

**CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS
ACTING AS THE GOVERNING BODY OF THE
LIBRARY DISTRICT OF CLACKAMAS COUNTY**

Policy Session Worksheet

Presentation Date: 12/05/17 **Approx Start Time:** 11:15am **Approx Length:** 45 minutes

Presentation Title: Library District Master Order & Master IGA Amendments per Settlement Agreement

Department: County Counsel

Presenters: Chris Storey, Assistant County Counsel

Other Invitees:

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Staff is requesting direction regarding the content of proposed Master Order and Master IGA amendments.

EXECUTIVE SUMMARY:

On October 16, 2017, Clackamas County ("County") and the City of Gladstone ("Gladstone") entered into a settlement agreement (the "Agreement") regarding a lawsuit filed by Gladstone relating to funding for the Gladstone and Oak Lodge libraries. As part of the Agreement, the Board of County Commissioners agreed to undertake good faith efforts to implement certain changes to support a jointly operated two library service approach for the Oak Lodge and Gladstone service areas (the "Plan").

To implement the Plan, the Board is required to consider two separate actions. Chronologically, the first is a public hearing and vote by the Board as the governing body of the Library District of Clackamas County ("District") on adoption of an amendment to the current District formation board order adopted November 18, 2008, (the "Current Master Order") to clarify that revenues of the District may appropriately be expended in support of library capital needs, as well as library operational needs.

The second is proposal of an amendment to the IGA between the District, the County and those cities providing library services ("Library Cities") entered into in 2009 (the "Master IGA") as subsequently amended twice (to annex a portion of Tualatin, and to annex the then-City of Damascus and add Happy Valley as a library city). Each action item is discussed in greater detail below, and draft documents implementing the minimum necessary changes are included on this staff report.

Master Order Amendment to Allow Use of District Funds for Capital Purposes:

There is a current restriction on the use of District funds, namely that they must be used for operational and not capital purposes. This arose in the formation of the District, when the County faced a boundary issue because a county service district providing library services already existed, covering the area of the Estacada school district. The Estacada Library District issued bonds to support construction of library improvements for the City of Estacada's Library. Applicable state statute requires that two districts not exist over the same territory providing the

same service. To avoid the necessity of excepting the Estacada area from the county-wide Library District, during the formation process the Board determined that the Estacada District was used for capital-only purposes and the Library District of Clackamas County would be used for operating-only purposes.

The Current Master Order defines the purpose of the District thusly:

1. To provide a dedicated, stable funding source for the support of library services.
2. To raise revenue to be distributed to the existing city and county-operated libraries in the system. Formation of the District should provide sufficient funding to raise the service levels at all facilities to the most basic ("Threshold") level recommended by the Oregon Library Association.

The reasons excluded capital expenditures consistent with formation proceedings and the election materials. The Estacada Library District was dissolved after its associated general obligation bonds were paid off, and therefore the motivator for this restriction has been removed.

The Agreement between the County and Gladstone requires the Board to consider a change to the Current Master Order to allow implementation of the Plan. The Plan, as described as "Concept Option A" therein, anticipates using revenue from the District to allow for construction of two new libraries in Gladstone and Oak Lodge to serve those residents without requiring a tax increase or other bond. The attached proposed modification of the Current Master Order allows the use of funds in such a manner, consistent with applicable agreements.

To meet the timing commitments in the Agreement, the modification of the Current Master Order would need to be considered no later than mid-January 2018. The Plan itself, and use of funds for library capital purposes in addition to library operations, also requires adoption of amendments to the Master IGA as outlined below. The change to the Current Master Order is a necessary but not sufficient action to implement the Plan.

Master IGA Amendment to Implement Settlement Agreement

The Master IGA as currently drafted places a requirement on the Library Cities for the use of funds in Section 2.1 to be only 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." The service standards are generally defined around the provision of Threshold standards which are attached to the Master IGA.

Before formal action by the Board on this item, any amendment to the Master IGA would first be considered by the Library District Advisory Board ("LDAC") to provide their advice on the matter. While not dispositive, their input is useful in determining the scope and nature of the Master IGA amendment. The draft attached is the minimum necessary to implement the Plan.

