



AGENDA

CANBY CITY COUNCIL REGULAR MEETING

May 4, 2011

7:30 PM

Council Chambers
155 NW 2nd Avenue

Mayor Randy Carson

Council President Walt Daniels
Councilor Richard Ares
Councilor John Henri

Councilor Brian Hodson
Councilor Jason Padden
Councilor Greg Parker

CITY COUNCIL REGULAR MEETING

1. CALL TO ORDER

- A. Pledge of Allegiance and Moment of Silence
- B. Poppy Days in Canby Proclamation Pg. 1
- C. NALC Food Drive Day Proclamation Pg. 2
- D. Water Safety Month Proclamation Pg. 3

2. COMMUNICATIONS

3. CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS

(This is an opportunity for visitors to address the City Council on items not on the agenda. It is also the time to address items that are on the agenda but not scheduled for a public hearing. Each citizen will be given 3 minutes to give testimony. Citizens are first required to fill out a testimony/comment card prior to speaking and hand it to the City Recorder. These forms are available by the sign-in podium. Staff and the City Council will make every effort to respond to questions raised during citizens input before tonight's meeting ends or as quickly as possible thereafter.)

4. MAYOR'S BUSINESS

5. COUNCILOR COMMENTS & LIAISON REPORTS

6. CONSENT AGENDA

(This section allows the City Council to consider routine items that require no discussion and can be approved in one comprehensive motion. An item may be discussed if it is pulled from the consent agenda to New Business.)

- A. Approval of Minutes of the April 20, 2011 City Council Regular Meeting

7. RESOLUTIONS & ORDINANCES

- A. Res. 1094, Authorizing the Issuance & Negotiated Sale of Full Faith & Credit Obligations in an Amount not to Exceed \$9,000,000; Designating an Authorized Representative, Special Counsel & Underwriter; Authorizing Appointment of a Financial Advisor; Authorizing Execution & Delivery of a Financing Agreement & an Escrow Agreement; Authorizing an IGA w/the Canby Urban Renewal Agency; & Related Matters Pg. 4

- B. Res. 1095, Approving an IGA with the Canby Urban Renewal Agency Regarding the Transfer of Tax Increment Revenues & Proceeds to the City for the Purpose of Paying Obligation Bond Financing Pg. 9
- C. Res. 1096, Adopting Amendment No. 1 to the Cooperative IGA with the Library District of Clackamas County and Other Library Cities Pg. 14
- D. Res. 1097, Adopting Amendment No. 2 to the Cooperative IGA with the Library District of Clackamas County and Other Library Cities Pg. 21
- E. Ord. 1342, Granting a Nonexclusive Franchise to Canby Telephone Association to Provide Telecommunication Services within the City of Canby Pg. 39

8. NEW BUSINESS

9. CITY ADMINISTRATOR'S BUSINESS & STAFF REPORTS

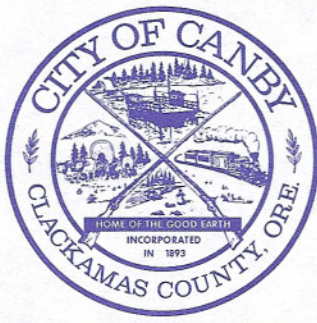
10. CITIZEN INPUT

11. ACTION REVIEW

12. EXECUTIVE SESSION: ORS 192.660(2)(h) Pending Litigation

13. ADJOURN

*The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Kim Scheafer at 503.266.4021 ext. 233. A copy of this Agenda can be found on the City's web page at www.ci.canby.or.us. City Council and Planning Commission Meetings are broadcast live and can be viewed on OCTS Channel 5. For a schedule of the playback times, please call 503.263.6287.



Office of the Mayor

Proclamation

Poppy Days in Canby

WHEREAS, the American Legion Auxiliary adopted the poppy as its memorial flower which pays tribute to the war dead and serves as a source of aid to surviving veterans and their families; and

WHEREAS, the contributions provided by the American Legion Auxiliary are put to good use in support of the children and youth of the Canby community and toward the rehabilitation and care of veterans; and

WHEREAS, the work of the American Legion Auxiliary through the annual sale of poppies is a proper and fitting tribute to the acts of patriotism and courage made by our nation's veterans in time of national need.

NOW, THEREFORE, I, Randy Carson, by virtue of the authority vested in me as Mayor of the City of Canby, do hereby proclaim the month of May 2011 as

Poppy Month

and I do further proclaim the week of May 22 through May 28, 2011 as

Poppy Days in the City of Canby

and urge all citizens of the City of Canby to proudly remember the sacrifices made by the members of our Armed Forces by contributing to the American Legion Auxiliary during the month of May 2011 in support of their service to our country's veterans.

Given unto my hand this 4th day of May 2011.

Randy Carson
Mayor





Office of the Mayor

Proclamation

National Association of Letter Carriers National Food Drive Day

WHEREAS, the National Association of Letter Carriers, in conjunction with the National Rural Letter Carriers' Association, United States Postal Service Priority Mail, Campbell Soup Company, Valpak Direct Marketing, United Way, AFL-CIO, and Feeding America are coordinating a non-perishable food drive; and

WHEREAS, the Saint Vincent de Paul Food Bank at St. Patrick's Church and Canby's local food banks are in need of food at all times; and

WHEREAS, the local food bank shelves are continually in need of replenishment due to the ongoing dramatic increase in the need for food; and

WHEREAS, the average increase has risen in Canby for the years 2009 and 2010 to over 13,000 pounds. From February to March of 2011, the need increased by 9%; and

WHEREAS, the local letter carriers will collect non-perishable food items placed by mailboxes on Saturday, May 14, 2011.

NOW, THEREFORE, I, Randy Carson, by virtue of the authority vested in me as Mayor of the City of Canby, do hereby proclaim Saturday, May 14, 2011 as

2011 National Association of Letter Carriers
National Food Drive Day

and urge all citizens of the City of Canby to participate in this worthwhile event by donating non-perishable food items to help feed those who are in need.

Given unto my hand this 4th day of May 2011.

