



**NOTICE OF PUBLIC MEETING**  
**CITY OF ALBANY**  
**CITY COUNCIL**  
 Council Chambers  
 333 Broadalbin Street SW  
 Wednesday, February 24, 2016  
 7:15 p.m.

**OUR MISSION IS**  
*"Providing quality public services  
 for a better Albany community."*

**OUR VISION IS**  
*"A vital and diversified community  
 that promotes a high quality of life,  
 great neighborhoods, balanced  
 economic growth, and quality public  
 services."*

**AGENDA**

Rules of Conduct for Public Meetings

1. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the meeting.
2. Persons shall not testify without first receiving recognition from the presiding officer and stating their full name and residence address.
3. No person shall present irrelevant, immaterial, or repetitious testimony or evidence.
4. There shall be no audience demonstrations such as applause, cheering, display of signs, or other conduct disruptive of the meeting.

1. CALL TO ORDER
  2. PLEDGE OF ALLEGIANCE TO THE FLAG
  3. ROLL CALL
  4. SPECIAL PRESENTATION
    - a. Albany Police Department Lifesaving Awards. [verbal]  
 Action: \_\_\_\_\_
  5. SCHEDULED BUSINESS
    - a. Business from the Public
    - b. Adoption of Consent Calendar
      - 1) Approval of Minutes
        - a) December 2, 2015, Regular Session minutes. [Pages 3-7]
        - b) December 7, 2015, Regular Session minutes. [Pages 8-14]
        - c) January 11, 2016, Work Session minutes. [Pages 15-20]
      - 2) Declaration and disposal of surplus property. [Page 21]
      - 3) Approving the full on-premises sales, private club, new outlet liquor license application for Albany Post No. 10, The American Legion, Department of Oregon, d/b/a American Legion Post #10 Albany, located at 1215 Pacific Boulevard SE. [Page 22]
      - 4) Approving the off-premises sales, additional privilege, liquor license application for Cellar Cat and Company, LLC, d/b/a Cellar Cat, located at 211 First Avenue W, Suite 102. [Page 23]
      - 5) Certifying properties exempt from property taxation:
 

a) Songbird Village. [Pages 24-26]	RES. NO. _____
b) Periwinkle Place. [Pages 24 & 27]	RES. NO. _____
c) ParkRose Properties. [Pages 24 & 28]	RES. NO. _____
d) 1680-1682 Oak Street SE. [Pages 24 & 29]	RES. NO. _____
e) 515 Geary Street SE. [Pages 24 & 30]	RES. NO. _____
- Action: \_\_\_\_\_
- c. Approval of Agreement
    - 1) IT Project Management Services intergovernmental agreement. [Pages 31-38]  
 Action: \_\_\_\_\_

d. Appointments

1) Reappointing Kim Whitley and Tina Dodge Vera to the Human Relations Commission. [Page 39]

Action: \_\_\_\_\_

2) Appointing Chuck Leland to the TLT Ad Hoc Advisory Committee. [Pages 40-43]

Action: \_\_\_\_\_

e. Report

1) Draft Santiam-Albany Canal intergovernmental agreement with City of Lebanon. [Pages 44-58]

Action: \_\_\_\_\_

6. BUSINESS FROM THE COUNCIL

7. NEXT MEETING DATE: Work Session: March 7, 2016  
Regular Session: March 9, 2016

8. ADJOURNMENT

City of Albany Web site: [www.cityofalbany.net](http://www.cityofalbany.net)

---

*The location of the meeting/hearing is accessible to the disabled. If you have a disability that requires accommodation, advanced notice is requested by notifying the City Manager's Office at 541-917-7508, 541-704-2307, or 541-917-7519.*

---

CITY OF ALBANY  
CITY COUNCIL  
Council Chambers  
Wednesday, December 2, 2015  
7:15 p.m.

MINUTES

CALL TO ORDER

Mayor Sharon Konopa called the meeting to order at 7:15 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

Konopa led the pledge of allegiance to the flag.

ROLL CALL

Councilors present: Mayor Sharon Konopa and Councilors Rich Kellum, Bill Coburn, Bessie Johnson, Ray Kopczynski, Dick Olsen, and Floyd Collins.