Commissioner Savas, in conversations with staff, has suggested additional items be discussed by LDAC as part of their consideration around the Master IGA amendment. His items are:

1. Establish a minimum amount of District revenues be reserved for operations expenses. In other words, the Master IGA would set a maximum percentage of District revenue that may be devoted to supporting capital expenditures.
2. LDAC advice and BCC involvement in the decisions to use District funds for capital purposes by Library Cities.
3. Additional oversight and review on whether the libraries in the system are meeting the minimum service standards articulated in the Master IGA currently.
4. Making clear that library cities may accumulate reserves from annual distributions to be used at a later time in support of either operations or capital expenditures.
5. Looking at financing structures that would minimize the amount of District revenues to be expended on capital items.

The inclusion of some or all of these items are policy issues provided for Board discussion and direction to staff. From a process standpoint, any proposed amendment to the Master IGA is first considered by LDAC, and then shared with the Library Cities. It requires the affirmative vote of the city councils representing two-thirds of the Library Cities to approve an amendment to the Master IGA.

FINANCIAL IMPLICATIONS (current year and ongoing): These actions do not change the amount of monies available to be spent on library issues, but does increase the flexibility and therefore possible claim on those funds for library-related expenses. After adoption, the restriction that these funds be used exclusively for library-related expenses will remain.

Is this item in your current budget? YES NO

What is the cost? While some staff time is required to implement the Agreement, there is no direct or increased cost.

STRATEGIC PLAN ALIGNMENT:

- How does this item align with your Department’s Strategic Business Plan goals? N/A
- How does this item align with the County’s Performance Clackamas goals? Public trust in government

LEGAL/POLICY REQUIREMENTS: The Agreement settling the lawsuit requires good faith pursuit of both the Master Order modification and the amendment of the Master IGA to implement the Plan. Items beyond the scope of that are not required but may be desirable from a policy standpoint.

PUBLIC/GOVERNMENTAL PARTICIPATION: A public hearing is required for adoption of the modification of the Master Order, which is subject to remonstrance and possible District-wide vote. Affirmative votes from two-thirds of the Library Cities is necessary to modify the Master IGA.

OPTIONS:

1. Implement the Agreement and move forward with the current drafts provided.
2. Implement the Agreement and move forward with modified versions of the drafts provided, based on feedback from the Board during the policy session.
3. Do not move forward, and breach the Agreement.

RECOMMENDATION:

Staff recommends Option #2, moving forward with modified versions of the drafts provided, based on feedback from the Board during the policy session.

ATTACHMENTS:

DRAFT Master Order modification
DRAFT Master IGA amendment

SUBMITTED BY:

Division Director/Head Approval  _____
Department Director/Head Approval _____
County Administrator Approval _____

For information on this issue or copies of attachments, please contact Chris Storey @ 503-742-4623

In the Matter of the Amended & Restated
Master Order of the Library
District of Clackamas County

ORDER NO. _____

This matter coming before the Board at this time, and it appearing that Order No. 2008-189 dated December 3, 2008, both formed a county service district under Oregon Revised Statutes (“ORS”) Chapter 451 for library services known as the “Library District of Clackamas County” (the “District”) and established a defined purpose for it on the related Exhibit C pursuant to ORS 451.485; and

WHEREAS, the Board of County Commissioners, acting as the governing body of the District (the “Board”), may amend the purpose of the district pursuant to ORS 451.485 and 451.487; and

WHEREAS, the Board desires to amend and restate the order establishing the purpose of the District required by ORS 451.485 to clarify and expand the scope and nature of allowable expenditures of District revenue for library purposes;

NOW, THEREFORE, IT IS HEREBY
ORDERED WITH RESPECT TO THE LIBRARY DISTRICT OF CLACKAMAS
COUNTY PURSUANT TO ORS 451.485:

