member libraries.

The County shall not be financially or otherwise responsible for the provision of new services requested or added to Network at the request of the City. To the extent the City or Library Cities generally request new or additional services, such requesting provider(s) will be billed back on separate contracts initiated as services are added. Such agreements shall not modify or restrict the covenants and agreements of the parties hereto.

## Section 2      **Obligations of the City**

- 2.1 Capital Fund Disbursement. The City shall receive its Capital Contribution pursuant to Sections 1.3 and 1.4 hereof.
- 2.2 Use of Funds. The City shall expend the Capital Contribution solely for library purposes such as library construction, remodel, expansion, building and site improvements, library construction bonded debt service, and/or collection development.
- 2.3 Proof of Use. After distribution, the County may monitor the use of the Capital Contribution to ensure that these County general funds are used for purposes permitted by Section 2.2. Upon request of the County the City shall provide a certification that the Capital Contribution has been so used to the head of the Business and Community Services Department of Clackamas County or his or her designee.
- 2.4 Library Board Representation. The City shall provide for fair representation of served library patrons on the City's library board, including patrons from unincorporated Clackamas County.

## Section 3      **Term and Termination**

- 3.1 Term. This Agreement shall commence on July 1, 2009 and automatically renew annually thereafter, unless otherwise terminated as set forth herein.
- 3.2 Termination. This Agreement shall terminate upon the agreement of both parties, or upon one hundred eighty (180) days prior written notice from one party to the other.
- 3.3 Amendment. This Agreement may be amended at any time upon the agreement of both parties.
- 3.4 Failure of the City to use Capital Contribution for Library purpose. If the City at any time uses the Capital Contribution other than for purposes permitted in Section 2.2., the City will be in material breach of this Agreement and shall promptly repay to the County that portion of the Capital Contribution s not so used plus accrued interest on such sum calculated from the date of disbursement to the date of repayment at a rate of 6% per annum.

## Section 4      **General Provisions**

- 4.1 Indemnification. Each party shall release, defend, indemnify and/or hold harmless the other, its officers, commissioners, councilors, elected officials, employees, and agents, from and against all damages, claims, injuries, costs, or judgments that may in any manner arise as a result of the party's performance under this contract, subject to Oregon Tort claims limitations.
- 4.2 Governing Law. This Agreement shall be construed and governed in all respects in accordance with laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.
- 4.3 Savings. Should any portion of this Agreement or amendment there to be adjudged by a Court of appropriate final jurisdiction to be in violation of any local, state or federal law, then such portion or portions shall become null and void, and the balance of the Agreement shall remain in effect. Both parties shall immediately renegotiate any part of this Agreement found to be in such violation by the Court and to bring it into compliance with said laws.
- 4.4 Reasonable Attorney's Fees. In the event any action is brought to enforce, modify or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys fees and costs incurred in connection with such action or on appeal or review; said amount to be set by the court before which the matter is heard.
- 4.5 Notices. Formal notices, demands and communications between the Parties shall be deemed given three (3) business days after being sent by registered or certified mail, postage prepaid, return receipt requested to the principal offices of the Agency and the City as designated herein. Such written notices, demands and communication may be sent in the same manner to such other addresses and to such other persons and entities as either party may from time to time designate by mail as provided in this section. Notices shall be sent to the addresses shown below and to the attention of the person indicated.

The principal offices and mailing address of the Parties are:

Clackamas County  
Attn: Board of County Commissioners  
2051 Kaen Road  
Oregon City, Oregon 97045

City of West Linn  
Attn: Chris Jordan, City Manager  
22500 Salamo Road

- 4.6 No Personal Liability. No member, official, agent, or employee of the County or any City shall be personally liable to the other or any successor-in-interest thereto in the event of any default or breach by such entity.
- 4.7 No Agency. Neither anything in this Agreement nor any acts of the parties hereto shall be deemed or construed by the parties hereto, or any of them, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or of any association between any of the parties to this Agreement. No party or its employees is entitled to participate in a pension plan, insurance, bonus, or similar benefits provided by any other party.
- 4.8 Entire Agreement. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the parties or the predecessors in interest with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement must be in writing by the appropriate authorities of the party granting such waiver.
- 4.9 Further Action. The parties hereto shall, without additional consideration, acknowledge, execute, and deliver from time to time such further instruments as a requesting party may reasonably require to accomplish the purposes of this Agreement.
- 4.10 Non-Waiver of Rights. The failure of a party to insist on the strict performance of any provision of this Agreement or to exercise any right, power or remedy upon a breach of any provision of this Agreement shall not constitute a waiver of any provision of this Agreement or limit the party's right thereafter to enforce any provision or exercise any right.
- 4.11 Time is of the Essence. A material consideration of the parties entering into this Agreement is that the parties will perform all obligations under this Agreement in a timely manner. Time is of the essence as to each and every provision of this Agreement.
- 4.12 Restricted Assignment. No party hereto may assign its rights, responsibilities or obligations hereunder to another party, by operation of law or otherwise, without (i) seeking and receiving an amendment of this Agreement and (ii) having said party join this Agreement on the terms, conditions and covenants herewith.
- 4.13 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and such counterparts shall constitute one and the same instrument.

4.14 Library Authority. Clackamas County operates public libraries pursuant to a board order creating public libraries for all Clackamas County residents dated July 9, 1938, as amended and updated pursuant to Board Order 85-1221 dated October 31, 1985. The Library Cities operate or in future plan to operate public libraries under state law within their boundaries. Under the District IGA, the Library Cities have agreed to provide public library services in unincorporated areas of the County as well as within City boundaries. Clackamas County nonexclusively delegates the authority to operate public libraries for the benefit of incorporated and unincorporated residents of Clackamas County to the City.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers or representatives as of the day and year first above written.

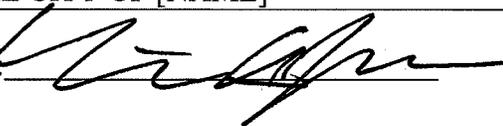
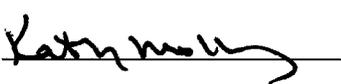
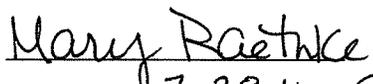
THE CITY OF [NAME]	CLACKAMAS COUNTY
By: 	By: 
Title: <u>City Manager</u>	Title: <u>Chair</u>
ATTEST: 	ATTEST:  7-28-11 C.L.

Exhibit A

**Disbursement Schedule**

	<b>Year 1</b> 2009/10	<b>Year 2</b> 2010/11	<b>Year 3</b> 2011/12	<b>Year 4</b> 2012/13	<b>Year 5</b> 2013/14	<b>TOTAL</b>
Annual Distribution	3,500,000	3,000,000	2,500,000	2,000,000	1,250,000	12,250,000
Prior Year Carryover	--	1,350,000	350,000	850,000	--	
Total Funds Available	3,500,000	4,350,000	2,850,000	2,850,000	1,250,000	
Library Cities:						
<i>Canby</i>				1,000,000		1,000,000
<i>Estacada</i>	1,000,000					1,000,000
<i>Gladstone</i>		1,000,000				1,000,000
<i>Happy Valley</i>		2,000,000				2,000,000
<i>Lake Oswego</i>			1,000,000			1,000,000
<i>Milwaukie</i>				1,000,000		1,000,000
<i>Molalla</i>	150,000			850,000		1,000,000
<i>Oregon City</i>		1,000,000				1,000,000
<i>Sandy</i>			1,000,000		250,000	1,250,000
<i>West Linn</i>	1,000,000					1,000,000
<i>Wilsonville</i>					1,000,000	1,000,000
<b>Total</b>						12,250,000
<b>Carryover:</b>	1,350,000	350,000	850,000	--	--	

July 21, 2011

Board of Commissioners  
Clackamas County

Members of the Board:

Cooperative Intergovernmental Agreement between Clackamas County  
and the City of West Linn for Capital Contribution

Attached please find an Intergovernmental Agreement, (IGA) between Clackamas County and the City of West Linn.

Concurrent with and conditional on the Clackamas County Library District ("Library District") formation effort, the Board of County Commissioners ("Board") agreed to provide capital funds to City library service providers over the next 5 fiscal years to help address capital needs in their service areas and provide better service to unincorporated areas. These capital funds are to be drawn from operational funds previously distributed from the county general fund to Cities for library services that will now be supplied by the Library District.

The County currently funds the Library Network, an informational and administrative service that allows the various libraries in the County to operate cooperatively and gain efficiencies. The Library District is not intended to fund the Library Network. A related commitment from the Board as part of the formation process was to fund the Library Network at its current service level into the future.

This intergovernmental agreement addresses (1) the provision of capital funds to each City service provider, (2) the County's commitment to fund the Library Network. County Counsel has reviewed and approved this IGA.

**RECOMMENDATION:**

Business and Community Services respectfully recommends that the Board of Clackamas County Commissioners approve and sign the attached IGA between Clackamas County and the City of West Linn.

Sincerely,



Gary Barth  
Business and Community Services Director

# RECORDING MEMO

New Agreement/Contract
Amendment/Change Order Original Number _____
Policy, Reports,

ORIGINATING COUNTY

DEPARTMENT: \_\_\_ BCS - Library \_\_\_\_\_

PURCHASING FOR:

\_\_\_\_\_ N/A \_\_\_\_\_

OTHER PARTY TO

CONTRACT/AGREEMENT: \_

City Of West Linn IGA \_\_\_\_\_

BOARD AGENDA DATE: \_\_\_\_\_ July 21, 2011 \_\_\_\_\_

AGENDA ITEM NUMBER: \_\_\_\_\_

PURPOSE: \_

\_\_ IGA with Clackamas County for Capital Contribution

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please return to County Library, Debbie Smith after recording.  
Thank you.

# West Linn Library Service Area

## Legend

- Places**
- County Courthouse
  - City Hall
  - Hospital
  - Airport
  - Park / Recreation
  - Golf Course
  - Boat Launch
  - Winter Recreation
  - Cemetery
  - Library
  - Ferry Crossing
  - Swimming
  - Oregon Trail Interp. Center

## Boundaries

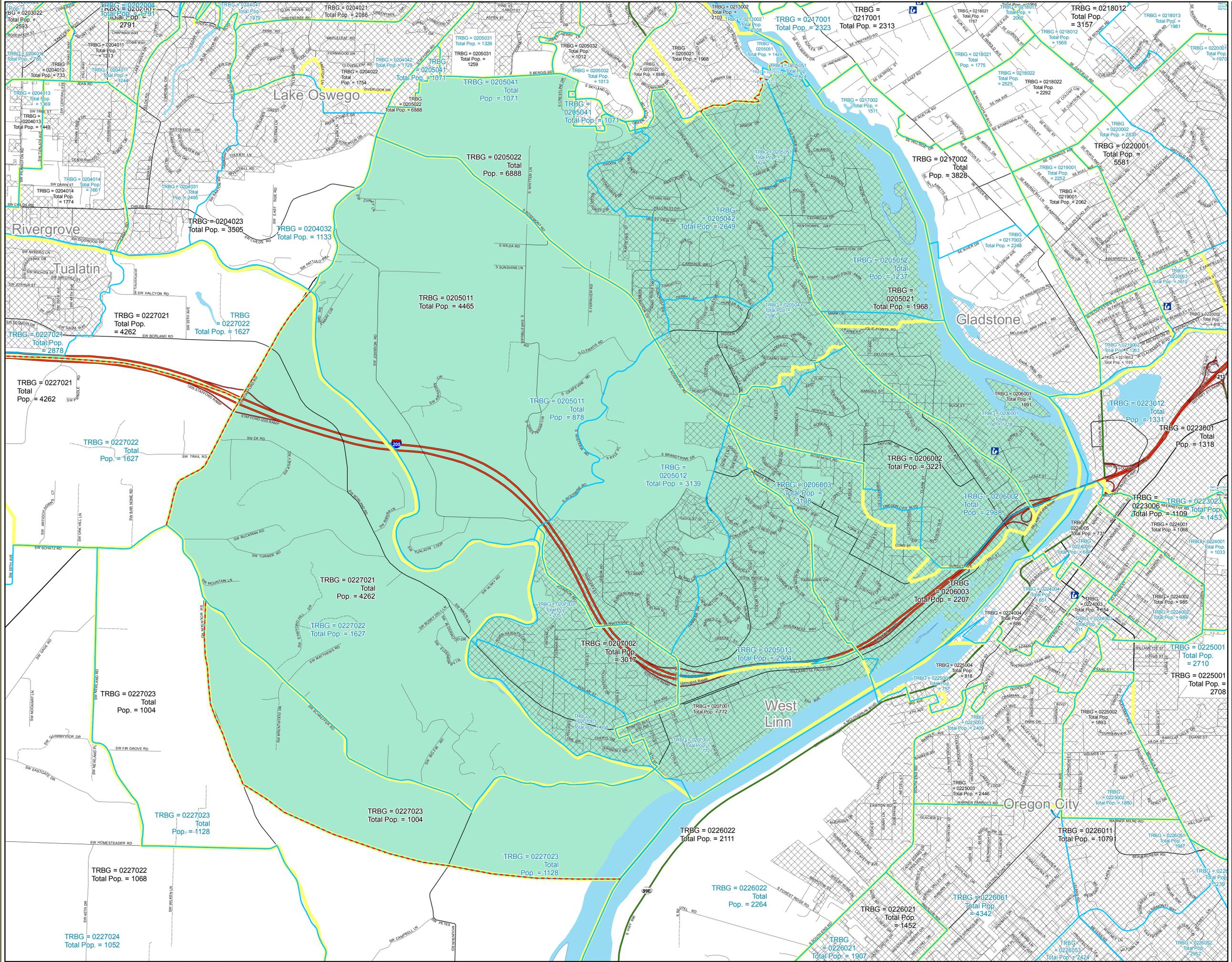
- City Not Included
- City Boundary
- Year 2000 Tract Block Groups
- Year 2010 Tract Block Groups
- Shared Tract Block Groups