Councilors absent: None.

SCHEDULED BUSINESS

Communication

Accepting Kristin Richardson's resignation from the Planning Commission.

MOTION: Councilor Bessie Johnson moved to accept Kristin Richardson's resignation. Councilor Ray Kopczynski seconded the motion, which passed 6-0.

Business from the Public

Patty Louisiana, 1175 SW Timian, Corvallis, thanked the City Council for assisting with the Veterans Day Parade. She gave details about the parade. The parade started on time, and she praised the Albany Police Department for their work opening the streets after the parade. She mentioned Rear Admiral Nancy Norton, who has a family connection in Albany. The parade is a community affair and spectators are as much part of the parade as those marching. She said she is honored to put it together. She presented a plaque to the Albany City Council for their participation. She said next year will be the parade's 65th year.

Tom Cordier, 2240 NW Park Terrace, said he talked to Admiral Norton about Teledyne Wah Chang's history in the nuclear Navy. He mentioned Admiral Vincent dePoix, former president of Wah Chang and the first commanding officer of the USS Enterprise, the first nuclear-powered aircraft carrier. Admiral Norton said she served on the Enterprise. Her brother, who was with her, knows the connection with Wah Chang and promised to give her more than Cordier's thumbnail sketch.

First Reading of Ordinance

Declaring a ban on recreational marijuana producers, recreational marijuana processors, recreational marijuana wholesalers, and/or recreational marijuana retailers.

City Attorney Jim Delapoer read the Ordinance for the first time in title only.

MOTION: Johnson moved to have the Ordinance read a second time in title only and Councilor Rich Kellum seconded. The motion failed 4 - 2, with Councilors Dick Olsen and Ray Kopczynski voting no. It takes a unanimous vote of the Council for a second reading in the same meeting. This item will come back to the next Council meeting.

Adoption of Resolutions

1) Amending the South Santiam Enterprise Zone boundary.

John Pascone, 435 W First Avenue, representing Albany-Millersburg Economic District (AMEDC) said that some years ago, Albany was allowed to put some of its enterprise zone into Lebanon's space. A previous legislature increased Albany's enterprise zone allowance from 12 to 15 square miles. Now, a food processor is hoping to co-locate with Sno Temp. There is some Greater Albany Public Schools (GAPS) property for sale across the street that may be rezoned industrial. This is what prompted the proposed change.

MOTION: Kellum moved to adopt the Resolution. Kopczynski seconded the motion. The motion passed 6-0, and was designated Resolution No. 6465.

2) Authorizing a farm lease of South Albany Community Park to Ehrlich Farms, LLC.

MOTION: Councilor Floyd Collins moved to adopt the Resolution and Kellum seconded it. The motion passed 6-0 and was designated Resolution No. 6466.

Collins reminded the Council that the lease is a continuation. Parks has never used the land, so they lease it back to the farmer. This is just continuing that practice and receiving revenue on a regular basis.

3) Amending downtown parking restrictions.

MOTION: Kellum moved to adopt the Resolution and Kopczynski seconded it. The motion passed 6-0, and was designated Resolution No. 6467.

Matilda Novak, 3383 Summerhill Place NW, thanked the Council for the opportunity to speak. She said there were others present also to represent the downtown area. She said the Councilors should have received an e-mail from her sister Kay-Marie Novak. Novak read from the e-mail about Crandall's parking presentation. The perception that there is no parking downtown is affecting businesses, whether or not it is accurate. Former regular Novak's customers say they haven't been in recently because of a lack of parking. One group of elderly people had to walk three blocks to the restaurant because there was nowhere for their bus to park. Novak's has tour buses scheduled this spring and summer; she asked, where will they park? The more popular downtown becomes, the more important parking will become.

Kellum said it would help to have a map of downtown parking. Konopa said such a map would be helpful to show downtown customers that it isn't that much farther to walk to downtown businesses than it is to walk other distances, like through the parking lot at Safeway. From Safeway's door to the end of their parking lot is about 300 feet, the same as from Novak's door to Broadalbin Street. From Costco to the middle of their parking lot is about 500 feet. So, it is perception. She would like to work out an agreement with the owners of the old Post Office building to use their parking at night and on weekends.