1. Revenues of the District may be expended for any library service or purpose, including but not limited to operations, equipment, inventory, staffing, studies, consultants, reasonable overhead charges consistent with the practice of the applicable jurisdiction, allocated expenses, capital expenditures, and reserves to fund any of the above.
2. The District may construct and directly own or contribute funds via partners, including but not limited to Clackamas County or cities partially or wholly within Clackamas County, for the construction of library facilities, assets, and buildings.
3. Revenue-based bonds or obligations in support of library buildings and facilities may be issued in reliance on the revenues of the District after due approval as required by law.
4. The District may not issue general obligation bonds. The Board specifically finds that it is permissible and not the same purposes of the District under this Order, ORS 198.720 or ORS 451 to create a library services county service district with boundaries less than the whole of the District for the sole and exclusive purpose of issuing voter-approved general obligation bonds in support of library capital facility needs.

5. The proportions of cost sharing allocated between District revenues and city or other revenues shall be determined on a per-project basis pursuant to agreement between the District and entities controlling or managing the other participating funding sources.
6. Any facilities or assets purchased with District revenues shall be operated and/or managed by the service provider designated by agreement as part of the larger library system of Clackamas County and may be made available to users from other jurisdictions pursuant to intergovernmental or other agreements.

DATED this ___th day of January, 2018.

BOARD OF COUNTY COMMISSIONERS
AS THE GOVERNING BODY OF THE
LIBRARY DISTRICT OF CLACKAMAS COUNTY

Chair

Recording Secretary

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 Oregon Revised Statutes Chapter 451, Clackamas County, a political subdivision of the State of Oregon (“County”), and 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 Library Cities in support of the provision of library services to the residents of the District, as subsequently amended twice with respect to Tualatin, Damascus and Happy Valley, including adding Happy Valley as a Library City (the “Agreement”); and

WHEREAS, the County and the City of Gladstone (“Gladstone”) have reached an agreement entered into on October 16th, 2017 whereby the County and Gladstone agree to partner to provide more efficient and effective library services to the Gladstone and Oak Lodge service areas as defined under the Agreement (the “Plan”); and

WHEREAS, as part of the Plan the Board of County Commissioners, as the governing body of the District, adopted a revised master order (the “Master Order”) pursuant to Oregon Revised Statutes (“ORS”) 451.485 allowing the expenditure of District revenues, as distributed by this Agreement or otherwise, to be expended for any library purpose, including capital needs; and

WHEREAS, to implement the Plan and the Master Order requires an amendment of the Agreement to recognize the changes service delivery model contemplated;

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

Section 1 Amendments

- A. County as Service Provider. Clackamas County is hereby added a Library City for purposes of the Agreement, and the parties acknowledge its purpose and obligation to operate the Oak Lodge Library or successor library in the unincorporated urban area west of I-205 as described as the Oak Lodge service area in Attachment B to this Agreement.

B. Section 1.6 of the Agreement is hereby amended and restated in its entirety to read:

1.6 Transition Payments. The parties hereto acknowledge and agree that the District has distributed 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. Pursuant to Amendment No. 2 and the County - Happy Valley intergovernmental agreement, the City of Happy Valley has assumed responsibility for provision of library services in the Clackamas Corner/Happy Valley area. 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. Therefore, the County shall now be responsible for the provision of library services to the Oak Lodge areas as indicated on Attachment B until such time as this Agreement is amended. No unincorporated areas assigned to, or reserved accumulated by, the Oak Lodge Library service area shall be reassigned, revenue contributed to, or transferred to another Library City. The County shall operate the Oak Lodge Library or successor library, wherever located, in a manner consistent with the Service Standards. 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, Gladstone and other 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.

C. Section 2.1 of the Agreement is hereby amended and restated in its entirety to read:

2.1 Use of Funds. The Library Cities will use District revenue to provide public library services as defined in the revised master order (the "Master Order") adopted pursuant to Oregon Revised Statutes ("ORS") 451.485 allowing the expenditure of District revenues, as distributed by this Agreement or otherwise, to be expended for any purpose related to the provision of library services, including capital/facility needs. Pursuant to the Master Order, Library Cities 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.

Section 2 Ratification

A. 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 Amendment No. 3 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	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: _____

LIBRARY CITIES:

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

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