Randy Carson
Mayor





Office of the Mayor

Proclamation

Water Safety Month

WHEREAS, citizens of Canby recognizes that swimming and aquatic-related activities contribute to good physical and mental health and enhance the quality of life for all people; and

WHEREAS, the citizens of Canby understand the essential role that Water Safety education plays in preventing drownings and recreational water-related injuries and have demonstrated that understanding by approving funding to continue operation of the Canby Swim Center until June 30, 2012; and

WHEREAS, the City of Canby is aware of the contributions made by the recreational water industry, as represented by the many organizations, including the Canby Swim Center, involved in the National Water Safety Month Coalition that have developed safe swimming facilities, swim lessons and other aquatic programs, home pools and spas, and related activities; and

WHEREAS, these facilities, along with the many natural rivers and ponds in the Canby area are providing healthy places to recreate, learn and grow, build self-esteem, confidence, and a sense of self-worth which contributes to the quality of life in our community; and

WHEREAS, the citizens of Canby recognize the ongoing efforts and commitment of the Canby Swim Center to educate the public, and especially children, regarding Water Safety issues so that they may safely enjoy the benefits of all water related activities; and

WHEREAS, the citizens of Canby understand the vital importance of communicating Water Safety rules and programs to families and individuals of all ages, whether owners of private pools, users of public swimming facilities, or visitors to area rivers and swimming holes.

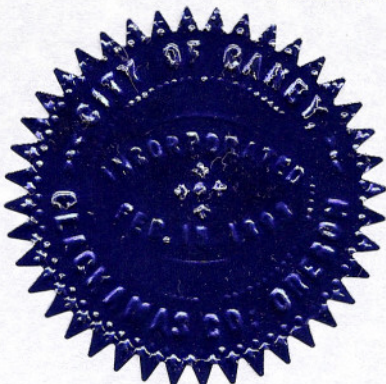
NOW THEREFORE, I, Randy Carson, by virtue of the authority vested in me as Mayor of the City of Canby, do hereby proclaim the month of May as:

WATER SAFETY MONTH

in the City of Canby and do urge all those in the Canby area to support and promote this observance.

Given unto my hand this 4th day of May 2011 in the City of Canby, Oregon.

Randy Carson
Mayor



RESOLUTION NO. 1094

A RESOLUTION AUTHORIZING THE ISSUANCE AND NEGOTIATED SALE OF FULL FAITH AND CREDIT OBLIGATIONS IN AN AMOUNT NOT TO EXCEED \$9,000,000; DESIGNATING AN AUTHORIZED REPRESENTATIVE, SPECIAL COUNSEL AND UNDERWRITER; AUTHORIZING APPOINTMENT OF A FINANCIAL ADVISOR; AUTHORIZING EXECUTION AND DELIVERY OF A FINANCING AGREEMENT AND AN ESCROW AGREEMENT; AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT WITH THE CANBY URBAN RENEWAL AGENCY; AND RELATED MATTERS.

WHEREAS, the City of Canby, Clackamas County, Oregon (the “City”), is authorized by its Charter and Oregon Revised Statutes (“ORS”) Sections 271.390 to enter into financing agreements to finance real or personal property which the City determines is needed; and

WHEREAS, the City hereby determines that the acquisition, construction, equipping and furnishing of a new police station and related capital projects, is needed (the “Project”); and

WHEREAS, the City desires to obtain up to \$9,000,000 of financing for the Project.

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

Section 1. Authorization. The City hereby authorizes:

A. Issuance and Sale of Obligations. The City authorizes the issuance and negotiated sale of Full Faith and Credit Obligations, Series 2011 (the “Obligations”) in one or more series which shall be issued in an aggregate amount not to exceed \$9,000,000 by the escrow agent, for and on behalf of the City, to finance the Project. The Obligations shall be issued at a true effective rate of interest not to exceed seven percent (7%) per annum and shall be issued at not less than ninety eight percent (98%) of par value (not including original issue discount) and shall mature not later than twenty five (25) years from the date of issuance.

B. Financing Agreement. The City authorizes the execution and delivery of a financing agreement (the “Financing Agreement”) to finance the Project, in a form satisfactory to the Authorized Representative, as defined below.

C. Escrow Agreement. The City authorizes the execution and delivery of an escrow agreement between the City and the escrow agent (the “Escrow Agreement”), in a form satisfactory to the Authorized Representative, as defined below, pursuant to which the escrow agent shall execute the Obligations representing the principal amount payable under the Financing Agreement, and evidencing the right of the escrow agent to receive the City’s Financing Payments under the Financing Agreement.

Section 2. Security.

The Financing Payments for the Obligations shall be payable from the general, non-restricted revenues of the City and other funds which may be available for that purpose, including taxes levied within the restrictions of Sections 11 and 11b, Article XI of the Constitution of the State of Oregon. The obligation of the City to make Financing Payments shall be a full faith and credit obligation of the City, and is not subject to appropriation. The Owners of the Obligations shall not have a lien or security interest on the property financed with the proceeds of the Obligations. As determined by the Authorized Representative and as additional security for the Financing Payments, the City may pledge to the Owners of the Obligations its rights to any Tax Increment Revenues or reserve funds pursuant to an intergovernmental agreement with the Canby Urban Renewal Agency (the “Agency”).

Section 3. Designation of Authorized Representative.

The City hereby authorizes the City Administrator or Finance Director, or any designee of the City Council (the “Authorized Representative”) to act as the authorized representative on behalf of the City and determine the remaining terms of the Financing Agreement as delegated in Section 4 below.

Section 4. Delegation of Final Terms and Sale of Obligations and Additional Documents.