0 0.1 0.2 0.3 0.4 0.5 Miles



DEPARTMENT OF INFORMATION SERVICES/CLACKAMAS COUNTY GIS  
121 LIBRARY COURT  
OREGON CITY, OREGON 97143



**Agenda Bill 2018-09-10-03**

Date: August 28, 2018

To: Russ Axelrod, Mayor  
Members, West Linn City Council

From: Eileen Stein, City Manager *ES*

Subject: Resolution 2018-20 Supporting a Clackamas County-Wide Tobacco Retail Licensing Program

---

**Purpose**

To demonstration support for a county-wide tobacco retail license program.

**Question(s) for Council:**

Does Council want to support the Clackamas County Board of County Commissioners in adopting a county-wide tobacco retail licensing program?

**Public Hearing Required:**

None required.

**Background & Discussion:**

On July 16, Clackamas County Public Health staff, Dawn Emerick, Director; Laurel Bentley Moses, Population Health Strategies Program Manager; and Jamie Zenter, Program Planner presented *Protecting Youth through Tobacco Retail Licensing* to the Council. The presentation discussed the harmful effects of nicotine use and how vulnerable youth are to marketing strategies employed by the tobacco industry. They explained a county-wide retail licensing would enforce Tobacco 21 and other tobacco regulations and laws.

Clackamas County proposes a new program requiring businesses located in the county to obtain an annual license to sell tobacco and other nicotine products. This is part of Clackamas County's comprehensive strategy to prevent youth from using nicotine products and end the burden of tobacco-related disease and death. It effectively decreases illegal tobacco sales to minors. A tobacco retail licensing is most effective if it is county-wide. Clackamas County Public Health is seeking the support of all cities in the county for a county-wide tobacco retail license.

The attached Frequently Asked Questions documents provides other information about the County's efforts and what it is trying to achieve through this program.

**Budget Impact:**

None. This is proposed to be a program administered by Clackamas County Public Health. Revenues derived from the license fee would be retained by Clackamas County to support public health programs.

**Sustainability Impact:**

Creating the means to encourage the reduction of tobacco and nicotine use by West Linn youth is an objective which is consistent with the City's goals for a sustainable community and environment. The goal of the program is to reduce youth access to and initiation of tobacco and nicotine products

protecting them from a lifetime of addiction and tobacco-related disease, ultimately improving quality of life, increased productivity, and health care savings.

**Council Options:**

1. Pass the resolution supporting a county-wide tobacco retail licensing program.
2. Do not pass the resolution supporting a county-wide tobacco retail licensing program.

**Staff Recommendation:**

Option 1. Support the county-wide tobacco retail licensing program.

**Potential Motion:**

Move to approve Resolution 2018-20 supporting a Clackamas County county-wide tobacco retail licensing program.

**Attachments:**

1. TRL Frequently Asked Questions
2. TRL Questions from Cities and Responses from Public Health Division
3. Resolution 2018-20

## Frequently Asked Questions about Tobacco Retail Licensing

---

### **What is Tobacco Retail Licensing (TRL)?**

Tobacco retail licensing requires businesses located in the county to obtain an annual license to sell tobacco and other nicotine products, including electronic cigarettes. It is part of Clackamas County's comprehensive strategy to prevent youth from using nicotine products and end the burden of tobacco-related disease and death.

### **What does TRL propose to do?**

TRL is a tool that can be used to improve enforcement of existing federal, state, and local tobacco laws. TRL enables local jurisdictions to identify retailers, monitor their compliance with these laws, and enforce penalties if tobacco is sold to persons under the age of 21. TRL provides a platform for retailer education and consequences if tobacco is sold illegally. Penalties, such as fines or suspending retailers' ability to sell tobacco, deter retailers from selling tobacco to youth.

### **Why focus on tobacco regulation in the retail environment?**

Convenience stores are top sellers of cigarettes nationwide. In Clackamas County, more than half of tobacco retailers are located within 1,000 feet of a school or park, and two thirds of all known retailers advertise tobacco outside.<sup>i</sup> Youth who have more opportunities to obtain tobacco and see more tobacco advertising are more likely to use tobacco and nicotine products due to their susceptibility to marketing and imaging.

### **How does TRL prevent youth access to tobacco?**

TRL reduces illegal sales to minors through retailer education and enforcement of laws.

### **Why is a tobacco retail license separate from other business license requirements?**

Tobacco is a hazardous product that causes disease and death, there are no safe levels of tobacco use. Tobacco retail licensing is the mechanism to identify stores that sell tobacco so they can be informed when laws change and monitored for compliance. A license to sell tobacco and nicotine products is similar to licenses required to sell alcohol and marijuana.

### **What is the economic impact of TRL?**

Portland State University's Northwest Economic Research Center determined that a license fee of \$500 – \$600 will not have a significant effect on the Clackamas County economy. A \$500 - \$600 fee amounts to \$1.37 - \$1.64 per day to sell tobacco and nicotine products. The impact of TRL on store revenue would be minimal as retailers are able to raise tobacco prices to offset the cost of the license.

### **Why are electronic cigarettes and other vaping products included in this licensing?**

Many youth today are being introduced to nicotine through e-cigarettes rather than conventional cigarettes and tobacco products.<sup>ii</sup> A 2015 survey found that among e-cigarette users aged 19-24, 40% had never been regular cigarette smokers.<sup>iii</sup> Vaping is outpacing conventional cigarettes among youth.

### **How would tobacco retailers be monitored for compliance with the minimum legal sales age?**

Clackamas County Public Health Division (CCPHD) proposes two inspections per year, one unannounced minor decoy and one with public health staff to ensure compliance with local, state and federal laws. Inspections would include education and penalties for violations.

### **How effective is TRL in reducing youth access to tobacco?**

Communities across the country, including four counties and a number of cities within Oregon, are implementing TRL to prevent youth from illegally purchasing nicotine products. While it is too soon to see the results in Oregon, a recent assessment of 33 communities in California that implemented a tobacco retail license, showed dramatically decreased rates of illegal youth sales since passing TRL.<sup>iv</sup>

### **What does TRL mean for cities?**

TRL will reduce youth access to and initiation of tobacco and nicotine products protecting them from a lifetime of addiction and tobacco-related disease, ultimately improving quality of life, increased productivity, and health care savings. Allocating responsibility to the Board of Health to pass TRL shifts the administration and implementation to CCPHD resulting in consistent education and enforcement county-wide.

---

<sup>i</sup> Oregon Health Authority, Tobacco Fact Sheet, 2014

<sup>ii</sup> E-Cigarette Fact Sheet, Oregon Health Authority, 2016.

[http://www.co.lincoln.or.us/sites/default/files/fileattachments/health\\_amp\\_human\\_services/page/585/e-cigfactsheet.pdf](http://www.co.lincoln.or.us/sites/default/files/fileattachments/health_amp_human_services/page/585/e-cigfactsheet.pdf)

<sup>iii</sup> MMWR via Centers for Disease Control and Prevention, [https://www.cdc.gov/tobacco/basic\\_information/e-cigarettes/index.htm](https://www.cdc.gov/tobacco/basic_information/e-cigarettes/index.htm)

<sup>iv</sup> See "Table of youth sales rates before and after the adoption of a strong tobacco retailer licensing ordinance". The American Lung Association in California, 2013. <http://center4tobaccopolicy.org/wp-content/uploads/2016/10/Tobacco-Retailer-Licensing-is-Effective-September-2013.pdf>

## **City Councils' Questions RE: Tobacco Retail Licensing & Responses from Clackamas County Public Health Division**

City councils raised the following questions when Clackamas County Public Health Division presented Tobacco Retail Licensing, proposal to prevent youth from accessing tobacco and nicotine products. This summary is to help ensure that jurisdictions receive the same information about Tobacco Retail Licensing.

### **How many new employees will the County have to hire to operate Tobacco Retail Licensing?**

The Public Health Division would hire one Program Coordinator for a Tobacco Retail License Program.

### **What is the proposed enforcement strategy? How would it be different than current enforcement? What are the current penalties for illegal sales? What is the role of local law enforcement?**

Proposed enforcement would include two inspections per year for every business selling tobacco and nicotine products. One would be with Public Health staff to help retailers understand and comply with laws; the other would use minor decoys to ensure retailers do not sell to people under 21 years of age. Clackamas County Public Health Division would provide the education and operate the compliance checks with youth.

Currently, the Oregon Health Authority enforces the tobacco minimum sales age law and coordinates with the Oregon State Police to conduct compliance inspections. A clerk may be cited for Endangering the Welfare of a Minor if caught selling tobacco or nicotine products (e-cigarettes) to a person under 21 years. Minimum fine of \$200, maximum of \$2000. Due to the State's limited capacity and resources, a random sample of retailers are inspected. A TRL in Clackamas County would augment the state's system so that every tobacco retailer is inspected annually.

Local law enforcement is able to issue citations for "Endangering the welfare of a minor" ORS 163.575 to store owners for illegal sales. Class A violation, minimum fine for each violation is \$100.

### **What is the Board of Health's authority to pass a county-wide TRL? What do cities have to do to support TRL?**

The County as the Local Public Health Authority, has broad authority under state law (ORS 431A.010 and ORS 431.413) to adopt and implement public health programs to protect the public health and safety. Cities should follow their own governing processes if a city wishes to support TRL in their city, for example, by resolution or an IGA with the County.

### **Based on the experiences of other counties in Oregon that have implemented TRL, what impact has TRL had on illegal sales to youth?**

Multnomah and Klamath Counties have not had TRL in place long enough to measure change in underage sales. The license fees in Benton & Lane Counties are not high enough to support compliance checks.

A recent assessment of 33 communities in California that implemented a tobacco retail license showed dramatic decreases in illegal sales to youth since passing TRL.

### **Why are bars and adult venues required to have a license to sell tobacco if youth under 21 years are not permitted on the premise?**

While youth are legally not allowed into bars and adult venues, they occasionally manage to skirt the system to enter. The tobacco retail license enables CCPHD to provide compliance checks as well as help retailers know and understand tobacco retail laws.

Oregon law preempts any local jurisdiction from regulating vending machines. So if a bar / adult venue has only a vending machine, CCPHD cannot require them to get a tobacco retail license. Oregon Revised Statutes §167.404 Cities and counties by ordinance or resolution may not regulate vending machines that dispense tobacco products or inhalant delivery systems. [1991 c.970 §3; 2015 c.158 §10

**What is the fee for a liquor license and how does it compare to the fee proposed for TRL?**

The liquor license fee ranges from \$100 for Distilleries to \$500 for Breweries. The fee for a full on-site commercial sale is \$400. A list of licensing types and fees is available online

<https://www.oregon.gov/olcc/LIC/Pages/index.aspx>

We are proposing a licensing fee of \$500-\$600 annually. This amount is necessary to provide adequate education and enforcement to the 232 known tobacco retailers in Clackamas County.