Tim Benfield, 220 Second Avenue SW, said he thinks Konopa's example of the Costco parking lot is misleading. Most people try to park closer to Costco than the middle of the parking lot. Has an idea for diagonal parking. He proposed "bulbins" in the sidewalk: removing some of the sidewalk width to make room for pull-in parking, but leaving the width where trees are planted. He also asked if the City needs park benches on Second Avenue. A lot of them aren't being used.

Angela Childs, 35845 SW Riverside Drive, Albany, said she owns Mother Goose Resale. People from other businesses park in her customer spots using free passes. The residents in the apartments above her park in her spots because they get a \$5 residential pass. People who work downtown pay \$20 for a pass. She doesn't see why people who bring business downtown should have to pay more in order to work downtown. Her customers who are pregnant and those with young children do not want to walk three blocks to her shop. She said something needs to be done.

Konopa said Parkwise and the Albany Downtown Association (ADA) regulate parking downtown. The City Council doesn't have any kind of control over parking. As the ADA liaison, Konopa offered to bring it to their attention and see if they will review the fees.

Matilda Novak said that Childs' business is on Third Avenue, which is being looked at along with Second Avenue. The two of them represent several more businesses tonight. She asked the City Council to understand that even though there are only a few of them present, they speak on behalf of many other business owners.

Tina Ramirez, 530 10th Avenue SW, said she has a business on Second Avenue. She thinks that there is a way to have angled parking and still keep the trees, by using the parking spots next to trees as handicapped parking.

Mike Gornic, representing Fun Zone at 223 Second Avenue SW, said he agrees with Benfield about reducing the width of sidewalks to have angled parking on both sides of the street. He also has customers with small kids. When they are getting the kids out of car seats on the traffic side, there is a lane of traffic right next to them. Angled parking would help them out. Downtown Albany is going to have a carousel and is becoming more family-friendly, so this is something to think about.

Konopa said the Council will consider this as part of their streetscape work, including the question of diagonal parking. They will also talk to the old Post Office building owners to try to acquire the empty parking lot.

Adoption of Consent Calendar

- 1) Approval of Minutes
  - a) September 9, 2015, Regular Session minutes.
  - b) September 23, 2015, Regular Session minutes.
- 2) Executing a quitclaim deed to Lowes HIW, Inc.

RES. NO. 6468

MOTION: Kopczynski moved to adopt the Consent Calendar as presented and Kellum seconded it. The motion passed 6-0.

BUSINESS FROM THE COUNCIL

Johnson mentioned the Linn County Victim Impact Panel Tree of Remembrance Ceremony. She said the ceremony was appropriate and moving. The group just hung their 100<sup>th</sup> ornament for people killed by drunken drivers. She said Albany Police Sergeant Robert Hayes told her afterwards that there hasn't been a City Councilor there before. The ceremony was very short but well worth going to, so she asked other Councilors to consider going next year.

Kellum asked if the City knows which areas set aside inside the Urban Growth Boundary (UGB) are going to be restricted because of wetlands. He asked, have we studied how much is actually available so that later, if someone needs a certain acreage, we can answer their questions? City Manager Wes Hare said yes, we have a local wetland inventory. The problem is that not every wetland piece gets on the inventory. As an example, he named the Oak Street Apartments, where a complaint brought in the Division of State Lands (DSL), who deemed it wetlands and triggered expensive remediation costs. So yes, we have an idea where wetlands are inside the city limits. But one could also safely assume that almost anything on the valley floor may have wetlands. The City worked with the Council of Governments (COG) to have some of the major industrial sites delineated, and some property owners have done their own. Potential buyers have expressed interest in the property known as the Brandis property, and it needs a further delineation in order to determine its value. Delineations are expensive, and short of doing delineation on every property, Hare said, we won't know for certain.