The Authorized Representative is authorized, on behalf of the City, to:

- A. deem final, approve of and authorize the distribution of the preliminary and final Official Statements to prospective purchasers of the Obligations;
- B. negotiate the terms under which the Obligations shall be sold, to enter into a Purchase Agreement for sale of the Obligations, and to execute and deliver the Purchase Agreement;
- C. establish the maturity and interest payment dates, dated date, principal amounts, optional, extraordinary and/or mandatory redemption provisions, interest rates, denominations, and all other terms under which the Obligations shall be issued, sold, executed, and delivered;
- D. negotiate the terms of and approve the Financing Agreement and the Escrow Agreement as the Authorized Representative determines to be in the best interest of the City, and to execute and deliver the Financing Agreement and the Escrow Agreement;
- E. determine whether the Obligations shall be Book-Entry certificates and to take such actions as are necessary to qualify the Obligations for the Book-Entry System of DTC, including the execution of a Blanket Issuer Letter of Representations;
- F. seek to obtain a rating on the Obligations, if determined by the Authorized Representative to be in the best interest of the City;
- G. determine whether to purchase municipal bond insurance or other credit

enhancement for the Obligations, negotiate and enter into agreements with providers of credit providers, and expend proceeds to pay credit enhancement fees;

H. designate the Financing Agreement and the Obligations as a “qualified tax-exempt obligation” pursuant to Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the “Code”), so long as the City and all subordinate entities do not reasonably expect to issue more than \$10,000,000 of tax-exempt obligations during the 2011 calendar year;

I. approve, execute and deliver a Tax Certificate;

J. approve, execute and deliver a continuing disclosure certificate pursuant to SEC Rule 15c2-12, as amended (17 CFR Part 240, §240.15c2-12) for each series of Obligations;

K. engage the services of escrow agents or trustees and any other professionals whose services are desirable for the financing;

L. enter into an intergovernmental agreement with the Agency in which the Agency agrees to pay tax increment revenues to the City in amounts and at times that are sufficient to allow the City to pay all or a portion of the amounts due under the Financing Agreement and Obligations from those tax increment revenues (the “Intergovernmental Agreement”);

M. pledge or otherwise commit the amounts the City receives under the Intergovernmental Agreement to pay amounts due under the Financing Agreement; and

N. execute and deliver a certificate specifying the action taken pursuant to this Resolution, and any other documents, agreements or certificates that the Authorized Representative determines are necessary and desirable to issue, sell and deliver the Obligations in accordance with this Resolution and take any other actions which the Authorized Representative determines are necessary or desirable to finance the Project with the Financing Agreement and the Obligations in accordance with this Resolution.

Section 5. Compliance with Internal Revenue Code.

The City hereby covenants for the benefit of the Owners of the Obligations to use the Obligation proceeds and the Project financed with Obligation proceeds in the manner required, and to otherwise comply with all provisions of the Code. The City makes the following specific covenants with respect to the Code:

A. The City will not take any action or omit any action if it would cause the Financing Agreement or Obligations to become arbitrage bonds under Section 148 of the Code.

B. The City shall operate the Project financed with the Obligations so that the Obligations do not become “private activity bonds” within the meaning of Section 141 of the Code.

C. The City shall comply with appropriate Code reporting requirements.

D. The City shall pay, when due, all rebates and penalties with respect to the Obligations which are required by Section 148(f) of the Code.

The covenants contained in this Section 5 and any covenants in the closing documents for the Obligations shall constitute contracts with the owners of the Obligations, and shall be enforceable by them. The Authorized Representative may enter into covenants on behalf of the City to protect the tax-exempt status of the Financing Agreement and the Obligations.

Section 6. Appointment of Special Counsel.

The City appoints Mersereau Shannon LLP as special counsel to the City for the issuance of the Obligations.

Section 7. Appointment of Underwriter.

The City appoints Wedbush Securities Inc. as the underwriter for the issuance of the Obligations.

Section 8. Appointment of Financial Advisor.

The Authorized Representative is authorized to appoint a financial advisor to the City if in the opinion of the Authorized Representative it is deemed necessary or advisable.

Section 9. Resolution to Constitute Contract.

In consideration of the purchase and acceptance of any or all of the Obligations by those who shall own the same from time to time (the "Owners"), the provisions of this Resolution shall be part of the contract of the City with the Owners and shall be deemed to be and shall constitute a contract between the City and the Owners. The covenants, pledges, representations and warranties contained in this Resolution or in the closing documents executed in connection with the Obligations and the other covenants and agreements herein set forth to be performed by or on behalf of the City shall be contracts for the equal benefit, protection and security of the Owners, all of which shall be of equal rank without preference, priority or distinction of any of such Obligations over any other thereof, except as expressly provided in or pursuant to this Resolution.

Section 10. Effective Date.

This resolution shall take effect on the date of its adoption.

This resolution is adopted by the Canby City Council this 4th day of May, 2011.

Randy Carson
Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder

RESOLUTION NO. 1095

**A RESOLUTION OF THE CITY OF CANBY, CLACKAMAS COUNTY, OREGON
APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF
CANBY URBAN RENEWAL AGENCY REGARDING THE TRANSFER OF TAX
INCREMENT REVENUES AND PROCEEDS TO THE CITY FOR THE PURPOSE OF
PAYING OBLIGATION BOND FINANCING**

WHEREAS, the Canby Urban Renewal Agency (the “Agency”) and the City of Canby, Clackamas County, Oregon (the “City”) are currently planning projects set forth in the Canby Urban Renewal Plan dated November 24, 1999, as amended June 23, 2009, including the acquisition, construction, equipping and furnishing of a police station (the “Project”); and

WHEREAS, the City is planning to enter into a tax-exempt financing agreement and escrow agreement providing for the issuance of Full Faith and Credit Obligations, Series 2011 (the “2011 Obligations”) in an expected principal amount not to exceed \$9,000,000 to finance the Project.

WHEREAS, the Agency wishes to enter into an intergovernmental agreement whereby the Agency shall transfer to the City (1) tax increment revenues and proceeds accumulated by the Agency for the payment of the 2011 Obligations, and (2) proceeds of the sale of the property known as Lot 6 Burden legally described as T3S-R1E, Section 34, Tax Lot 01700.

IT IS HEREBY RESOLVED by the City Council of the City of Canby, as follows:

1. The City agrees to the terms and conditions of the Intergovernmental Agreement attached hereby as Exhibit A (the “IGA”), and authorizes and directs the Mayor or the City Administrator to sign the IGA on behalf of the City.

This resolution will take effect on May 4, 2011

ADOPTED this 4th day of May 2011 by the Canby City Council.

Randy Carson
Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder

INTERGOVERNMENTAL AGREEMENT

This Agreement is executed this 4th day of May 2011, by and between the CITY OF CANBY, OREGON, a municipal corporation of the State of Oregon (the “City”) and the CANBY URBAN RENEWAL AGENCY, OREGON, a public body created under ORS Chapter 457 (the “Agency”).