**How does the enforcement for underage liquor sales compare to enforcement for underage tobacco sales?**

The OLCC is responsible for ensuring compliance with liquor laws. One way of doing so is through minor decoy operations to ensure retailers do not sell or serve alcohol to people under 21 years. The OLCC is under staffed to adequately ensure compliance with State liquor laws. Their capacity has been further stressed since the legalization of marijuana as they are responsible for ensuring compliance with marijuana laws as well. For example, the last inspection in Estacada was to one business in 2015. The OLCC posts inspection results on their website [https://www.oregon.gov/olcc/Pages/reg\\_program\\_overview.aspx](https://www.oregon.gov/olcc/Pages/reg_program_overview.aspx)

For businesses licensed by the OLCC, the penalty for failing to verify the age of a minor (category III offense) is a 10 day suspension of license or \$1650. The second offense is a 30 day suspension or \$4950. A summary of common violations and penalties is available here

[https://www.oregon.gov/OLCC/pages/laws\\_and\\_rules.aspx#Penalty\\_Schedule/Sanction\\_Schedule](https://www.oregon.gov/OLCC/pages/laws_and_rules.aspx#Penalty_Schedule/Sanction_Schedule)

If adopted, a Tobacco Retail License would include two inspections per year for every business selling tobacco & nicotine products. One inspection with a Public Health staff to help retailers understand and comply with tobacco-related laws and the other using minor decoys to ensure retailers do not sell to people under 21 years.

Penalties for selling tobacco to people under 21 years would be determined with the guidance of a Rules Advisory Committee. Currently under the state's inspections, clerks may be cited for Endangering the Welfare of a Minor. Minimum fine of \$200, maximum fine of \$2000.

**What is the argument against TRL? Is there anything negative to approving TRL?**

It's no surprise that the tobacco industry opposes TRL. Their revenue relies on young people developing a life-long addiction to tobacco and nicotine products.

If the Board of County Commissioners, acting as the Board of Health, adopts a county-wide Tobacco Retail License, Clackamas County Public Health Division (CCPHD) will be directed to administer and implement the program. Shifting responsibility to CCPHD will result in consistent education and enforcement and will equitably prevent all youth in the county from developing an addiction to nicotine.

**Will a small mom and pop store get charged the same as a larger entity such as Fred Meyer or Winco? Can the fee be sliding based on the retailer size or amount of sales?**

A flat fee of \$500 - \$600 is based on the cost to administer the license, educate retailers and conduct inspections with the 232 known retailers in the county. The total cost of the program will be divided among all retailers. Every retailer, regardless of the size, will receive the same level of service in order to comply with laws governing sale of tobacco and nicotine products.

The licensing fee must be set no higher than the actual costs incurred by the government to operate the program. We have learned from other jurisdictions that a tiered based fee structure has been challenged in court.

In 2009, the New York State Legislature adopted legislation to replace the licensing fee of \$100/year with a graduated fee of between \$1,000 and \$5,000/year, depending on the volume of sales by a retailer. The amount of the proposed new fee was not based on any precise calculation of program costs. A trade association filed a lawsuit alleging that the fee increase was an unconstitutional tax, and the appellate court issued an order allowing the retailers to pay the \$100 fee until the court decided the case. The lawsuit was ultimately dismissed when the State Legislature adopted legislation to impose a flat licensing fee of \$300/year.

*Long Island Gasoline Retailers Ass'n v. Paterson, 83 A.D.3d 913 (App. Div. 2011). Case summarized by ChangeLab Solutions, Tobacco Retailer Licensing Playbook | changelabsolutions.org/tobacco-control*

A flat fee is easiest to administer and less burden to retailers. A tiered fee would require retailers to prepare documentation of profit that would need to be reviewed prior to any license or renewal.

There are options for retailers to recoup the cost of a TRL. A \$500 - \$600 fee amounts to \$1.37 - \$1.64 per day to sell tobacco products. The impact on store revenue would be minimal as retailers are able to raise tobacco prices and/or adjust the prices of other store items to offset the cost of the license fee.

**Why can't Department of Revenue records be used to identify retailers?**

In Oregon, tobacco taxes are levied at the distributor or wholesaler level, rather than at the retail level. Some retailers, like Costco, might have a license through the Dept. of Revenue so they can distribute to other retailers. Most retailers get their tobacco from the tobacco company distributors themselves (RJR and Altria sales reps grease the wheels for this process by visiting stores and signing them up on distribution contracts). The distributors are responsible for paying for and applying the Oregon tax stamp. The distributors don't inform the Dept. of Revenue to whom they distribute products. Therefore, the Department of Revenue doesn't have a comprehensive list of who sells tobacco in the state of Oregon, only who "distributes" tobacco.

**Would paraphernalia and non-nicotine liquid be taxed too?**

No, this is not a tax. Any store that sells products containing tobacco or nicotine would need to maintain a tobacco retail license.

**Is TRL being pursued across the metro area?**

TRL was implemented in Multnomah County in 2016. Washington County is considering TRL but is not yet ready to move forward. If TRL passes in Clackamas County, it will help build the case to approve TRL across the tri-county area.

**What is the process for implementation?**

The details to implement TRL will be determined. However, retailers will have a period of time to obtain their license before enforcement began.

**How has TRL been received by chambers of commerce?**

The Public Health Division has meetings scheduled in September to discuss the business case for TRL.

There are examples of chambers supporting TRL in other places. Driven by the economic benefits of a healthy workforce, Kansas City Chamber of Commerce is leading the Tobacco 21 initiative in Kansas to reduce tobacco-related tobacco illness.

**How much does a Juul cost?**

A starter kit, including the Juul device and four flavor pods, costs around \$50. Vaping devices such as e-cigarettes and Juuls are not taxed.

**Are schools in support of TRL?**

Public Health is going to talk about TRL with superintendents when school is back in session. A couple have already expressed support, stating that Juuls are a real distraction from learning.

**Would the citizens vote on something like this?**

While Clackamas County Public Health Division values community input, ballot measures are expensive. Instead of a vote in the mid-term election, Public Health will invite citizens and business owners to provide oral and written comments during the County Commissioners' public hearings.

**RESOLUTION NO. 2018-20**

**A RESOLUTION SUPPORTING A CLACKAMAS COUNTY-WIDE TOBACCO RETAIL LICENSE PROGRAM**

**WHEREAS,** Tobacco use remains the most preventable cause of illness and death in America and Clackamas County; and

**WHEREAS,** Nearly 90% of adult tobacco smokers started smoking before age 18 and more than three quarters start before age 20; and

**WHEREAS,** Adolescents who start smoking before their 19th birthday have on average a 20 percent higher risk of dying from smoking-related illness; and

**WHEREAS,** One in three youth said it would be “very easy” to get tobacco according to the Oregon Healthy Teen Survey and youth living in areas with the highest density of retail tobacco outlets are more likely to have smoked cigarettes in the last month; and

**WHEREAS,** Oregon increased the tobacco and nicotine product possession age to 21 but did not pass a state-wide tobacco retail license, the necessary mechanism to enforce the new legal sales age; and

**WHEREAS,** a county-wide licensing system for tobacco retailers is appropriate to enforce tobacco control laws to protect the health, safety, and welfare of our residents; and

**WHEREAS,** research demonstrates that local tobacco retail ordinances reduce youth access to cigarettes. A review of 33 California communities with strong tobacco retailer licensing ordinances shows that the youth sales rate declined in 31 of these communities after the ordinances were enacted, with an average decrease of 26 percent in the youth sales rate; and

**WHEREAS,** a requirement for a tobacco retailer license will not unduly burden businesses who sell or distribute tobacco or nicotine products.

**NOW, THEREFORE,** the City of West Linn resolves to support the Clackamas County Board of County Commissioners as the Board of Health to adopt a tobacco retail license program requiring all businesses located in the County to obtain an annual license to sell tobacco and other nicotine products, including electronic cigarettes.

This resolution was PASSED and ADOPTED this 10<sup>th</sup> day of September, 2018, and takes effect upon passage.

---

RUSSELL B. AXELROD, MAYOR

ATTEST:

---

KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

---

CITY ATTORNEY

**Agenda Bill 2018-09-10-04**

Date: August 27, 2018

To: Russ Axelrod, Mayor  
Members, West Linn City Council

From: Doug Erickson, Director, West Linn Public Library DE

Through: Eileen Stein, City Manager *ES*

Subject: Amendment 3 to the Cooperative Intergovernmental Agreement between the Library District of Clackamas County and Library Cities

---

**Purpose**

To provide the City Council with information regarding a proposed amendment to the Cooperative Intergovernmental Agreement between the Library District of Clackamas County and Library Cities.

**Question(s) for Council:**

Shall the City of West Linn approve an amendment to the Cooperative Intergovernmental Agreement between the Library District of Clackamas County and Library Cities?

**Public Hearing Required:**

None required.

**Background & Discussion:**

When the Cooperative Intergovernmental Agreement Between the Library District of Clackamas County and Library Cities ("Library District Master IGA") was drafted, it was anticipated that the City of Gladstone would construct and operate a new library facility which would serve both the Oak Lodge and Gladstone library service areas, and that Clackamas County would only operate the current Oak Lodge library until this new Gladstone library facility was open.

Based on these assumptions, the current Library District Master IGA specifies that the District will retain in trust any unused portion of the annual distributions made to the Oak Lodge Library, for distribution to the City of Gladstone once construction of a new library facility to serve the Oak Lodge and Gladstone library service areas commences. In addition, the current Library District Master IGA only contemplates Clackamas County acting as the library service provider for the Oak Lodge library service area on an interim basis. Finally, the current Library District Master IGA indicates that certain boundary changes will be made when the City of Gladstone opens a new, single facility to serve both the Oak Lodge and Gladstone service areas.

For a variety of reasons, the original plan for Gladstone to construct a library and provide service to both the Oak Lodge and Gladstone library service areas did not come to fruition, and issues surrounding library facilities and services for these areas eventually became the subject of litigation between Clackamas County and the City of Gladstone.

In October 2017, the County and the City of Gladstone resolved this pending litigation and entered into a Settlement Agreement which contemplates the County will construct and operate two new libraries, one located within the City of Gladstone, and one located in unincorporated Clackamas County within the Oak Lodge Library service area.

In order to implement the Settlement Agreement and facilitate construction of new library facilities for the Oak Lodge and Gladstone library service areas, Clackamas County is proposing minor amendments to the Library District Master IGA, namely:

- An amended section 1.6, to designate Clackamas County (and not the City of Gladstone) as the eventual recipient of funds currently held in trust.
- A new section 2.4, to establish Clackamas County as the “Library City” for the Oak Lodge library service area, and to memorialize the intent of Clackamas County and the City of Gladstone to work collaboratively and enter into separate agreements for the County to construct and manage new Oak Lodge and Gladstone libraries.
- An amended Attachment B, to preserve all library service area boundaries as they currently exist by removing language which contemplated boundary changes upon construction of a new, single Gladstone library facility to serve both the Oak Lodge and Gladstone service areas.

The amendments were developed and refined by the Settlement Agreement Implementation Task Force, a task force formed by the Board of County Commissioners (with the support of the Library District Advisory Committee) and charged with recommending the minimum changes necessary to the Master IGA in order to implement the settlement agreement between Clackamas County and the City of Gladstone and facilitate the construction of two new library facilities. This Task Force consisted of County and City of Gladstone staff and legal counsel, one County Commissioner, and three citizen members (including the Oak Lodge and Gladstone representatives to the Library District Advisory Committee). Task Force meetings were open to the public, and the Task Force’s recommendations were submitted to and accepted by the Board of County Commissioners on July 17, 2018.

**Budget Impact:**

Adoption of the amendments will have no direct or indirect budgetary impact for West Linn. The amendments do not change the components or calculation methodology of the Library District distribution formula, nor do they make any changes to the current West Linn library service area.