Kellum said, if we have land outside the city limits but inside the UGB, we should change the city limits so we have more potentially buildable land available to make up for what we are losing to wetland. Hare said, we are being proactive by participating in the COG to resolve wetlands issues before they occur. We are hoping to look for grant money to develop our own wetlands bank for mitigation. The City hasn't looked at expanding the UGB or annexing property into the City.

Konopa said we do have quite a bit of inventory inside the city limits, including the Pepsi property at 250 acres, the Henshaw property at 100 acres, and the Brandis property. Any land we add will take away from interest in the PepsiCo property. Collins said that before wetlands became a big issue, the City had a buildable inventory of a certain number of acres, a 20-year supply. When you superimpose wetlands on them, it reduces the buildable acreage. When you do the delineation, it reduces it more. McMinnville has been trying to change their UGB for over 15 years to make up for losing buildable inventory. It's taken them that long just to get it in front of the Land Conservation and Development Commission (LCDC). The issue goes back to Senate Bill 100. If you want to protect farms and forest, you build inside your UGB. If you want to protect wetlands, you have to push out your UGB to make up the loss. He thinks the League of Oregon Cities (LOC) needs to push the issue with the legislature.

Hare said the LOC did get some reforms and revisions of the UGB expansion process through the last session, though they didn't solve the problem. Woodburn and McMinnville have spent years trying to change their UGB.

Kopczynski said he voted no on the first reading of the ordinance that declared a ban on recreational marijuana producers. He said he thought the six options that City Attorney Sean Kidd presented would be just the starting point, but he believes it was obvious that the City Council intended to decide on the option he thinks is the worst of those presented. He thought there must be another way to bring the Council back to a compromise. He looked through the City Charter and Albany Municipal Code (AMC), and thought he found a way to force the issue. He asked Hare, City staff, and the City Attorneys, who told him it was a tool with some ugly ramifications. He suggested other compromises, but got no positive response, so he is left with one tool. He said that when the item comes back to the next meeting, he plans to abstain during the vote.

Konopa said compromise is subjective. She will weigh in on abstention when it's her turn.

Collins said the Councilors are elected by the public to make choices and to vote. If there is a conflict of interest, declaring that conflict and not voting is reasonable. He said, abstaining is neglecting our duty as public officials. To abstain blocks the democratic process. One person can hold the City Council hostage with a vote. He doesn't think that is what the country or the City of Albany is built on.

Konopa said she agrees with Collins. She and Kopczynski and the City Attorney have discussed this. Kopczynski can abstain and there would not be enough votes to take action. She asked if the City Council would like to consider asking staff to bring back an ordinance that would change the AMC to identify what abstention means.

Delapoer explained that under the City Charter, four affirmative votes are required to take any action. The Mayor only votes to break a tie. Under the Charter, the Council can adopt rules that supplement the Charter. The AMC says that unless a member states that he or she is not voting, his or her silence equals a yes vote. If a Council member states

that he or she is abstaining, the vote is not counted for or against the proposition. If Kopczynski abstains, there will be no tie. The Mayor cannot vote, so the adoption of the ordinance is blocked. This provision is in an ordinance, not the Charter, so the Council can direct Delapoer to prepare an ordinance stating that an abstention would count as a vote against the proposition. There would be a three-three tie, and the Mayor would vote to break the tie.

Konopa said this could happen on other issues too, not just this one. She would hate to see abstention used in the future with, for example, a budget issue. She wants to prevent this happening for future Councils also.

Collins said he believes the rule that limits the Mayor to voting only in case of a tie only applies only to the City Council. Most other City groups only require a majority vote of a quorum. Delapoer said that is correct, and most other cities don't have the same restriction, either. If the Mayor is absent, the Council President conducts the meeting and votes. Collins asked what Robert's Rules say. Delapoer said Robert's Rules says that silence is usually counted as a yes vote and a speaking abstention as a no vote. The Albany Council is guided by Roberts Rules, but its actions are not rendered invalid if they don't comply with Robert's Rules. Even if the Council were under Robert's Rules, you could vote to suspend them.