I. DEFINITIONS

For purposes of this Agreement, unless the context clearly requires otherwise, capitalized terms that are not listed in this section but which are defined in the Master Document shall have the meanings defined for those terms in the Master Document, and the following capitalized terms shall have the following meanings:

“2010 Intergovernmental Agreement” means the intergovernmental agreement between the City and the Agency dated as of December 1, 2010, relating to the City’s Full Faith and Credit Obligations, Series 2010 (Direct Payment Federally Taxable Recovery Zone Economic Development Bonds, Downtown Project) in the principal amount of \$2,500,000.

“2011 Obligations” or “Obligations” means the City’s Full Faith and Credit Obligations, Series 2011 expected in the aggregate principal amount not to exceed \$9,000,000.

“Additional Debt” means obligations of the Agency in compliance with the requirements of Section III. 5. of this Agreement which are secured by a lien on, and pledge of, the Tax Increment Revenues which is on a parity with the lien on, and pledge of this Agreement.

“Agency” means the Canby Urban Renewal Agency, Clackamas County, Oregon.

“Agency Resolution” means the Agency Resolution No. URR 11-008 adopted May 4, 2011.

“Agreement” means this Intergovernmental Agreement.

“Area” means the Canby Urban Renewal Area which is described in the Plan and all additions thereto.

“Authorized Representative of the Agency” means, each individually, the Chair or the Agency Director or their designee.

“Authorized Representative of the City” means, each individually, the City Administrator or their designee.

“City” means the city of Canby, Clackamas County, Oregon.

“City Resolution” means City Resolution No. 1095 adopted May 4, 2011.

“Master Document” means the Bond Purchase Agreement between the Agency and U.S. Bank National Association that is dated as of July 22, 2008, that relates to the Agency’s Urban Renewal Bond, Series 2008 which was authorized by the Agency Resolution No. URR 08-004.

“ORS” means Oregon Revised Statutes.

“Plan” means the Canby Urban Renewal Plan dated November 24, 1999, as amended June 23, 2009.

“Tax Increment Revenues” means all ad valorem tax revenues from property within the Area which are attributable to the increase in assessed value of property within the Area, all taxes levied in connection with the Plan, and all earnings thereon.

II. RECITALS

- A. Pursuant to Oregon Revised Statutes (“ORS”) Section 190.010, units of local government are authorized to enter into intergovernmental agreements with other units of local governments for the performance of any or all functions and activities that a party to the agreement, its officers or agencies, have the authority to perform.
- B. Each of the parties to this agreement is a “unit of local government” as defined in ORS Section 190.003. Each of the parties has the legal authority for the performance of any and all functions and activities set forth herein.
- C. The Agency, as the duly authorized and acting urban renewal agency of the City of Canby, Oregon is charged to undertake certain redevelopment activities in the redevelopment area pursuant to ORS Chapter 457 and the Plan.
- D. Pursuant to ORS 457.320 the City is authorized to exercise any of its powers to assist in the planning or the carrying out of an urban renewal plan.
- E. Pursuant to ORS 271.390 the City has the power to enter into financing agreements and authorize the issuance of full faith and credit obligations on its behalf to finance and refinance real and personal property.
- F. The 2011 Obligations are to be issued to finance certain real and personal property projects set forth in the Plan, including the acquisition, construction, equipping and furnishing of a new police station.

- G. Pursuant to ORS 457.190, the Agency is authorized to borrow money and accept advances, loans, grants and any other form of financial assistance from a public

body for the purposes of undertaking and carrying out urban renewal projects.

- H. The City expects to enter into a financing agreement and escrow agreement in July 2011, providing for the issuance of Full Faith and Credit Obligations, Series 2011 in the principal amount not to exceed \$9,000,000 (the “2011 Obligations”), to finance real and personal property set forth in the Plan.
- I. The Agency plans to transfer to the City the proceeds of sale of the property known as Lot 6 Burden legally described as T3S-R1E, Section 34, Tax Lot 01700 for the purpose of partially financing the Project, either directly or by payment on the 2011 Obligations.

III. AGREEMENT

NOW, THEREFORE, pursuant to the provisions of ORS Chapters 457 and 190, and in consideration of the benefits to accrue to the City, the Agency, the community and the citizens from this Agreement and the Obligations, and in consideration of the covenants set forth therein, the City and Agency agree:

1. The Agency shall transfer tax increment revenues and proceeds to the City in amounts and at times sufficient for the City to pay the 2011 Obligations under the terms set forth in the 2011 Obligation financing documents from those tax increment revenues.
2. The Agency hereby irrevocably pledges the Tax Increment Revenues to make the transfers described in paragraph 1. above. The obligation of the Agency to make the transfers described in paragraph 1. above, shall constitute “Parity Indebtedness.” The lien on, and pledge of the Tax Increment Revenues shall be equal to the lien and pledge that secures all Parity Indebtedness. The provision of this Agreement and the Agency Resolution shall be a contract with the City. The Agency has issued Parity Indebtedness in the past and reserves the right to issue Parity Indebtedness in the future as permitted by the Master Document. The Agency is not required to create or fund a bond reserve account in connection with this Agreement. The Agency covenants and agrees that it will not incur any other form of indebtedness secured by a greater priority lien on the Tax Increment Revenues during the period any amounts are outstanding under this Agreement.
3. Upon the sale of the property known as Lot 6 Burden, described above, the Agency shall transfer proceeds of the sale to the City.

4. The City agrees to take all steps required to qualify and maintain the 2011 Obligations as tax-exempt obligations.
5. The Agency agrees to take all steps required to qualify and maintain the 2011 Obligations as tax-exempt obligations.
6. The Agency covenants to cause the maximum amount of the Tax Increment Revenues to be collected each Fiscal Year.
7. The Agency may incur additional indebtedness secured by a lien on the Tax Increment Revenues subordinate to the lien of this Agreement as provided in the Master Document. Parity liens are permitted in accordance with Section 2. above.
8. The City and Agency have each taken the actions necessary to authorize this Agreement and no challenge or appeal to such actions is pending.
9. The parties signing below are authorized to execute this Agreement on behalf of their respective bodies.
10. This Agreement may be modified upon written mutual agreement of the City and the Agency.
11. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same agreement.