**Sustainability Impact:**

The City of West Linn’s participation in the Library District of Clackamas County provides residents with access to a wide variety of library materials and services from libraries throughout the District. Adoption of these amendments will facilitate construction by Clackamas County of new facilities in the Oak Lodge and Gladstone service areas and further strengthen the Library District as a whole.

**Council Options:**

Option 1 – Approve Amendment 3 to the Library District Master IGA.

Option 2 – Do not approve Amendment 3 to the Library District Master IGA.

**Staff Recommendation:**

Staff respectfully recommends that the City Council choose Option 1 and approve Amendment 3 to the Library District Master IGA.

**Potential Motion:**

It is moved that the City Council approve Amendment 3 to the Cooperative Intergovernmental Agreement between the Library District of Clackamas County and Library Cities.

**Attachments:**

1. Library District Intergovernmental Agreement Amendment – Frequently Asked Questions
2. Amendment 3 to the Cooperative Intergovernmental Agreement Between the Library District of Clackamas County and Library Cities
3. Cooperative Intergovernmental Agreement Between the Library District of Clackamas County and Library Cities
4. Settlement Agreement between the City of Gladstone and Clackamas County

# Library District Intergovernmental Agreement Amendment



## Q What action is being requested?

**A** Clackamas County is requesting that the City Councils of the Clackamas County Library District library service providers (the cities of Canby, Estacada, Gladstone, Happy Valley, Lake Oswego, Milwaukie, Molalla, Oregon City, Sandy, West Linn, and Wilsonville) approve the attached amendment to the Cooperative Intergovernmental Agreement Between the Library District of Clackamas County and Member Cities ("Master IGA").

## Q What specific changes to the iga are being proposed?

**A** The proposed amendment includes:

- An amended section 1.6, which would designate the County, and not the City of Gladstone, as the eventual recipient of retained funds currently held in trust by the District to support the construction of new library facilities for the Gladstone and Oak Lodge service areas.
- A new section 2.4, which would establish Clackamas County as the permanent Library Service Provider for the Oak Lodge Library Service area and memorializes the intent for Clackamas County to construct and manage two new libraries using District distributions, accumulated reserves, and other revenues.
- An amended Attachment B, which would eliminate language regarding service area boundary changes which were originally contemplated when it was anticipated that the City of Gladstone would construct a single facility to serve both the Gladstone and Oak Lodge library service areas.

## Q Why are these changes necessary?

**A** When the Master IGA was drafted, it was anticipated that the City of Gladstone would construct and operate a new library facility which would serve both the Oak Lodge and Gladstone library service areas, and that Clackamas County would only operate

the current Oak Lodge library until this new Gladstone library facility was open.

Based on these assumptions, the Master IGA currently specifies that the District will retain in trust any unused portion of the annual distributions made to the Oak Lodge Library, for distribution to the City of Gladstone once construction of a new library facility to serve the Oak Lodge and Gladstone library service areas commences. In addition, the Master IGA only contemplates Clackamas County acting as the library service provider for the Oak Lodge library service area on an interim basis. Finally, the Master IGA indicates that certain boundary changes will be made when the City of Gladstone opens a new, single facility to serve both the Oak Lodge and Gladstone service areas.

For a variety of reasons, the original plan for Gladstone to construct a library and provide service to both the Oak Lodge and Gladstone library service areas did not come to fruition, and issues surrounding library facilities and services for these areas eventually became the subject of litigation between Clackamas County and the City of Gladstone.

On October 16, 2017, the County and the City of Gladstone resolved this pending litigation and entered into a Settlement Agreement which contemplates the County will construct and operate two new libraries, one located within the City of Gladstone, and one located in unincorporated Clackamas County within the Oak Lodge Library service area.

Both Clackamas County and the City of Gladstone agreed that the funds being held in trust for eventual use by the City of Gladstone should instead be distributed to Clackamas County to finance construction of these two new facilities. However, in order to distribute these retained funds to Clackamas County, the Master IGA must be changed to designate the County, and not the City of Gladstone, as the eventual recipient.

In addition, the Master IGA is being amended to recognize the County as the library service provider for the Oak Lodge library service area, placing the County under the same service obligations as all other participating Library Cities. This amendment also memorializes the intent for the County and the City of Gladstone to work collaboratively and enter into separate agreements for the County to construct and manage new Oak Lodge and Gladstone libraries using District distributions from both service areas, retained funds, and other revenue sources.

Finally, the IGA is being changed to preserve all library service area boundaries as they currently exist; language in the original IGA which contemplated a change to the Oak Lodge service area boundary (under the assumption that a single facility in the Gladstone area would be serving two service areas) will be eliminated.

## Q How were these amendments developed?

**A** The amendments were developed and refined by the Settlement Agreement Implementation Task Force, a task force formed by the Board of County Commissioners (with the support of the Library District Advisory Committee) and charged with recommending the minimum changes necessary to the Master IGA in order to implement the settlement agreement between Clackamas County and the City of Gladstone and facilitate the construction of two new library facilities. This Task Force consisted of County and City of Gladstone staff and legal counsel, one County Commissioner, and three citizen members (including the Oak Lodge and Gladstone representatives to the Library District Advisory Committee). Task Force meetings were open to the public, and the Task Force's recommendations were submitted to and accepted by the Board of County Commissioners on July 17, 2018.

# Library District Intergovernmental Agreement Amendment



## Q Will these amendments have any impact on the library district distribution formula?

**A** No. These amendments will not make any changes to the Library District Distribution formula.

## Q What is the process for approving these amendments?

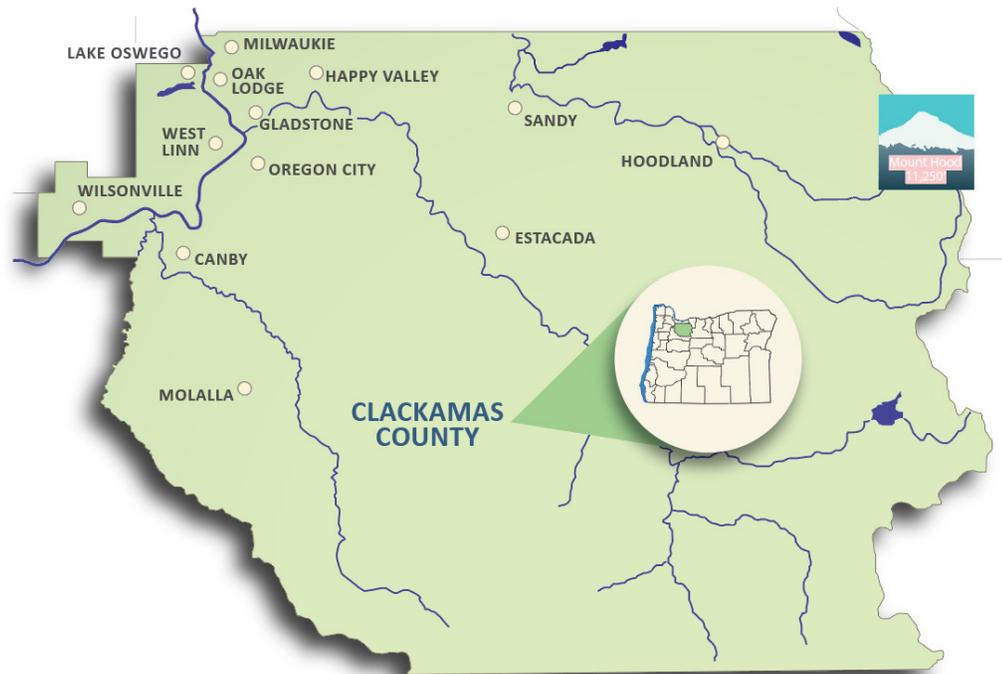
**A** In order to amend the Master IGA, both the Board of County Commissioners (as Library District Board) and two-thirds of Library Cities must approve the proposed changes.

County staff will soon be submitting the amendments to the Board of County Commissioners. At the same time, we are requesting that the City Managers of each Library Service Provider transmit the amendments to their respective City Councils to begin the process of Council review, discussion, and adoption.

It is our hope that all Library Service Providers will adopt the proposed amendments as soon as possible, but no later than October 31, 2018.

## Q Who can I contact with additional questions?

**A** Please contact Laura Zentner, Director of Clackamas County Business and Community Services via phone (503.742.4351) or email (LZentner@clackamas.us).



**Laura Zentner**

503.742.4351

LZentner@clackamas.us

**Gregory Williams**

503.723.4889

GWilliams2@clackamas.us

To learn more, visit <https://www.clackamas.us/librarydistrict>

AMENDMENT NO. 3  
TO THE  
COOPERATIVE INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
THE LIBRARY DISTRICT OF CLACKAMAS COUNTY  
AND  
LIBRARY CITIES

THIS AMENDMENT NO. 3 (this “Amendment”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the Library District of Clackamas County (the “District”) a county service district formed under ORS Chapter 451, Clackamas County, a political subdivision of the State of Oregon (“County”), each of the Cities of Canby, Estacada, Gladstone, Happy Valley, Lake Oswego, Milwaukie, Molalla, Oregon City, Sandy, West Linn, and Wilsonville (each, a “City” and collectively, the “Library Cities”).

WHEREAS, the District, the County and the Library Cities entered into that certain intergovernmental agreement regarding the distribution of funds from the District to the County and Library Cities in support of the provision of library services to the residents of the District (the “Agreement”); and

WHEREAS, in August 2016, the City of Gladstone filed suit against Clackamas County for breach of contract stemming from an IGA between the parties for the construction of a library within the City of Gladstone; and

WHEREAS, on October 16, 2017, the County and the City of Gladstone entered into a Settlement Agreement which contemplates the County will construct and operate two new libraries, one located within the City of Gladstone, and one located in unincorporated Clackamas County within the Oak Lodge Library service area with a specific site to be determined after appropriate public input; and

WHEREAS, as part of the Settlement Agreement, Clackamas County agreed to undertake good faith efforts to effectuate and support any amendments to this Agreement necessary to implement the terms of the Settlement Agreement; and

WHEREAS, Section 3.3 of the Agreement provides for the mechanism of amendment of the Agreement to address these changes;

NOW, THEREFORE, the District, the County, and the Library Cities each agree to the following:

1. This Agreement’s section 1.6 and Attachment B are hereby amended and restated to read in their entirety:

1.6 Transition Payments. The District shall distribute funds to Clackamas County for the operation of the Oak Lodge Library pursuant to the current Oak Lodge Service area map. To the extent the annual distribution of funds to Clackamas County is greater than the annual need to operate the Oak Lodge library, the District shall retain such funds in trust for Clackamas County for distribution at such time as the County is constructing new library facilities. No unincorporated areas assigned to, or reserves accumulated by, the Oak Lodge Library service

area shall be reassigned, contributed or transferred to another Library City.

Attachment B

Service population maps are included as Attachment B.

1. The maps divide Clackamas County into library service areas. These areas are based on distance, roads, rivers, travel patterns, etc. and are intended to define where people are most likely to receive library service, and to give a Library City the ability to meet the library threshold standards in Attachment C. Each Library City's service area has been constructed by assigning Census tracts into library service areas. Based on census data compiled every 10 years, the population in each census tract will be verified and then the total unincorporated population within each service area will be used to calculate the Formula.

[See attached maps]

2. A new section 2.4 is hereby added to this Agreement to read in its entirety:

2.4 Clackamas County as Library City. The City of Gladstone and Clackamas County desire to work cooperatively in the provision of library services in the Gladstone and Oak Lodge service areas. Gladstone and the County may enter into separate agreements regarding the management of their respective libraries. All parties hereto acknowledge the intention of the Plan is to have Clackamas County, through the use of District distributions for the Oak Lodge and Gladstone service areas, accumulated reserves referred to in section 1.6 above and other non-District revenues, to construct and manage both a new Oak Lodge library and new Gladstone library, and that nothing herein shall be construed to restrict or otherwise impair such plan. Clackamas County shall be considered a "Library City" in all respects for the Oak Lodge Library service area.

3. Except as set forth herein, the District, County, and the Library Cities ratify the remainder of the Agreement and affirm that no other changes are made hereby.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers or representatives as of the day and year first above written.

