

RESOLUTION NO. CCCXXIX (329)

A RESOLUTION AUTHORIZING SETTLEMENT AND RELEASE OF ALL CLAIMS BY THE CITY OF CANBY AGAINST WESTINGHOUSE ELECTRIC CORPORATION.

RECITALS:

I.

In June of 1977, the City of Canby, together with the Canby Union High School District No. 1, the Canby Kiwanis Club, and the Canby Baseball Commission, purchased certain lamps and mounting brackets for said lamps in order to illuminate an athletic field in Canby.

II.

The brackets which were supplied by Westinghouse bent and broke from the weight of the lamp fixtures and some of the lamp fixtures fell to the ground. The Canby Union High School District No. 1 incurred the expense required in the immediate removal and replacement of the brackets and advanced the costs for the benefit of all participants in the field lighting project.

III.

The City of Canby together with other purchasers filed a Complaint against Westinghouse on June 3, 1981, to recover the expenses incurred in replacing the brackets.

IV.

The Westinghouse Electric Corporation, in its Answer to the Complaint, for the expenses incurred in remedying the bracket and lighting fixtures situation denied any liability. Westinghouse contends that the brackets were improperly mounted by the purchasers resulting in too much stress on the brackets, which then caused the brackets to give way to the weight of the lamp fixtures.

V.

For the full settlement and compromise of the claim, the City of Canby agrees that the sum of \$6,000 is an acceptable amount to settle the claim.

NOW, THEREFORE, THE CITY OF CANBY HEREBY RESOLVES THAT:

1) The City of Canby authorizes the settlement of the claim against the Westinghouse Electric Corporation for the sum of \$6,000 to be paid by Westinghouse Electric Corporation to the Canby Union High School District No. 1, the Canby Kiwanis Club, the City of Canby and the Canby Baseball Commission.

2) The City of Canby, in settling this matter for the sum of \$6,000, by and through its Mayor Robert A. Swayze, shall execute a Release of All Claims thereby discharging Westinghouse Electric Corporation for any and all liability in connection with all claims relating to lights and lighting brackets for the Canby athletic field in Canby, Oregon.

3) The City of Canby further authorizes its attorney, Wade P. Bettis, to execute a stipulated order of dismissal of the claim against Westinghouse Electric Corporation.

4) This settlement is to be paid to and retained by Canby Union High School District No. 1.

ADOPTED by the City of Canby at a regular meeting thereof on 17<sup>th</sup> day of November, 1982.

  
Robert A. Swayze, Mayor

ATTEST:

  
Marilyn Perbett, City Recorder Pro Tem