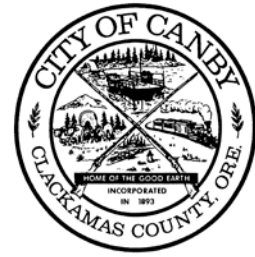
CITY OF CANBY
CLACKAMAS COUNTY, OREGON

By _____
Mayor

CANBY URBAN RENEWAL AGENCY
CLACKAMAS COUNTY, OREGON

By _____
Chair

MEMORANDUM



TO: *Honorable Mayor Carson and City Council*
FROM: *Penny Hummel, Library Director*
DATE: *April 25, 2011*
THROUGH: *Greg Ellis, City Administrator*

Issue: Amendments to the IGA for the Library District of Clackamas County

Synopsis: Now that the city of Damascus and the portion of Tualatin that is in Clackamas County have annexed into the library district, action is needed on two amendments to the Master IGA.

Recommendation: *Staff recommends the Council approve the IGAs as provided by the County.*

Rationale: After the Clackamas County Library District was approved by voters in 2008, all participating cities (known as the “Library Cities”) signed a Master IGA that governs the distribution of revenues collected to support operations at the city libraries, and in the interim, county libraries providing service for cities pending development of a city library to cover that service area. Since that time, the portion of Tualatin that lies in Clackamas County and the entire city of Damascus have annexed into the Library District. Annexation allows residents of both cities to utilize the LINCC (Libraries in Clackamas County) system without having to purchase a non-resident library card.

Currently, revenues generated by properties within non-Library Cities (such as Barlow or Rivergrove) are assigned to a service area as part of the unincorporated residents’ portion of the IGA’s formula. Damascus has agreed that it will not be a Library City and will stay within the Happy Valley service area, which is currently being served by a county library. Tualatin, because its city library is part of the Washington County network, requested in their annexation application that they not have the full responsibilities of a “Library City” under the IGA but be able to retain 50% of the revenue generated within its city limits.

The service boundaries and terms for entrance into the Library District were negotiated between the annexing cities and the Library District Advisory Board, to which each Library City appoints a representative. The BCC has indicated that it will follow the recommendation of the advisory committee. Tualatin’s annexation proposal was reviewed and endorsed by the Canby City Council on October 21, 2009 (Resolutions 1096 and 1097). Now that there is agreement on the language of the amendment, the next step is to amend the IGA to implement the terms. This requires a vote by the City Councils of each Library City.

There are two amendments because of the differing thresholds required to adopt them. The Tualatin amendment (No. 1) requires unanimous approval from all Library Cities per Section 3.3 of the Master IGA because Tualatin is seeking an amendment to the distribution formula originally agreed to by the parties. The Damascus amendment (No. 2) only requires approval by 2/3 of the Library Cities since it is not seeking a change to the distribution formula. Once a sufficient number of cities have executed the proposed amendments, the BCC will execute on behalf of the Library District and distribute funds accordingly.

Options:

1. Approve the IGAs as provided by the County.
2. Not approve the IGAs.

Fiscal Impact: None.

Attachments: Cooperative Intergovernmental Agreement between Clackamas County and Library Cities; Amendment No. 1; Amendment No. 2.

RESOLUTION NO. 1096

A RESOLUTION ADOPTING AMENDMENT NO. 1 TO THE COOPERATIVE INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN THE CITY OF CANBY (CITY), THE LIBRARY DISTRICT OF CLACKAMAS COUNTY AND OTHER LIBRARY CITIES FOR THE PURPOSE OF SUPPORTING AND PROVIDING LIBRARY SERVICES TO THEIR RESIDENTS.

WHEREAS, the voters approved formation of a Clackamas County Library District to provide financial support to the library service providers of Clackamas County; and

WHEREAS, Clackamas County and the various member library cities of Clackamas County previously entered into a cooperative intergovernmental agreements (IGA) with each other to collect and administer the tax for the district; and

WHEREAS, since the date of execution of the original IGA, that portion of Tualatin that lies within Clackamas County has annexed into the District and has sought assurance that 50% of the revenue generated within its city limits would be distributed to it for use at the Tualatin Library which is located within Washington County; now therefore

IT IS HEREBY RESOLVED by the City of Canby Council as follows:

1. That the attached Amendment No. 1 to the IGA, marked as Exhibit "A" and by this reference incorporated herein, by and between the Library District of Clackamas County and the City of Canby is hereby adopted. The Mayor is authorized to sign Amendment No. 1 to the IGA on behalf of the City.
2. This resolution shall take effect on May 4, 2011.

ADOPTED this 4th day of May, 2011, by the Canby City Council.

Randy Carson
Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder

AMENDMENT NO. 1
TO THE
COOPERATIVE INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE LIBRARY DISTRICT OF CLACKAMAS COUNTY
AND
LIBRARY CITIES

THIS AMENDMENT NO. 1 (this “Amendment”) is entered into this ____ day of _____, 2011, 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, Lake Oswego, Milwaukie, Molalla, Oregon City, Sandy, West Linn, and Wilsonville (each, a “City” and collectively, the “Library Cities”), and the City of Tualatin (“Tualatin”).

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, since the date of final execution of the Agreement that portion of Tualatin that lies within Clackamas County has annexed into the District pursuant to Board Order 2010-73 adopted June 17, 2010; and

WHEREAS, as part of Tualatin’s annexation petition, it sought assurances that 50% of the revenue generated within its city limits would be distributed to it for use at the Tualatin Library, which is located within Washington County. This proposal was reviewed and approved by the Library District Advisory Board and the Board of County Commissioners as the governing body of the District; and

WHEREAS, the Parties hereto desire to amend the Agreement to reflect the annexation of Tualatin territory; 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, the Library Cities and Tualatin each agree to the following:

Section 1 Amendments

1.1 Tualatin Revenue. Notwithstanding the Formula as set forth in the Agreement:

1.1.1 Fifty percent (50%) of the District revenue generated by real property within Tualatin as of June 17, 2010, including delinquent taxes and any generated interest, shall be distributed to Tualatin for use in support of the Tualatin Library.

- 1.1.2 The remaining revenue generated by the Tualatin properties shall be distributed to the following Library Cities in support of library services:
- 50% to Lake Oswego;
 - 40% to Wilsonville; and
 - 10% to West Linn.
- 1.1.3 Revenues generated by properties that currently are within the District and subsequently annexed into Tualatin shall continue to be treated as unincorporated and within their current service area for purposes of the Formula. Any changes to the Formula shall require amendment as set forth in the Agreement.
- 1.1.4 For the purposes of the Agreement, Tualatin shall not be considered a Library City.
- 1.1.5 For the purposes of the Formula in the Agreement, the population within Tualatin as of June 17, 2010 shall not count towards the total population as utilized in the Formula.