Johnson asked if Delapoer's proposed ordinance would only deal with the word "abstain". Delapoer said it would not change the four-member vote and the Mayor voting in case of a tie, because those are in the Charter. But the Charter does not address abstentions, so they can be addressed in an ordinance. He said the proposed ordinance would amend Ordinance No. 5778, which was codified in AMC 2.04.060, by striking seven words: "~~is not considered either for or against~~"; and adding four words: "...shall be deemed a vote against..." This is the least amount of change that will accomplish the purpose. It would still be consistent with the Charter because there would still be four actual votes for any proposition.

Kopczynski said trying to do this, instead of coming to some sort of compromise, is an effort to accomplish a full ban on recreational sales and a vote in November. He feels he has been boxed into a corner. He found a tool to get back to square one, but rather than work through to a compromise, we're trying to figure out how to thwart the process.

Kellum said allowing medical facilities to sell recreational marijuana puts marijuana right next to a bunch of kids and that is not compromise. He said, right now, we have a system where we count the number of heads, and we win or we lose. He said Kopczynski is talking about winning at any cost. Kellum doesn't think that is why the Council was put in these chairs. He asked, who does Kopczynski's all-or-nothing system ask us to trust? The medical marijuana people? Kellum gave examples of broken trust and asked, how do you trust people who do those things?

Collins said he understands Kopczynski's argument, and he is not concerned with the content, but rather with the process by which this Council makes future decisions. There will be a long-term effect on the way the Council makes decisions. There will be different Councilors making different decisions on different issues. He asked, if we have the ability to circumvent our duty to vote, then why are we here? Whether one side wins or loses on this issue isn't the most important piece of this discussion. It's the fundamental piece of how we operate in a democratic process and the impact of that to the future.

Kopczynski said he still has not heard someone offer a palatable compromise. He said that until someone does, he's boxed into a corner.

Konopa suggested reviewing the abstention issue after finishing the Development Code changes. Kopczynski said that is not a compromise.

Councilor Bill Coburn said it's clear to him that both sides of the issue are political maneuvering. The bigger picture is that we need to change the City Charter. We could change it to make a simple majority all that's required to allow a measure to pass, and/or allow the Mayor to vote. In many cities the mayor votes on every issue. Even if someone abstains the Council could get four votes. It would be a better solution and it could go to the May Primary election.

Collins said that he was on the losing end of a 4-2 vote on the issue of medical marijuana. He didn't abstain and say there was no compromise; and the medical marijuana was allowed. He believes this vote on recreational marijuana is the same issue as that one. Kopczynski has separated the issues, and Collins doesn't agree with that.

Konopa said the situation reminds her of the recent discussion about the art ordinance. Collins was on the losing end of that vote, and there was no compromise taken. When you make a decision and vote, if you are on the losing end, you move on. That's what this City Council has done for two decades.

Hare said the question before the Council is whether or not you believe there should be a mechanism for a minority of the Council to defeat the will of the majority of the Council, independent of what the issue is. Delapoer's ordinance closes one loophole, but still leaves an opening. The only way to close that opening is to change the Charter to require only a majority of a quorum.

Olsen said he has been on the City Council for twenty-five years. He's found over time that a more conservative approach is often the best, particularly when you want to change something. If a minority of the Council feels strongly that changing something is the wrong way to go, then he thinks change is a bad thing. If an ordinance comes up changing the Council rules that allow an abstention to count as an absence, he will vote against it.

Albany City Council Regular Session  
December 2, 2015

Johnson said she has been outvoted before; it is the democratic way. It disturbs her that they have to consider an ordinance like this. She doesn't understand why Kopczynski can't accept that the majority rules. She doesn't want to see this unrest, because this Council has been gracious when they don't win and will either try to change it or accept it. She said, we don't retaliate and use tactics to get our way; that is not what we were elected to do. We are adults. She said, if you don't get the vote you want, you have to accept it and move on.

Konopa said this evening's discussion is a prime example of the divisiveness of the marijuana issue. It's all the more reason to take it to the voters and let them decide. It has been suggested that seven people shouldn't be making this decision, so let the voters decide in the November election.