**DISTRICT & COUNTY**

CLACKAMAS COUNTY BOARD OF COMMISSIONERS, AS THE GOVERNING BODY OF THE	
LIBRARY DISTRICT OF CLACKAMAS COUNTY	
By: _____  Title: _____	
ATTEST: _____	

**LIBRARY CITIES**

THE CITY OF CANBY	THE CITY OF ESTACADA
By: _____  Title: _____	By: _____  Title: _____
ATTEST: _____	ATTEST: _____

THE CITY OF GLADSTONE	THE CITY OF HAPPY VALLEY
By: _____	By: _____
Title: _____	Title: _____
ATTEST: _____	ATTEST: _____

THE CITY OF LAKE OSWEGO	THE CITY OF MILWAUKIE
By: _____	By: _____
Title: _____	Title: _____
ATTEST: _____	ATTEST: _____

THE CITY OF MOLALLA	THE CITY OF OREGON CITY
By: _____	By: _____
Title: _____	Title: _____
ATTEST: _____	ATTEST: _____

THE CITY OF SANDY	THE CITY OF WEST LINN
By: _____	By: _____
Title: _____	Title: _____
ATTEST: _____	ATTEST: _____

THE CITY OF WILSONVILLE	CLACKAMAS COUNTY AS LIBRARY CITY FOR THE OAK LODGE LIBRARY SERVICE AREA
By: _____	By: _____
Title: _____	Title: _____
ATTEST: _____	ATTEST: _____

COOPERATIVE INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
THE LIBRARY DISTRICT OF CLACKAMAS COUNTY  
AND  
MEMBER CITIES

THIS COOPERATIVE INTERGOVERNMENTAL AGREEMENT (this “Agreement”), is entered into this \_\_\_\_ day of \_\_\_\_\_, 2009, by and between the Library District of Clackamas County (the “District”) a county service district formed under ORS Chapter 451, and each of the Cities of Barlow, Canby, Estacada, Gladstone, Happy Valley, Lake Oswego, Milwaukie, Molalla, Oregon City, Rivergrove, Sandy, West Linn, and Wilsonville (each, a “City” and collectively, the “Cities”).

WHEREAS, voters approved formation of the District to provide financial support to the library service providers of Clackamas County (the “Library Cities”); and

WHEREAS, the Parties desire to work in a cooperative manner to support and provide library services to their residents; and

WHEREAS, many of the Cities participate in the Clackamas County-supported Library Network of Clackamas County, which is discussed in an intergovernmental agreement by and between the participating Cities and Clackamas County; and

WHEREAS, the Cities desire funding by the District and to provide the levels of service described herein;

NOW, THEREFORE, the District and Cities each covenant and agree to the following:

**Section 1      Obligations of the District**

- 1.1 District Board. The Board of County Commissioners acting under the provisions of ORS 451 is the governing body of the District and shall be known as the District Board.
- 1.2 District Advisory Committee. The District Board shall organize and appoint a District Advisory Committee consisting of one nominee from each Library City consistent with the policies and procedures of Clackamas County and/or the District for advisory committees. The District Board shall appoint the individual nominated by the Library City governing body to fill the service area’s representative seat. The District Advisory Committee shall be responsible for meeting at least annually to consider: (i) the evaluation reports of participating libraries as submitted pursuant to Section 2.3, (ii) any proposed changes to this Agreement pursuant to the amendment process described in Section 3.3, and (iii) any impact of the annexation or withdrawal of territory from the District pursuant to Sections 3.4 and 3.5 hereof.

- 1.3 District Budget Committee. State law also requires that the District constitute a Budget Committee consisting of the members of the District Board and an equal number of citizens, who may be nominated pursuant to existing County budget committee procedures. The role and responsibilities of the Budget Committee shall be as set forth in the applicable statutes.
- 1.4 District Revenue. The District has a permanent tax rate of \$0.3974 per \$1,000 of assessed value, collected from all parcels of real property in the District.
- 1.5 Distribution of Revenue. Revenues generated by the District permanent rate, including delinquent taxes, are allocated, appropriated and expended pursuant to the budget adopted by the District Board. The District Board agrees to allocate, appropriate, and distribute the funds of the District pursuant to the formula as defined on Attachment A (the "Formula") for the service areas as shown on the maps included as Attachment B ("Service Area Maps"). The Formula may be reevaluated as necessary by the Parties to this Agreement. Any change to the Formula shall occur as an amendment to this Agreement.
- 1.6 Transition Payments. The parties hereto acknowledge and agree that the District shall distribute funds to Clackamas County for the operation of the Clackamas Corner and Oak Lodge Libraries pursuant to the alternative Service Area Maps described on Attachment B until such time as the City of Happy Valley and the City of Gladstone construct facilities sufficient to serve such area. During the term of such distributions, the Parties anticipate that the County libraries will be operated in a manner consistent with the Service Standards. Upon completion of such facilities, distributions shall be made based on the indicated Service Area Maps. To the extent the annual distribution of funds to Clackamas County is greater than the annual need to operate such libraries, the District shall retain such funds in trust for the Cities of Gladstone and/or Happy Valley, respectively, for distribution at such time as such City is constructing new library facilities.
- 1.7 Library Authority. Clackamas County operates public libraries pursuant to a board order creating public libraries for all Clackamas County residents dated July 9, 1938, as amended and updated pursuant to Board Order 85-1221 dated October 31, 1985. The District has received a delegation of such authority from Clackamas County to operate as a public library for the benefit of incorporated and unincorporated residents of Clackamas County pursuant to an Intergovernmental Agreement. To the extent necessary to insure the legal and effective functioning of the public libraries of Clackamas County but in no way intended to limit or otherwise restrict the powers or abilities of the City service providers to operate public libraries, the District hereby delegates such authority to operate public libraries for the benefit of incorporated and unincorporated residents of Clackamas County to each City service provider a party hereto or as may join this Agreement from time to time.

## **Section 2      Obligations of the Cities**

- 2.1 Use of Funds. The Library Cities will use District revenue to provide public library service, and shall expend the entire library revenue paid under this Agreement in accordance with the purpose for which it was provided by implementing a plan to achieve the Service Standards. For the purposes of this Agreement, “Service Standards” shall mean (i) the standards described on Attachment C, (ii) the provision of services to all District residents on the same terms, and (iii) the proper expenditure of funds as described in this Section 2.1. District funds may not be used to support general overhead or administrative costs of Cities except to the extent such overhead or administrative costs are directly related to the provision of library services and/or the operation of a public library. It is the intention of the parties to work cooperatively in helping each city make progress in meeting the Service Standards.
- 2.2 Library Management. Library Cities retain administrative control over the library and library services in its service population. Each such City is responsible for developing library services based on the needs of its service population and the available revenue. The Library Cities will cooperate with the District Advisory Committee to assist in the review of library services to District residents.
- 2.3 Cooperation and Reporting. Each Library City will cooperate to the maximum extent practicable with other participating Cities to form standardized rules, procedures, and programs that affect the District and the provision of library services in Clackamas County as a whole. Each Library City will provide the District with (i) copies of its annual report to the State of Oregon regarding the provision of library services, (ii) a report on its efforts to meet OLA Threshold Standards as defined on Attachment C, and (iii) any supplemental reports that the District through both the District Advisory Committee and the District Board may require.

## **Section 3      Term and Amendment**

- 3.1 Term. This Agreement shall commence on July 1, 2009 and continue until terminated as set forth herein.
- 3.2 Termination. This Agreement shall terminate upon the dissolution of the District.
- 3.3 Amendment. Except as specifically provided in Section 4.14, this Agreement may be amended at any time upon the agreement of the District and two-thirds of the Library Cities; *provided, however*, that any amendment that would amend that portion of the Formula providing for the return of one hundred percent (100%) of revenue collected within a City service provider’s boundaries to such City service provider shall require the unanimous consent of all Cities serving on the District Advisory Committee.

- 3.4 Changes in District Territory. The parties hereto recognize that during the term of this Agreement changes in the District territory may occur, such as (i) territory outside the District may annex into the District, (ii) territory currently in the District may withdraw by annexation into a non-participating City, or (iii) unincorporated territory currently in the District may annex into a participating City. The District shall inform the District Advisory Committee of any such changes, and the District Advisory Committee shall review the Service Area Maps and the Formula and recommend any amendments to this Agreement necessary to adjust for such changes.
- 3.5 Incorporation of a City within District Boundaries. Should an unincorporated area within the District choose to incorporate during the life of the District, the District Advisory Committee shall make a recommendation to the District Board of whether the newly-incorporated city qualifies as a service provider as such term is generally used in this Agreement, and if so to what extent the Formula should be adjusted to allow for a distribution to such new service provider. If the newly-incorporated city does not qualify as a service provider, the District Advisory Committee shall make a recommendation to the District Board regarding the impact, if any, of the new city on the provision of library services. Any proposed changes shall be addressed as an amendment to this Agreement.

#### **Section 4      General Provisions**

- 4.1 Indemnification. Each party shall release, defend, indemnify and/or hold harmless the other, its officers, commissioners, councilors, elected officials, employees, and agents, from and against all damages, claims, injuries, costs, or judgments that may in any manner arise as a result of the party's performance under this contract, subject to Oregon Tort claims limitations.
- 4.2 Governing Law. This Agreement shall be construed and governed in all respects in accordance with laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.
- 4.3 Savings. Should any portion of this Agreement or amendment there to be adjudged by a Court of appropriate final jurisdiction to be in violation of any local, state or federal law, then such portion or portions shall become null and void, and the balance of the Agreement shall remain in effect. All Parties shall immediately renegotiate any part of this Agreement found to be in such violation by the Court and to bring it into compliance with said laws.
- 4.4 Reasonable Attorney's Fees. In the event any action is brought to enforce, modify or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys fees and costs incurred in connection with such action or on appeal or review; said amount to be set by the court before which the matter is heard.

- 4.5 Notices. Formal notices, demands and communications between the Parties shall be deemed given three (3) business days after being sent by registered or certified mail, postage prepaid, return receipt requested to the principal offices of the party hereto, or upon confirmation of receipt via facsimile, electronic transmission, or hand delivery. Such written notices, demands and communication may be sent in the same manner to such other addresses and to such other persons and entities as either party may from time to time designate by mail as provided in this section.
- 4.6 No Personal Liability. No member, official, agent, or employee of the County, the District, or any City shall be personally liable to the other or any successor-in-interest thereto in the event of any default or breach by such entity.
- 4.7 No Agency. Neither anything in this Agreement nor any acts of the parties hereto shall be deemed or construed by the parties hereto, or any of them, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or of any association between any of the parties to this Agreement. No party or its employees is entitled to participate in a pension plan, insurance, bonus, or similar benefits provided by any other party.
- 4.8 Entire Agreement. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the parties or the predecessors in interest with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement must be in writing by the appropriate authorities of the party granting such waiver.
- 4.9 Further Action. The parties hereto shall, without additional consideration, acknowledge, execute, and deliver from time to time such further instruments as a requesting party may reasonably require to accomplish the purposes of this Agreement.
- 4.10 Non-Waiver of Rights. The failure of a party to insist on the strict performance of any provision of this Agreement or to exercise any right, power or remedy upon a breach of any provision of this Agreement shall not constitute a waiver of any provision of this Agreement or limit the party's right thereafter to enforce any provision or exercise any right.
- 4.11 Time is of the Essence. A material consideration of the parties entering into this Agreement is that the parties will perform all obligations under this Agreement in a timely manner. Time is of the essence as to each and every provision of this Agreement.
- 4.12 Restricted Assignment. No party hereto may assign its rights, responsibilities or obligations hereunder to another party, by operation of law or otherwise, without (i) seeking and receiving an amendment of this Agreement, (ii) having said party join this Agreement on the terms, conditions and covenants herewith, and (iii) with a demonstration that such new party has the capability and

durability to meet or exceed the levels of library service currently being provided by the party seeking to assign. The District Advisory Committee shall evaluate any request for assignment and make a recommendation to the District Board regarding the granting or denial of the same based on the above criteria, including the District Advisory Committee's determination of criteria (iii) above.

4.13 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and such counterparts shall constitute one and the same instrument.