Section 2 Ratification

- 2.1 Affirmation. The District 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.

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

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

THE CITY OF GLADSTONE	THE CITY OF LAKE OSWEGO
By: _____	By: _____
Title: _____	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 SANDY
By: _____ Title: _____	By: _____ Title: _____
ATTEST: _____	ATTEST: _____

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

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

RESOLUTION NO. 1097

A RESOLUTION ADOPTING AN AMENDMENT NO. 2 TO THE COOPERATIVE INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN THE CITY OF CANBY (CITY), THE LIBRARY DISTRICT OF CLACKAMAS COUNTY AND OTHER LIBRARY CITIES FOR THE PURPOSE OF SUPPORTING AND PROVIDING LIBRARY SERVICES TO THEIR RESIDENTS.

WHEREAS, the voters approved formation of a Clackamas County Library District to provide financial support to the library service providers of Clackamas County; and

WHEREAS, Clackamas County and the various member library cities of Clackamas County previously entered into a cooperative intergovernmental agreements (IGA) with each other to collect and administer the tax for the district; and

WHEREAS, since the date of execution of the original IGA, the City of Damascus has annexed into the District and wishes to join the District with the other library cities; now therefore

IT IS HEREBY RESOLVED by the City of Canby Council as follows:

1. That the attached Amendment No. 2 to the IGA, marked as Exhibit "A" and by this reference incorporated herein, by and between the Library District of Clackamas County and the City of Canby is hereby adopted. The Mayor is authorized to sign Amendment No. 2 to the IGA on behalf of the City.
2. This resolution shall take effect on May 4, 2011.

ADOPTED this 4th day of May, 2011, by the Canby City Council.

Randy Carson
Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder

AMENDMENT NO. 2
TO THE
COOPERATIVE INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE LIBRARY DISTRICT OF CLACKAMAS COUNTY
AND
LIBRARY CITIES

THIS AMENDMENT NO. 2 (this “Amendment”) is entered into this ____ day of _____, 2011, 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, Lake Oswego, Milwaukie, Molalla, Oregon City, Sandy, West Linn, and Wilsonville (each, a “City” and collectively, the “Library Cities”), and the City of Damascus (“Damascus”).

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

WHEREAS, since the date of final execution of the Agreement the City of Damascus has annexed into the District; and

WHEREAS, the Parties hereto desire to amend the Agreement to reflect the annexation of Damascus; 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, the Library Cities and Damascus each agree to the following:

Section 1 Amendments

1.1 Damascus Annexation & Revenue. The parties hereto agree that:

1.1.1 For the purposes of the Agreement, Damascus shall not be considered a Library City; and

1.1.2 District revenue generated by properties located with Damascus shall be considered, for purposes of the distribution Formula, to be unincorporated and the Service Area Map and Formula are modified to allocate the Damascus area within the Clackamas Corner/Happy Valley service area.

1.2 Damascus Impact on Interim Library Service Provision. The parties hereto acknowledge that currently Happy Valley receives library service through a

Clackamas County-operated branch. Currently the County is constructing greater library space in the Sunnyside Village area. It is the intent of the parties that Happy Valley, at some point in the future, operate a library that would provide service to both Damascus and Happy Valley residents and associated unincorporated service area. Until this transition occurs, the Agreement currently provides that the District shall contribute such funds as necessary from Happy Valley and its related service areas to support the operation of the relevant Clackamas County branch library. The characterization of revenue from properties with Damascus as being unincorporated and within the Happy Valley/Clackamas Corner service area shall apply and revenues from both cities shall be directed to Clackamas County and apply to (i) support current Clackamas Corner operations, and (ii) fund other needs as necessary to support the implementation of construction of the Sunnyside Village library and transfer of staff and materials to the new location. At such time that Happy Valley assumes operational responsibility for the Sunnyside Village library, it shall be deemed a Library City for purposes of the Agreement.

Section 2 Ratification

- 2.1 No Further Changes. 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: <u>Chair</u>	
ATTEST: _____	

LIBRARY CITIES:

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

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

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

ANNEXING CITY:

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

RESOLUTION NO. 1024

A RESOLUTION ADOPTING AN INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN THE CITY OF CANBY (CITY) AND CLACKAMAS COUNTY LIBRARY DISTRICT AND MEMBER CITIES FOR THE PURPOSE OF SUPPORTING AND PROVIDING LIBRARY SERVICES TO THEIR RESIDENTS.

WHEREAS, the voters approved formation of a Clackamas County Library District to provide financial support to the library service providers of Clackamas County; and

WHEREAS, Clackamas County and the various member cities of Clackamas County wish to enter into a cooperative intergovernmental agreements (IGA) with each other to collect and administer the tax for the district; and

WHEREAS, the Library District of Clackamas County has proposed a form of IGA that is acceptable to the City; now therefore

IT IS HEREBY RESOLVED by the City of Canby Council as follows:

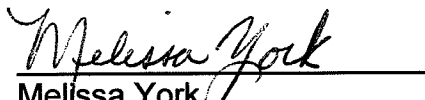
1. That the attached IGA, marked as Exhibit "A" and by this reference incorporated herein, by and between the Library District of Clackamas County and the City of Canby is hereby adopted. The Mayor is authorized to sign the IGA on behalf of the City.
2. This resolution shall take effect on May 20, 2009.

ADOPTED this 20th day of May, 2009, by the Canby City Council.



Melody Thompson - Mayor

ATTEST:



Melissa York
Deputy City Recorder

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

THIS COOPERATIVE INTERGOVERNMENTAL AGREEMENT (this "Agreement"), is entered into this 25 day of June, 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.

- 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

- 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

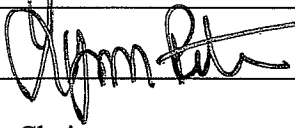
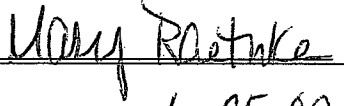
- 4.1 Indemnification. Each party shall release, defend, indemnify and/or hold harmless the other, its officers, commissioners, councilors, elected officials, employees, and agents, from and against all damages, claims, injuries, costs, or judgments that may in any manner arise as a result of the party's 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.