MOTION: Kellum moved to direct the City Attorney to prepare an ordinance amending AMC 2.04.060 to prevent an abstention from blocking a Mayor's vote to break a tie. Johnson seconded the motion and it passed 4-3 with Olsen, Kopczynski, and Coburn voting no.

Hare discussed the items on the December 7, 2015, and December 9, 2015, Council meeting agendas. The Council agreed to cancel the December 9, 2015, meeting, and to move the start time on Monday, December 7, 2015, to 7:15 p.m. The agenda will include the ordinance regarding abstentions and also the second reading of the ordinance declaring a ban on recreational marijuana producers.

NEXT MEETING DATE: Work Session: January 11, 2016; and Regular Sessions: December 7, 2015

#### ADJOURNMENT

There being no other business, the meeting was adjourned at 8:39 p.m.

Respectfully submitted,

Reviewed by,

Mary A. Dibble, MMC  
City Clerk

Wes Hare  
City Manager

CITY OF ALBANY  
CITY COUNCIL  
Council Chambers  
333 Broadalbin Street SW  
Monday, December 7, 2015  
7:15 p.m.

MINUTES

CALL TO ORDER

Mayor Sharon Konopa called the meeting to order at 7:15 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

ROLL CALL

Councilors Present: Councilors Dick Olsen, Floyd Collins, Bessie Johnson, Rich Kellum, Ray Kopczynski and Bill Coburn

Councilors Absent: None

PROCLAMATION

Homeless Persons' Memorial Day

Konopa read the proclamation as outlined in the staff memo.

She said a homeless persons' memorial event will be held December 21, 2015, at 5:30 p.m., outside on the plaza. This is a very nice event to honor the many homeless persons in our community who were lost this year. Everyone is welcome to attend.

SCHEDULED BUSINESS

Business from the Public

Bill Root, 2634 NW Valley View Drive, said the Albany Toy Run was held Sunday, December 6, 2015. They had more than 200 volunteers and well over 500 toys were distributed. Each child received at least two toys, a stuffed animal and a bag of candy. Kids were able to sit on Santa's lap and there were a lot of smiles from the kids as well as the adults. He expressed appreciation to the City for its continued support and to the Mayor for her participation. Konopa said this is a great event that the organizers have really fine tuned and it flowed very well. She thanked Root for his work. Councilor Bessie Johnson commended Root and his group for doing this work which is so needed and appreciated. Brief discussion followed.

Tom Cordier, 2240 NW Park Terrace, said he views the Homeless Persons' Memorial Day event as a feel-good event. One of the homeless people who died this summer was a young man he worked with for over a year. The young man had been in jail and in court a number of times, had a mental health counselor, a mental health doctor, and a probation officer. A mental health professional at the jail classified him ten times as a paranoid schizophrenic. He didn't die because of the hot weather. An article in the paper said someone on City staff said most of the deaths this summer were a result of hot weather, which he thinks is nonsense. He said, we have a large mentally ill population in our homeless population that the system does not know how to deal with effectively. He gave examples of how the system was ineffective in helping the young man he knew. He thinks the memorial event is a misuse of time and energy. He said the mentally ill part of the homeless situation is not being addressed adequately and there is a lot more that can be done.

Bob Mitchell Daniels, no address given, said the City should give people somewhere to go before pushing them out of campsites along the river. Konopa said the City doesn't encourage tent camping because that is not a solution to a person's homelessness. She gave information about the homeless shelter and she offered to meet with Daniels at City Hall to discuss the matter further.

Second Reading of Ordinance

Declaring a ban on recreational marijuana producers, recreational marijuana processors, recreational marijuana wholesalers, and/or recreational marijuana retailers

City Attorney Jim Delapoer read the ordinance a second time in title only: AN ORDINANCE OF THE CITY OF ALBANY DECLARING A BAN ON RECREATIONAL MARIJUANA PRODUCERS, RECREATIONAL MARIJUANA PROCESSORS, RECREATIONAL MARIJUANA WHOLESALERS, AND/OR RECREATIONAL MARIJUANA RETAILERS; REFERRING ORDINANCE; AND DECLARING AN EMERGENCY.