4.14 Enforcement of Terms. The Parties hereto recognize that the District is relying on the good faith and commitments of the Library Cities to utilize the funding provided by the District in the promised manner. The Parties expect that to the extent there is any noncompliance or breach of this Agreement, the Parties will discuss such noncompliance or breach in the District Advisory Committee and encourage an effort towards compliance. If discussions and encouragement do not remedy the continued failure of a party to meet the Service Standards or other term of this Agreement, then the District Advisory Committee shall meet to consider an amendment to this Agreement to create incentives for compliance, including but not limited to withholding of District funds, reallocation of unincorporated residents to neighboring service areas, or other such actions as may be deemed appropriate. The Parties hereto agree that in an event of a material breach of this Agreement by one of the Parties, an amendment proposed to specifically address such breach shall require a two-thirds vote of the Library Cities, including but not limited to any amendment which would reduce the breaching City's 100% return on assessments within such City's boundaries, either via a Formula amendment or otherwise.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers or representatives as of the day and year first above written.

CLACKAMAS COUNTY BOARD OF COMMISSIONERS, AS THE GOVERNING BODY OF THE
LIBRARY DISTRICT OF CLACKAMAS COUNTY
By: _____
Title: <u>Chair</u> _____
ATTEST: _____

THE CITY OF BARLOW	THE CITY OF CANBY
By: _____ Title: _____	By: _____ Title: _____
ATTEST: _____	ATTEST: _____

THE CITY OF ESTACADA	THE CITY OF GLADSTONE
By: _____ Title: _____	By: _____ Title: _____
ATTEST: _____	ATTEST: _____

THE CITY OF HAPPY VALLEY	THE CITY OF LAKE OSWEGO
By: _____ Title: _____	By: _____ Title: _____
ATTEST: _____	ATTEST: _____

THE CITY OF MILWAUKIE	THE CITY OF MOLALLA
By: _____ Title: _____	By: _____ Title: _____
ATTEST: _____	ATTEST: _____

THE CITY OF OREGON CITY	THE CITY OF RIVERGROVE
By: _____ Title: _____	By: _____ Title: _____
ATTEST: _____	ATTEST: _____

THE CITY OF SANDY	THE CITY OF WEST LINN
By: _____ Title: _____	By: _____ Title: _____
ATTEST: _____	ATTEST: _____

THE CITY OF WILSONVILLE	
By: _____ Title: _____	
ATTEST: _____	

## Attachment A

1. For the purposes of this Agreement, the “Formula” shall be calculated consistent with the following concepts:

a. The District rate is \$0.3974 per \$1000 of assessed value.

b. Each year the District will receive the amount collected for the year plus delinquent taxes recovered from the previous year. The District will distribute funds when received using the formula described below and shown in the example.

2. The Formula has two components:

a. City Assessed Value Component: The annual distribution to a Library City for properties within its boundaries shall equal the assessed value of such Library City’s properties, as established annually by the Clackamas County Assessor, divided by the total assessed value of all properties in the District. This determines the Assessed Value Percentage Rate for each Library City. Each Library City will receive funds equal to the Assessed Value fund amount multiplied by its individual Assessed Value Percentage Rate.

b. Unincorporated Population Served Component: After calculation of each Library City’s Assessed Value fund amount, the District shall calculate the remaining funds to be distributed (the “Remainder Amount”) and distribute those funds based on the Unincorporated Population Served Percentage Rate based on the Service Area Maps attached to this Agreement as Attachment B. The term “Unincorporated Population” will also include residents of those cities that do not provide library services.

The Unincorporated Population Served Percentage Rate is determined by the number of unincorporated residents served by each City as allocated on the Service Area Maps divided by the total number of unincorporated residents within the District. Each Library City will receive funds equal to the Remainder Amount multiplied by its individual Unincorporated Service Area Percentage Rate.

3. Prior year recovered delinquencies and interest earned: Recovered delinquent taxes combined with any interest earned will be distributed to Library Cities based on the distribution percentage allocations calculated in the previous tax year.

Below are examples of the distribution of funds based on 2008 assessed values and population figures. The spreadsheet assumes the new Gladstone/Oak Lodge and Happy Valley libraries have not yet been constructed.

## Library District Distribution Formula

<i>Assessed Value 2008</i>		
Total County Assessed Value (AV)	\$32,936,836,893	100%
Less: Non-Participating City AV	\$(1,239,770,249)	-4%
Equals: Total Library District AV	\$31,697,066,644	96%
Participating Cities:	Assessed Value	
Canby	\$999,941,295	6%
Estacada	\$179,662,976	1%
Gladstone	\$635,886,719	4%
Happy Valley	\$1,508,430,197	9%
Lake Oswego	\$4,756,391,295	28%
Milwaukie	\$1,467,817,328	9%
Molalla	\$409,821,923	2%
Oregon City	\$2,002,572,357	12%
Sandy	\$551,473,814	3%
West Linn	\$2,655,549,376	16%
Wilsonville	\$1,652,437,025	10%
Total Participating Cities AV	\$16,819,984,305	100%
Total Library District AV	\$31,697,066,644	100%
Less: Participating Cities AV	\$(16,819,984,305)	-53%
Equals: Unincorporated AV in District	\$14,877,082,339	47%

<i>Unincorporated Population Served 2008</i>		
Canby	10,221	6%
Estacada	16,802	9%
Gladstone	8,506	5%
Happy Valley (Town Center)	32,373	18%
Lake Oswego	3,305	2%
Milwaukie	10,756	6%
Molalla	15,001	8%
Oregon City	28,015	15%
Sandy	22,236	12%
West Linn	5,691	3%
Wilsonville	3,421	2%
Oak Lodge	28,036	15%
	184,363	100%

<i>Example Distribution Calculation</i> <i>Assuming \$12 million in tax receipts</i>		
<b>Total District Tax Receipts</b>		
Total Tax Collected	\$12,000,000	100%
City Assessed Value	\$6,367,776	53%
Unincorporated Population Served	\$5,632,224	47%

<b>City Distribution of Receipts</b>				
	<i>Assessed Value</i>	<i>Pop Served</i>	<i>Total</i>	
			\$	%
Canby	\$378,562	\$312,248	\$690,810	6%
Estacada	\$68,018	\$513,295	\$581,313	5%
Gladstone	\$240,736	\$259,855	\$500,592	4%
Happy Valley (Town Center)	\$571,067	\$988,984	\$1,560,051	13%
Lake Oswego	\$1,800,693	\$100,967	\$1,901,660	16%
Milwaukie	\$555,692	\$328,592	\$884,284	7%
Molalla	\$155,152	\$458,275	\$613,427	5%
Oregon City	\$758,142	\$855,848	\$1,613,990	13%
Sandy	\$208,779	\$679,302	\$888,081	7%
West Linn	\$1,005,348	\$173,858	\$1,179,206	10%
Wilsonville	\$625,586	\$104,510	\$730,096	6%
Oak Lodge	\$-	\$856,490	\$856,490	7%
	<b>\$6,367,776</b>	<b>\$5,632,224</b>	<b>\$12,000,000</b>	<b>100%</b>

## **Attachment B**

Service population maps are included as Attachment B.

1. The maps divide Clackamas County into library service areas. These areas are based on distance, roads, rivers, travel patterns, etc. and are intended to define where people are most likely to receive library service, and to give a Library City the ability to meet the library threshold standards in Attachment C. Each Library City's service area has been constructed by assigning Census tracts into library service areas. Based on census data compiled every 10 years, the population in each census tract will be verified and then the total unincorporated population within each service area will be used to calculate the Formula.
  
2. For the continuation of library service to the citizens in the Oak Lodge and Clackamas Corner areas, the service area boundaries and population served totals will not change until the new Happy Valley Library is open and the new Gladstone/Oak Lodge Library is open. As each new facility is opened to the public, the service population will be adjusted to the new agreed-upon boundaries found in this Attachment. The population service area changes and resulting increase in payments for unincorporated population served will take place in the fiscal year following the library opening.

**[See attached maps]**

**Attachment C**  
Service Standards

The Parties agree that all library service providers shall strive to meet OLA Threshold Standards, with a particular emphasis on:

**STAFFING:** Provide qualified staff employed by the library as outlined in the table below:

<b>Population Served</b>	<b>Threshold Staffing Level</b>
0 - 2,499	0.5 FTE, with high school diploma
2,500 - 4,999	0.35 FTE/1,000 served. Director has B.A.
5,000 - 9,999	0.35 FTE/1,000 served. Director has B.A.
10,000 - 24,999	0.35 FTE/1,000 served. Director has MLS.
25,000 - 49,999	0.35 FTE/1,000 served. Director has MLS. 1/5 of staff has MLS.
50,000 - 499,999	0.33 FTE/1,000 served. Director has MLS. 1/5 of staff has MLS.

**MATERIALS:** Provide the number of volumes in the library's total collection as spelled out in the table below:

<b>Population served</b>	<b>Threshold Materials</b>
<b>0 - 49,999</b>	Material collection of 5,000 items or two items per capita, whichever is greater.
<b>50,000+</b>	Material collection of two items per capita.

**ACCESS:** Provide and post open hours which fit the community's need, including evening and weekend hours, and provide the minimum standards listed in the table below:

<b>Population served</b>	<b>Threshold</b>
<b>0 - 4,999</b>	20 hours
<b>5,000 - 9,999</b>	30 hours
<b>10,000 - 24,999</b>	40 hours
<b>25,000 +</b>	50 hours

NOTE: Total staffing levels and material volumes may be constrained by current facility size limitations. The Parties understand and agree that a strategic plan that recognizes such size limitations and adjusts staff and material goals accordingly is an acceptable implementation of this standard.



**OFFICE OF COUNTY COUNSEL**

**PUBLIC SERVICES BUILDING**  
 2051 KAEN ROAD OREGON CITY, OR 97045

October 12, 2017

Board of County Commissioners  
 Clackamas County

Members of the Board:

Approval of Settlement Agreement in the case  
City of Gladstone v. Clackamas County

**Stephen L. Madkour**  
 County Counsel  
  
**Kathleen Rastetter**  
**Chris Storey**  
**Scott C. Ciecko**  
**Alexander Gordon**  
**Amanda Keller**  
**Nathan K. Boderman**  
**Christina Thacker**  
**Shawn Lillegren**  
**Jeffrey D. Munns**  
 Assistants

<b>Purpose/Outcomes</b>	Agree to settlement terms in breach of contract lawsuit filed by the City of Gladstone.
<b>Dollar Amount and Fiscal Impact</b>	Potentially upwards to \$360,000
<b>Funding Source</b>	County General Fund
<b>Duration</b>	Settlement would be effective when signed by the parties but some terms of settlement agreement would be indefinite.
<b>Previous Board Action</b>	The Board has met on numerous occasions in executive session to discuss pending litigation.
<b>Strategic Plan Alignment</b>	<ul style="list-style-type: none"> <li>• Build public trust through good government</li> <li>• Grow a vibrant economy</li> <li>• Build a strong infrastructure</li> <li>• Ensure safe, healthy and secure communities</li> </ul>
<b>Contact Person</b>	Stephen L. Madkour, County Counsel

**BACKGROUND:**

In August 2016, the City of Gladstone filed suit against Clackamas County. The nature of the suit was a claim of breach of contract stemming from an Intergovernmental Agreement (IGA) between the parties for the construction of a library within the City of Gladstone.

Over the course of the litigation, the parties attempted to resolve the case through the mediation process. Although that process initially was not successful, it did provide the parties with a forum to continue settlement discussions.

The settlement agreement under consideration contemplates a two-library solution, with the main library of approximately 19,000 square feet to be located in the unincorporated Oak Grove area and a smaller 6,000 square foot library located on Portland Avenue in the City of Gladstone. Both libraries will be managed and operated by Clackamas County. The two-library solution would require voter approval by the voters of the City of Gladstone. Once the settlement agreement is approved by both entities, the City would dismiss the lawsuit.

**RECOMMENDATION:**

The Office of County Counsel and Department of Business and Community Services recommends that the Board of County Commissioners approve the terms of settlement of the case *City of Gladstone v. Clackamas County* as set forth in the settlement agreement.

Respectfully submitted,

Stephen L. Madkour  
County Counsel

cc: Settlement Agreement

**SETTLEMENT AGREEMENT**

**THIS SETTLEMENT AGREEMENT** ("Agreement") is made by and between the City of Gladstone ("City") and Clackamas County ("County"). The Effective Date of this Agreement is the date upon which the last signature is obtained between the parties.