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: Chair
ATTEST: 

6-25-09
D.B.

THE CITY OF BARLOW	THE CITY OF CANBY
By: _____ Title: _____	By: <u>Melody Thompson</u> Title: <u>Mayor</u>
ATTEST: _____	ATTEST: <u>Melissa York</u>

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: _____

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	<u>\$31,697,066,644</u>	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	<u>\$16,819,984,305</u>	100%
Total Library District AV	\$31,697,066,644	100%
Less: Participating Cities AV	<u>\$(16,819,984,305)</u>	-53%
Equals: Unincorporated AV in District	<u>\$14,877,082,339</u>	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%
	<u>184,363</u>	100%

*Example Distribution Calculation
Assuming \$12 million in tax receipts*

Total District Tax Receipts		
Total Tax Collected	\$12,000,000	100%
City Assessed Value	\$6,367,776	53%
Unincorporated Population Served	\$5,632,224	47%

City Distribution of Receipts				
	<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%
	\$6,367,776	\$5,632,224	\$12,000,000	100%

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:

Population Served	Threshold Staffing Level
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:

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

Population served	Threshold
0 - 4,999	20 hours
5,000 - 9,999	30 hours
10,000 - 24,999	40 hours
25,000 +	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.

ORDINANCE NO. 1342

AN ORDINANCE GRANTING A NONEXCLUSIVE FRANCHISE TO CANBY TELEPHONE ASSOCIATION TO PROVIDE TELECOMMUNICATION SERVICES WITHIN THE CITY OF CANBY, ESTABLISHING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

WHEREAS, Canby Telephone Association, an Oregon Cooperative Corporation, hereinafter referred to as "Grantee", currently provides telecommunications services, more specifically, telephone services within the City of Canby (City); and

WHEREAS, the franchise granted to Grantee by previous Ordinances No. 668, No. 845, No. 1040 and No. 1053 expired on June 7, 2010; and

WHEREAS, pursuant to Canby Municipal Code (CMC) Chapter 12.35, which governs the issuance of such franchises and provides general terms and conditions applicable thereto, the City desires to enter into a non-exclusive franchise with Grantee to provide telecommunication services to the citizens of Canby; and

WHEREAS, the City has evaluated the technical, legal and financial capability of the Grantee to continue to provide such service to its citizens, and believes it is in the best interests of the City to promote the offering of competitive telecommunications services, subject to the City's lawful authority to regulate the use of its rights-of-way; and

WHEREAS, the City and Grantee have negotiated an updated nonexclusive Franchise Agreement to provide telecommunication service to customers within the City of Canby, Oregon; and

WHEREAS, the City Council finds based on its assessment of community needs that the proposed nonexclusive Franchise Agreement, attached hereto as Exhibit "A", and by this reference incorporated herein, meets those community needs and that it should therefore grant the updated nonexclusive franchise agreement as requested, consistent with the terms and conditions of Exhibit "A"; now therefore

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. The City hereby grants to Canby Telephone Association of Canby, Oregon, a nonexclusive franchise on the terms and conditions in the attached Exhibit "A", for a five (5) year term from the effective date of June 7, 2010, to provide

telecommunication services, specifically, telephone services, to its customers in the City of Canby.

Section 2. In order to avoid a break in the continuity of the telephone services currently provided by Canby Telephone Association, and to better promote the safety, health and welfare of the citizens of Canby, an emergency is hereby declared to exist and this ordinance shall retroactively take effect on June 7, 2010 as directed by the Canby City Council.

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, May 4, 2011 and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and to come before the City Council for final reading and action at a regular meeting thereof on Wednesday, May 18, 2011, commencing at the hour of 7:30 P.M. in the Council Meeting Chambers located at 155 NW 2nd Avenue, Canby, Oregon.

Kimberly Scheafer, CMC
City Recorder

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on May 18, 2011, by the following vote:

YEAS _____

NAYS _____

Randy Carson, Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder

FRANCHISE AGREEMENT BETWEEN
THE CITY OF CANBY, OREGON
AND
CANBY TELEPHONE ASSOCIATION,
AN OREGON COOPERATIVE CORPORATION

This Nonexclusive Franchise Agreement (Agreement) is by and between the City of Canby, Oregon (City) and Canby Telephone Association, an Oregon Cooperative Corporation, hereinafter referred to as “Grantee”, for the provision of telecommunication services to customers within the City of Canby, Oregon.

RECITALS

WHEREAS, Grantee, currently provides telecommunications services, including specifically, telephone services, within the City; and

WHEREAS, the franchise granted to Grantee by previous Ordinances No. 668, No. 845, No. 1040 and No. 1053 expired on June 7, 2010; and

WHEREAS, pursuant to Canby Municipal Code (CMC) Chapter 12.35, which governs the issuance of such franchises and provides general terms and conditions applicable thereto, the City desires to enter into a non-exclusive franchise agreement with Grantee to provide telecommunication services to the citizens of Canby; and

WHEREAS, the City believes it is in the best interests of the City to promote the offering of competitive telecommunications services, subject to the City’s lawful authority to regulate the use of its rights-of-way; and

WHEREAS, the City and Grantee desire to leave no doubts as to their respective roles and by entering into this Agreement, in consideration of the premises above stated and the terms, conditions and agreements contained herein, **the Parties do hereby agree as follows:**

Section 1: Grant of Franchise. The City hereby grants to Grantee, a nonexclusive franchise to use the public rights-of-way within the City to provide telecommunications services to customers within the City. Grantee agrees to comply with all applicable federal, state and local laws, ordinances, rules and regulations, including Canby Municipal Code (CMC) Chapter 12.36, as amended from time to time.

{00136254; 3 }

Section 2: Term. The term of this franchise shall be five (5) years, commencing with the effective date set forth in Section 8. Notwithstanding the foregoing, the Grantee may terminate this franchise after providing six months' written notice to the City upon Grantee's conversion to providing telecommunication services using voice over internet protocol, provided that the Grantee has other lawful authority to maintain the facilities permitted by this franchise in the City's rights-of-way and termination is consistent with the Canby Municipal Code.

Section 3: Franchise Area. The Grantee is authorized by this franchise to use public rights-of-way throughout the City as the City limits may exist now or in the future.