MOTION: Councilor Rich Kellum moved to adopt the ordinance and Johnson seconded it. The motion passed 4-1 with Councilor Dick Olsen voting no and Councilor Ray Kopczynski abstaining, and was designated Ordinance No. 5862.

First Reading of Ordinances

Amending Albany Municipal Code 2.04.060, Voting

Delapoer read the ordinance a first time in title only: AN ORDINANCE AMENDING AMC 2.04.060 CONCERNING VOTING ABSTENTIONS AT CITY COUNCIL MEETINGS, AND DECLARING AN EMERGENCY.

Kellum said this is an important item and he would like to give it additional consideration before taking action. Johnson agreed; she would like for Council to think about it and not make this change on a whim.

The ordinance will be brought back for a second reading at the January 13, 2016, meeting.

Repealing Chapter 10.16 of the Albany Municipal Code, In-Lieu-Of Assessments for the North Albany Sanitary Sewer Basin

Delapoer read the ordinance a first time in title only: AN ORDINANCE REPEALING CHAPTER 10.16 OF THE ALBANY MUNICIPAL CODE IN ITS ENTIRETY.

MOTION: Councilor Floyd Collins moved to have the ordinance read a second time in title only. Kellum seconded the motion, and it passed 6-0.

Delapoer read the ordinance a second time in title only.

MOTION: Collins moved to adopt the ordinance and Kopczynski seconded it. The motion passed 6-0 and was designated Ordinance No. 5863.

Adoption of Resolutions

Forgoing a water rate increase for calendar year 2016 and reaffirming rates in Resolution No. 6411

Public Works Engineering and Community Development Director Jeff Blaine reviewed the written staff report. For each of the last four years, staff has provided details about the water utility and the City has implemented a series of rate increases building toward an annual capital investment of about \$1.5 million, hoping to achieve that target by 2017. The first obligation is to pay off debts, the second is to fund ongoing operating and maintenance activities, and whatever funds are left are allocated towards capital projects. Last year, a 2 percent rate increase was implemented and staff anticipated that a rate increase of 4 percent could be required to meet the 2017 target. Fortunately, revenues were high enough and operations staff have done a great job of controlling costs; therefore, staff now recommends that Council forego a water rate increase for this calendar year.

Motion: Johnson moved to adopt the resolution and Kellum seconded it. The motion passed 6-0 and was designated Resolution No. 6469.

Modifying Council Policy that established a Capital Recovery Policy for public water and sewer lines that are constructed by private property owners or developers

Blaine reviewed the written staff report. He said Capital Recovery Agreements are the primary tool used to facilitate one developer reimbursing another for past investments that are benefitting their property, and connection fees are used to complete that reimbursement. Using a whiteboard, he showed an example of a development scenario where Property A, as part of a subdivision land use approval, covers the cost of extending utilities to and through their property. That developer can enter into a Capital Recovery Agreement with the City so that when a property on the other side of the street wants to develop, they pay a connection fee calculated by the length of frontage along the utility, which is then reimbursed to Developer A.

Blaine reviewed proposed changes to the Capital Reimbursement Policy for Water, Sewer, Streets, and Storm Drain Facilities, as detailed in meeting packets. The recommendation amends the current Council policy to recognize that in-lieu-of assessments have been replaced by connection fees, that street and stormwater drainage costs can be included in Capital Recovery Agreements, and that the terms of the agreements should be extended from 10 to 20 years.

Kellum asked why there would be a time limit for the developer to be reimbursed. Blaine said that the length of term is a Council policy. The Planning Commission recommended extending the term of the agreement from 10 years to 20 years, and that is staff's recommendation. Having an end date is important so that there is not a situation where revenues just sit there and can never be used for something else, but the timeframe is a Council decision.

Kellum wondered why the connection fee from the future development couldn't just go to the first developer, regardless of how long it has been. City Manager Wes Hare said that longer timeframes could make it more difficult to track down who the fees should go to. Delapoer said that, over time, tracking systems will not be perfect. After 20 years, you will likely have new property owners, new staff people, and the utility will have used up a significant portion of its useful life.