**RECITALS**

**WHEREAS**, in November 2008, voters in Clackamas County authorized the formation of the Library District of Clackamas County ("Library District") to provide stable funding for library services throughout Clackamas County by collecting District-wide property taxes and distributing those funds directly to library service providers;

**WHEREAS**, in August 2009, Library District entered into an intergovernmental agreement to distribute Library District tax revenue to library service providers ("Master IGA"), including the City;

**WHEREAS**, as part of the preparatory process for the formation of the Library District, County proposed a one-time contribution from the County general fund to each city providing library services in the Library District;

**WHEREAS**, in April 2011, the City and County entered into an intergovernmental agreement in which the County agreed to provide the City with a \$2.5 million capital contribution ("Capital IGA"); both the Master IGA and the Capital IGA contemplate the City constructing one new library to provide library services to City residents and residents of unincorporated Oak Lodge;

**WHEREAS**, soon thereafter, the County distributed the \$2.5 million to the City to fund a new library on Webster Road ("Webster Road Library");

**WHEREAS**, in April 2012, City electors approved two new charter provisions that require the Gladstone City Council to submit to the electors for approval any capital project that requires a bond or any project of more than \$1 million, thus requiring the Gladstone City Council to submit the plan for the Webster Road Library to the City's electorate;

**WHEREAS**, in November 2012, the City's electors rejected the Webster Road Library project and, pursuant to the County's request, City returned the \$2.5 million capital contribution to the County, less \$1 million the City previously spent developing the Webster Road Library;

**WHEREAS**, the parties agreed County would hold the remaining \$1.5 million ("Capital Contribution") in trust for the City while the City developed an alternative plan for library services for City and Oak Lodge residents;

**WHEREAS**, between November 2012 and June 2014, City and County discussed alternatives for the proposed library;

**WHEREAS**, in November 2014, City electors approved Ballot Measure 3-446 ("BM 3-446"), which authorized the construction of a 13,000 to 16,000 square foot library to be located on Portland Avenue in Gladstone between Gladstone High School and the Clackamas River;

**WHEREAS**, BM 3-446 included a prohibition against using “City/urban renewal funds” to “construct/operate” the new library;

**WHEREAS**, in February 2016, City submitted a capital plan to County and requested the County distribute the remaining \$1.5 million;

**WHEREAS**, in March 2016, County responded by asserting City’s capital plan was insufficient under the Capital IGA and providing City notice of its intent to terminate the Capital IGA in September 2016;

**WHEREAS**, in June 2016, City submitted to County a supplemental capital plan and again requested County distribute the remaining funds;

**WHEREAS**, in August 2016, County again refused to distribute the funds; and

**WHEREAS**, on August 22, 2016, City filed a breach of contract complaint against County in Clackamas County Circuit Court; County answered the complaint in September 2016 with affirmative defenses and a breach of contract counterclaim (Case No. 16CV27287, “Lawsuit”); and

**WHEREAS**, the Clackamas County Circuit Court set the case for trial on September 5, 2017;

**WHEREAS**, on June 20, 2017, the parties jointly requested a stay of further proceedings and discovery in the Lawsuit to commence settlement discussions;

**WHEREAS**, during this time, elected and administrative officials from both parties met to discuss possible solutions for library services in the Gladstone/Oak Lodge service area;

**WHEREAS**, in August 2017, the parties discussed two “Concept Options” for consideration;

**WHEREAS**, this Agreement contemplates implementing Concept Option A (defined below) in a manner that is equitable and beneficial for members of both the Gladstone and Oak Lodge library service areas such that citizens will receive the Threshold level of service called for in the Master IGA;

**WHEREAS**, proceeding with this Agreement is intended to provide a clear framework for a two library solution for both the Gladstone and Oak Lodge communities while providing robust and meaningful opportunities for public engagement and input both in the implementation of Concept Option A and the operation of both libraries contemplated thereunder going forward; and

**WHEREAS**, the parties now agree that it is in their best interest to settle the Lawsuit and work together to find a library solution in accordance with the terms of this Agreement.

**NOW, THEREFORE**, the City and County agree as follows:

**1. Dismissal of Lawsuit.**

1.1. In consideration of the promises and obligations of this Agreement, including the parties’ good faith obligation to implement Concept Option A (defined in Section 2.1 below), City will dismiss the Lawsuit within ten (10) days of its Effective Date with prejudice, without an award to any party, and with the parties bearing their own costs, expenses, disbursements and attorneys’ fees.

**2. Concept Option A.**

2.1. City and County commit to pursuing and implementing "Concept Option A" as described in this section and in Exhibit A, attached and incorporated into this Agreement. For purposes of clarity, the parties agree that Concept Option A contemplates that two new libraries will be constructed. The first would be in the City as more fully described in Section 2.2.3. The second will be located in unincorporated Clackamas County within the Oak Lodge library service area with a specific site to be determined after appropriate public input pursuant to Section 3.3. Both libraries will be jointly operated by Clackamas County in a collective manner to realize efficiencies and best provide library services to their collective patrons. Revenues distributed from the Library District for both the Gladstone and Oak Lodge service areas, including prior reserves, may be used to implement Concept Option A upon successful completion of the City obligations outlined in Section 2.2 and County obligations outlined in Section 2.3. Going forward, revenue generated by the Library District for both service areas will be distributed to Clackamas County and combined with the City contribution under Section 2.2.1 for the express purpose of supporting Concept Option A and the operation of the two library facilities for the benefit of their patrons.

**2.2. City Obligations:**

- 2.2.1. City Measure. City will submit a measure to its electors for the May 2018 primary election to authorize a roughly 6,000 square foot library located in Gladstone ("City Measure"). The measure will also specify that City will contribute approximately \$200,000 per fiscal year of general fund revenue, with increases indexed to the annual rate of increase of the City's property tax revenue, to fund operating costs of Concept Option A.
- 2.2.2. Amendments. City agrees to effectuate and support any amendments to the Capital IGA, the Master IGA, or the Master Order necessary to accomplish Concept Option A.
- 2.2.3. City Property. City acknowledges that one of the key premises of Concept Option A is that land currently owned by the City (the "City Parcel") will be made available as a location to construct a new 6,000 square foot library in the City. The City Parcel is the current location of Gladstone city hall, which will be made available after relocation of said city hall. The City agrees to make the City Parcel or, in its sole discretion, a similarly sized and located parcel of land available to the County for construction of the planned library at a rate of \$1 per year leasehold interest for a period at least as long as any debt associated with implementation of Concept Option A.

**2.3. County Obligations:**

- 2.3.1. Amendments. County agrees to effectuate and support any amendments to the Master Order, Capital IGA and the Master IGA necessary to accomplish Concept Option A.
- 2.3.2. County Measure. If an election is required to effectuate any amendments to the Master Order, Capital IGA or the Master IGA, the County will submit a measure to voters ("County Measure") for the May 2018 election.
- 2.3.3. No Other Entities. The City and County acknowledge that they are the only parties to this Agreement, and that they are not committing on behalf of any other entities with respect to the subject matter hereof. Specifically, the County is not committing to any particular course of action on behalf of North Clackamas Parks and Recreation District, for which it serves as the governing body, by agreeing to Concept Option A specifically or this Agreement generally.

**3. Timeframes.**

- 3.1. Measures. Both parties agree to submit any necessary measure to the County Election Official no later than the final submission date for local governments to file the ballot title with the County Election Official for the May 2018 election.
- 3.2. Amendments. Both parties agree that any necessary amendments to the Master Order, Capital IGA and the Master IGA will occur no later than six (6) months after the County Elections Office certifies the elections results for the May 2018 election.
- 3.3 Public Involvement.
  - 3.3.1. The parties acknowledge that Concept Option A is a general strategy that has many details to be determined. The parties commit to a robust and transparent public engagement process to allow input on such details, including but not limited to location of the two libraries, size, level of services anticipated, and other issues and amenities as may be of interest to the public. This involvement will specifically include the Oak Lodge Board of Trustees, the Gladstone Library Board, and the Library District Advisory Board, whom each shall have the specific opportunity to provide input on the implementation of Concept Option A and, if desired, enhanced delivery through some degree of additional funding as suggested under Concept Option B. The parties agree to share such public input with each other in coordinating the delivery of the best possible library services to the citizens in the Oak Lodge/Gladstone service areas.
  - 3.3.2. With respect to City, the location and size of the library may only deviate from the location and size described in Section 2.2.3 of this Agreement if the City, in its sole discretion, provides to County a parcel of land similar in size and location to the City Parcel and decides, in its sole discretion, to allow a library facility in the City to be less than 6000 square feet.

**4. Contingencies.**

- 4.1. Failure to Submit County Measure. If County fails to submit County Measure, or fails to use the appropriate procedure to submit County Measure, to the electors within the timeframe specified above, County will pay City a lump sum of three hundred sixty thousand dollars and no cents (\$360,000.00) by March 31, 2018 for the City to use for library purposes.
- 4.2. County Measure Fails. If County Measure fails, County will pay City a lump sum of three hundred sixty thousand dollars and no cents (\$360,000.00) within thirty (30) days of the County Election's Official certifying the election results for the City to use for library purposes.
- 4.3. Failure to Submit City Measure or City Measure Fails. If City fails to submit City Measure to the electors within the timeframe specified above or if City Measure fails, City is not entitled to any lump sum payment from County; however, City's current service population, including the residents in the unincorporated area currently within City's service population, will continued to be served by City and City will continue to receive District revenue as specified in the Master IGA.
- 4.4. Master IGA. If County Measure is approved and County determines the Master IGA must be amended to effectuate Concept Option A and the parties to the Master IGA fail to amend it within six (6) months of County Elections Office certifying the election results, County will pay City a lump sum of three hundred sixty thousand dollars and no cents (\$360,000.00) for the City to use for library purposes within thirty (30) days of a written demand from City.

**5. Capital Contribution.**

- 5.1. In Trust. County agrees to continue holding the Capital Contribution in trust until such time as County uses the funds to effectuate Concept Option A. However, if any contingency under Section 4 of this Agreement occurs and triggers an obligation for the County to pay City, the County will pay the City three hundred sixty thousand dollars and no cents (\$360,000.00) as

described in Section 4 above. Full implementation of Concept Option A, an expanded service plan including a variation as described in Section 5.2 below, City's non-performance under Section 4.3, or payment to the City of three hundred sixty thousand dollars and no cents (\$360,000.00) as required by any of Sections 4.1, 4.2, or 4.4 above shall be considered satisfaction of the terms of this Agreement and further will remove the restrictions on funds pursuant to this Section 5.1.

5.2 Additional Capital. The parties agree that nothing in this Agreement shall be understood or interpreted to prevent or restrict either party from choosing to enhance either of the two capital facilities anticipated under Concept Option A, up to and including the proposal or inclusion of capital dollars from or through additional service districts and/or general obligation bonds such as discussed under Concept Option B or otherwise, such as a local improvement district. To the extent there are additional capital contributions to either the City library facility or the unincorporated area library facility, such contributions shall not result in a reduction of or substitute for funds allocated under Concept Option A but rather be supplemental thereto. Capital contributions in addition to the amounts described in Concept Option A are the sole responsibility of the party seeking additional capital contributions.

**6. Release of Claims.**

6.1. Conditioned on the full satisfaction of the City's and County's obligations under this Agreement, each party releases the other from any and all claims it might otherwise have against the other relative to the Master IGA, Capital IGA or the Capital Contribution including, without limitation, any and all claims for principal, interest, fines, penalties, delinquency charges, or other amounts due.

**7. General Provisions.**

7.1. No Third-Party Rights. There are no third-party beneficiaries of this Agreement and nothing in this Agreement is intended to offer or confer any rights or remedies under or by reason of this Agreement on any person(s) other than the parties to it.

7.2. Entire Agreement. This Agreement constitutes the entire agreement and understanding concerning the subject matter hereof between the parties, and supersedes and replaces all prior communications, negotiations, representations, proposed agreements and agreements, whether written or oral.