Section 4: Franchise Fee.

- A. As consideration for the use of the City's rights-of-way, Grantee shall remit to the City seven percent (7%) of its "gross revenues" earned from the provision of telecommunications services (as defined in CMC 12.36.030) within the City. "Gross revenues" shall mean "any and all revenue, of any kind, nature or form, without deduction for expense, less net uncollectibles, subject to all applicable limitation imposed by federal or state law".
- B. Franchise fee payments shall be made quarterly on or before 45 days after the end of the preceding quarter, continuing through the term of this franchise. Payments not received by the 45th day of each quarter shall be assessed interest at the rate of one and one half percent per month until paid.
- C. The City shall have the right to conduct or cause to be conducted an audit of gross revenues as defined in Section 4A above for the purpose of ascertaining whether Grantee's franchise fee payments have met the requirements of the franchise. Any difference of payment due either the City or Grantee following audit shall be payable within thirty (30) days after written notice to the affected party.

Section 5: Franchise Acceptance, Proof of Insurance. Within thirty (30) days of the passage of this Ordinance by the City Council, the Grantee shall file with the City Administrator (1) a written statement accepting the terms and conditions of this franchise grant substantially in the form set forth in Exhibit A, and (2) proof of the insurance required by CMC 12.36.080H. Timely filing of such acceptance and proof of insurance shall be a condition of this franchise becoming effective.

Section 6: Franchise Nonexclusive. The franchise hereby granted is not exclusive, and shall not be construed as any limitation on the right of the City to grant rights, privileges and authority to other persons or corporations or to itself to make any lawful use of the City's rights-of-way.

Section 7: Changes in Law. This franchise authorizes only the provision of “telecommunications services” as that term is defined in CMC 12.36.030. The provision of other services by Grantee requires separate authority from the City. In the event of changes in applicable laws during the term of this franchise, such that additional services are deemed to be “telecommunications services” and/or additional revenues are eligible for calculation of franchise fees, this Agreement will operate to authorize Grantee’s use of the City’s rights-of-way for provision of the additional services, provided a corresponding change in the calculation of the franchise fee payable to the City is made.

Section 8: Effective date. This Agreement will become effective as of June 7, 2010.

IN WITNESS WHEREOF, City and Company have executed this Agreement as of the day and year first written above.

CITY OF CANBY, OREGON,

A Municipal Corporation

By:_____

Name: Randy Carson

Title: Mayor

APPROVED AS TO FORM:

John H. Kelley – City Attorney

{00136254; 3 }

EXHIBIT A
ACCEPTANCE

City Administrator
City of Canby
P.O. Box 930
Canby, OR 97013

This is to advise the City of Canby, Oregon that Canby Telephone Association (the "Grantee") hereby accepts the terms and provisions of Ordinance No. 1342, passed by the City Council on May 18, 2011 (the "Franchise") granting a Franchise for five (5) years to Canby Telephone Association. The Grantee agrees to abide by each and every term of the Franchise.

CANBY TELEPHONE ASSOCIATION

BY
TITLE
DATE

Management Team Meeting Minutes

April 18, 2011

2:00 PM

City Hall Conference Room

In attendance: Greg Ellis, Bryan Brown, Renate Mengelberg, Amanda Klock, Darwin Tramel, Sue Engels, Eric Laitinen, Penny Hummel, Julie Wehling, and Kim Scheafer.

Penny Hummel

- Library Week celebration on Saturday went well
- Día de los niños will be held on April 30

Greg Ellis

- Contacted Union Pacific about reimbursement for fencing
- Met with a representative from Senator Wydens office last week
- Contacted by City of Molalla to see if we could help with Planning services

Renate Mengelberg

- She and Ami have been visiting downtown businesses
- Getting ready for Urban Renewal Budget Meeting on Thursday

Bryan Brown

- Police Department application came in on Friday. Planning Commission public hearing is scheduled for May 23
- Expecting Shimadzu's application anytime
- Received inquiry by The Place to Be Café regarding outside benches

Darvin Tramel

- Had two small sewer spills last week
- Street projects are moving forward for 3rd/4th Avenues and Wait Park
- ODOT said they are working on processing paperwork for Walnut Street grant reimbursement

Eric Laitinen

- Mid-day lap swim has been very busy

Sue Engels

- Work Session with Council on June 15 regarding GASB 54 limitations
- Urban Renewal Budget Meeting on April 21. Second City Budget Committee Meeting will be on April 27. Public hearings will be held on May 11 for both committees.
- May be out of office on Wednesday

Amanda Klock

- Started negotiations with AFSCME last week

Julie Wehling

- Received four bids for transit services last week

Minutes taken by Kim Scheafer

Management Team Meeting Minutes

April 25, 2011

2:00 PM

City Hall Conference Room

In attendance: Greg Ellis, Bryan Brown, Renate Mengelberg, Amanda Klock, Sue Engels, Eric Laitinen, Penny Hummel, and Kim Scheafer.

Kim Scheafer

- Reviewed Agendas for May 4 URA and City Council Meetings

Penny Hummel

- National Endowment for Humanities proposal was submitted
- On vacation April 27-29

Greg Ellis

- First Avenue Community Meeting will be held tonight, 6 PM at Cutsforths Town Hall
- Downtown Canby Strategic Visioning will be held on Tuesday night, 6 PM at Cutsforths Town Hall
- Met with a representative from Wilderness International

Amanda Klock

- New police officer started today and will go to the police academy in May
- All phone and computer work orders need to be emailed to the IT WORK ORDERS email address
- Will send out contact information for all public works lead workers to Directors
- MV Transportation has been selected as the new transit services provider starting July 1

Bryan Brown

- New memory care facility is starting the upper level of their facility
- Pioneer Pump warehouse expansion is on the Planning Commission Agenda
- Working on how to make new industrial or commercial clients that come to town and occupy an existing building are aware of the new building occupancy codes change
- Reviewing Police Department application

Sue Engels

- PERS representative met with Finance last week. Effective July 1 you can have your PERS amount verified
- Actuarial study will be done in the next few months

Renate Mengelberg

- Electricity rates will be going up. Working with CUB on notifying industrial businesses
- Working on GIS implementation

Eric Laitinen

- Gator Triathlon will be on May 7

Minutes taken by Kim Scheafer