7.3. Authority. Each party executing this Agreement represents and warrants that (a) it has obtained all necessary consents and approvals prior to its execution; and (b) that it has not assigned or transferred, or purported to assign or transfer, to any other person or entity any of the rights or obligations contained within this Agreement.

7.4. Successors. The terms of this Agreement are binding upon and inure to the benefit of the parties and the past and present agents, servants, officers, directors, employees, trustees, representatives, shareholders, parent and subsidiary corporations, successors, heirs, administrators, insurers, and assigns of each.

7.5. Severability. If any provision of this Agreement is deemed unlawful or unenforceable, such provision is fully severable, and the remainder of this Agreement remains in full force and effect.

7.6. Modifications and Amendments. This Agreement may not be altered, modified, or amended without the approval of each party's governing body and the express written consent of both parties.

7.7. No Waiver. Any failure by any party to enforce any provision of this Agreement, or to require at any time performance by the other party of any of the provisions hereof during the pendency of this Agreement, will in no way affect the validity of this Agreement, nor any part

hereof, and will not be deemed a waiver of the rights of any party hereinafter to enforce any and each such provision.

- 7.8. Photocopies Effective As Original. The executing parties agree that a photocopy, facsimile copy, or other signed copy of this Agreement is as effective as the original.
- 7.9. Counterparts. This Agreement may be signed in counterparts with the same force and effect as if all signatures were collected on the same original.
- 7.10. Costs and Expenses. Each party agrees to bear its own costs, expenses and attorney's fees relating to the Lawsuit.
- 7.11. Further Assurances. The parties agree to cooperate fully and execute any further documents, and take any further actions, as may be reasonable and necessary in order to carry out the purpose and intent of this Agreement.
- 7.12. Headings and Titles. Section headings and titles are organizational aids, and, as such, may not be used to interpret this Agreement or the language of any of the provisions herein to the extent that they contradict any of the more specific provisions of the paragraphs herein.
- 7.13. Construction. This Agreement will not be construed against its drafter, but rather will be construed as if both parties drafted it.

***[SIGNATURES ON FOLLOWING PAGE]***

DRAFT v4

**SIGNED:**

**FOR CLACKAMAS COUNTY**

Dated \_\_\_\_\_, 2017

By: \_\_\_\_\_  
Jim Bernard, Chair

**FOR CITY OF GLADSTONE**

Dated: \_\_\_\_\_, 2017

By: \_\_\_\_\_  
Tamara Stempel, Mayor

Attachment – Concept Options A & B

<b>CONCEPT OPTION A - JOINT GLADSTONE/OAK LODGE LIBRARY OPERATION</b> <b>(one service area with uniform services) – debt paid from operating cash and use of \$3.5 reserves</b>		
	<b>Oak Lodge</b>	<b>Gladstone</b>
Population	38,998	11,505
Building Square Feet (.5 per capita)	19,500	6,000 (rounded up)
Estimated Building Cost @ \$300/Square Foot	\$5.9 Million	\$1.8 Million
Estimated Annual Debt – \$4.2 Million Bond Issuance	\$310,000 20 year bond (to be paid from operating revenue) 3.5% Interest Rate	
Revenue Bond Rate	No impact to citizens (debt paid from operating cash)	
Annual Operating Revenue –	\$1,281,502 – Oak Lodge \$700,159 – Gladstone <u>\$200,000</u> – Gladstone General Fund	
Per Capita <b>before debt</b> = \$43.20	<b>\$2,181,661</b>	
Per Capita <b>after debt</b> = \$37.06	(\$310,000) – Annual Debt <b>\$1,871,661</b> Operating Revenue for both facilities	

Assumptions:

- Build two new Libraries
  - Gladstone
  - Oak Lodge
- **Change Master Order - \$3.5 Million Reserve to be used for capital construction**
- **\$4.2 Revenue Bond** – capital construction
- No change in service boundary
- IGA for County to manage operations of both facilities
  - More efficient operations; staff sharing; economies of scale
  - Need to forecast operating costs of jointly running both libraries
  - Gladstone employees to become County employees?
- Joint construction of both buildings
  - IGA for construction/ownership/citizen involvement
  - Use of same contractor
  - Use of same Design/Landscape Architect firm
- Communication Plan/PGA to assist
  - Citizens
  - OL Library Advisory Group
  - Gladstone Advisory Group
- Gladstone – Measure to repeal current GF restrictions

**CONCEPT OPTION B- JOINT GLADSTONE/OAK LODGE LIBRARY OPERATION**  
**(one service area with uniform services) – debt paid via GO Bond & Capital District Formation**

	Oak Lodge	Gladstone
Population	38,998	11,505
Building Square Feet (.5 per capita)	19,500	6,000 (rounded up)
Estimated Building Cost @ \$300/Square Foot	\$5.9 Million	\$1.8 Million
Estimated Annual Debt – <b>\$6.7 Million GO Bond Issuance</b>	\$500,000 20 year bond 3.5% Interest Rate	
GO Bond Rate	.13 cents per \$1,000 AV (\$39 per year for house with AV of \$300,000)	
Annual Operating Revenue –	\$1,281,502 – Oak Lodge \$700,159 – Gladstone \$200,000 – Gladstone General Fund	
Per Capita <b>before debt = \$43.20</b>	<b>\$2,181,661 = Annual Operating Revenue</b>	

Assumptions:

- **Create Capital District** to construct two new facilities
  - Gladstone
  - Oak Lodge
- PGA to manage **joint County/Gladstone Campaign** to create new Capital District
  - Uniform rate/8/10/2017 11:18 AM County Counsel to assist with legal requirements
- **County to issue GO Bond** and manage payment of debt
  - **\$6.7 GO Bond** – capital construction
  - **GO Rate estimate at .13** per thousand of AV
  - **\$39 per year** for house with AV of \$300,000
- Joint construction of both buildings
  - IGA for construction/ownership/citizen involvement
  - Use of same Contractor/Design/Landscape Architect firm
- **No change to Master Order** – use \$1 Million for capital
- No change in service boundary
- IGA for County to manage operations of both facilities
  - More efficient operations; staff sharing; economies of scale
  - Need to forecast operating costs of jointly running both libraries
  - Gladstone employees to become County employees?
- Communication Plan/PGA to assist
  - Citizens/OL Library Advisory Group/Gladstone Advisory Group
- Gladstone – Measure to repeal current GF restrictions

**Amendment No. 1 to Settlement Agreement**

**Between**

**Clackamas County and**

**The City of Gladstone**

**THIS AMENDMENT NO. 1 TO THE SETTLEMENT AGREEMENT** ("Amendment") is made by and between the City of Gladstone ("City") and Clackamas County ("County"). The Effective Date of this Agreement is the date upon which the last signature is obtained between the parties.

WHEREAS, the City and County entered into that certain Settlement Agreement dated October 16<sup>th</sup>, 2017 (the "Agreement") resolving certain disputed matters; and

WHEREAS, the County has requested additional time to accomplish certain required actions in the Agreement for the benefit of both parties, and the City has expressed a willingness to do so; and

WHEREAS, this Amendment effectuates the proposed changes;

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. The Agreement's Sections 2.3.2, 3.1, 3.2, 4.1 and 4.4 are hereby amended and restated to read in their entirety:
  - 2.3.2. County Measure. If an election is required to effectuate any amendments to the Master Order, Capital IGA or the Master IGA, the County will submit a measure to voters ("County Measure") for the November 2018 election.
  - 3.1. Measures. City shall file any necessary measure to the County Election Official no later than the final submission date for local governments to file the ballot title with the County Election Official for the May 2018 election. County shall file any necessary measure to the County Election Official no later than the final submission date for local governments to file the ballot title with the County Election Official for the November 2018 election.
  - 3.2. Amendments. Both parties agree that any necessary amendments to the Master Order, Capital IGA and the Master IGA will occur no later than December 31, 2018.
  - 4.1. Failure to Submit County Measure. If County fails to submit County Measure, or fails to use the appropriate procedure to submit County Measure, to the electors within the timeframe specified above, County will pay City a lump sum of three hundred sixty thousand dollars and no cents (\$360,000.00) by October 31, 2018 for the City to use for library purposes.
  - 4.4. Master IGA. If the Master IGA must be amended to effectuate Concept Option A and the parties to the Master IGA fail to amend it by December 31, 2018, County will pay City a lump sum of three hundred sixty thousand dollars and no cents (\$360,000.00) for the City to use for library purposes within thirty (30) days of a written demand from City.

2. Except as set forth herein, the Agreement is affirmed and ratified.

**SIGNED:**

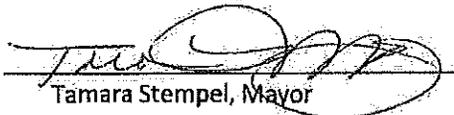
**FOR CLACKAMAS COUNTY**

Dated February \_\_, 2018

By: \_\_\_\_\_  
Jim Bernard, Chair

**FOR CITY OF GLADSTONE**

Dated: February 27<sup>th</sup>, 2018

By:   
Tamara Stempel, Mayor

**Agenda Bill 2018-09-10-05**

Date: August 30, 2018

To: Russ Axelrod, Mayor  
Members, West Linn City Council

From: Ken Worcester, Parks and Recreation Director *KW*

Through: Eileen Stein, City Manager *ES*

Subject: Fields Bridge Park Shelters Contract Award

---

**Purpose:**

The Parks and Recreation has advertised for, and received competitive bids to construct the park shelters and interpretive plaza in Fields Bridge Park.

**Question(s) for Council:**

Shall the City move forward with this project?

**Public Hearing Required:**

None required.

**Background & Discussion:**

The Parks and Recreation Department is continuing efforts to circle back and complete the approved development plans for various parks. In the case of Fields Bridge Park, the shelters and one more pathway remain to be built. The area designated for one of the shelters and interpretive plaza was left as staff negotiated through the State Historic Preservation Office mitigation process and removed an old house on the property.

While all of the bids came in higher than the proposed budget of \$300,000 identified in the current Capital Improvement Program, staff has discussed with the apparent low bidder (3Kings Environmental Inc. of Battleground, WA) regarding the potential of identifying some areas where “value engineering” can take place e.g. reducing the sizes, eliminating a shelter etc. to bring the project cost down. The contractor is agreeable to working with the City to meet that goal.

**Budget Impact:**

This project is funded through the Park SDC Fund. The final cost estimate may be reduced closer to \$300,000 to \$325,000 by engaging in “value engineering” with the apparent low bidder. At a maximum, the project cost will be \$397,000, the full bid price.

**Sustainability Impact:**

The materials for this project are locally sourced and the shelters are designed for both a longer useful life span and easy replacement of the main supports should it be required years down the road.

**Council Options:**

There are four identified options for the Council to consider;

1. Award the contract at full bid price.
2. Award the contract and authorize staff to negotiate to the “value engineered price”.
3. Reject all bids and re-design to a less expensive and probably a shorter lived style of shelter.
4. Reject all bids and cancel the current project and re-negotiate with SHPO for the bare minimum mitigation for the house removal.

**Staff Recommendation:**

Staff recommends awarding the contract at either the full bid or a value engineered price.

**Potential Motion:**

“Acting as the Local Contract Review Board, I move we authorize the City Manager to enter into a contract with 3Kings Environmental Inc. of Battleground, Washington for the Fields Bridge Park Shelters Project at the full bid price of \$397,000”.

“Acting as the Local Contract Review Board, I move we authorize the City Manager to enter into a contract with 3Kings Environmental Inc. of Battleground, Washington for the Fields Bridge Park Shelters Project for a value engineered price of up to \$325,000”.

**Attachments:**

1. Bid Re-cap.

<b>BID RESULTS</b>						
Owner:	City of West Linn					
Project Name:	Fields Bridge Park Shelters					
Project No.	JP 1601					
Bid Opening Date:	08/28/18					
Bid Opening Time:	2:00pm					
<i>Proposed Budget \$300,000</i>						
Name of Bidder	Pre-qualification	Bid Bond	Addenda Acknowledged	Prevailing Wage Statement	Subcontractor List	Project Total
3Kings Environmental Inc.	X	X	X	X	X	\$397,000
PCR Inc.	X	X	X	X	X	\$489,000
Tapani Inc.	X	X	X	X	X	\$446,900
2KG Contractors Inc.	X	X	X	X	X	\$406,063