In response to a question from Olsen, Blaine said the connection fee fund currently has about \$60,000 to \$100,000. Olsen wondered why all developments couldn't pay for their half of street improvements with the other side to pay their share when they develop, using funds in the connection fee account to cover those costs in the interim. It was explained that this approach would require that the City guarantee funds were available for developers to use, which the City can't do.

Collins said it's difficult to have a system that is both simple and equitable; he feels the recommended approach is reasonable.

Skyler McCollum, 2175 Pine Meadow Drive, asked if there is a limit to the number of properties that will pay these connections fees. Blaine explained that the fee is for the cost of improvements that front the parcel and are based on the length of the frontage. Parcels not fronting the improvement do not pay these connection fees. In response to McCollum's further inquiries, Delapoer explained that if property owners wanted to petition to have a larger, more comprehensive improvement put in and pay their portion of costs, the City would allow that. The City has not found that developers who plan to develop at some undetermined future time are interested in paying an assessment in advance, so this fee was established. Collins added that if the developer is required to put in an 8-inch line and the City anticipates a lot of growth, they would potentially participate in paying for a larger line to accommodate that future capacity.

Dan Watson, 710 East Thornton Lake Drive NW, said he has talked with staff over the years about this subject and he thinks the 20-year timeframe makes sense. He suggested that Council consider making the agreement renewable so that someone who wanted a longer agreement could request an extension.

Blaine said, as Delapoer mentioned, the life of the utility is another consideration. If the agreement goes too far out, the City could end up paying to replace the water line while handing over connection fees to the original developer.

Motion: Kellum moved to adopt the resolution. Collins seconded the motion.

Johnson asked if Council was interested in allowing an extension. Collins suggested that Council proceed with the policy as proposed and, if someone comes back after 20 years, an extension could be considered at that time. Johnson felt that was reasonable.

VOTE: A vote was taken on the motion and it passed 6-0 and was designated Resolution No. 6470.

SS-16-03, Maple Street Lift Station: Awarding a special procurement contract for two Flygt pumps and related equipment to Xylem

City Engineer Staci Belcastro reviewed the written staff report. Staff recommends that the City Council, acting as the Local Contract Review Board, adopt a resolution establishing a special procurement for the purchase of two Flygt pumps for the Maple Street Sewer Lift Station. The station currently has four pumps installed. This project would replace the two smaller pumps to match the capacity of the larger pumps. This upsizing would increase reliability at the station, help to reduce sewer overflows, and meet long-term capacity requirements. Staff is requesting this special procurement because it is not practical or cost effective to install pumps from different manufacturers. A pump from another manufacturer could be modified but that would involve making changes to the existing rail system which would result in increased costs. The resolution authorizes staff to negotiate a contract with Xylem, the sole source supplier for these pumps in this region, which has indicated a price of approximately \$50,000 for the two pumps.

Kopczynski asked, what is the source of the revenue? Belcastro said it would be Capital funds. Kopczynski asked if either of the pumps is now failing. Belcastro said no, the project will help reduce overflows and is

needed for reliability of the station. Kopczynski asked what would be done with the existing pumps. Belcastro said they could possibly be used somewhere else or sold.

MOTION: Kopczynski moved to adopt the resolution and Collins seconded it. The motion passed 6-0 and was designated Resolution No. 6471.

#### Adoption of Consent Calendar

- 1) Approval of Minutes
  - a) October 12, 2015, Work Session minutes

MOTION: Johnson moved to adopt the Consent Calendar as presented. Collins seconded the motion and it passed 6-0.

#### Appointments

##### Community Development Commission

MOTION: Kopczynski moved to approve the appointments of Dick Olsen, Dan Sullivan, and Joann Zimmer to the Community Development Commission. Councilor Bill Coburn seconded the motion and it passed 6-0.

#### Reports

##### Dual Left-Turn Lanes at Springhill and Highway 20

Transportation Systems Analyst Ron Irish said there have been questions as to why the dual left-turn lanes at Springhill Drive and Highway 20 were removed. He said this is an intersection of a Benton County road and a state highway, and the City has jurisdiction over the signal. During the North Albany Road project, the City, Benton County, and the Oregon Department of Transportation (ODOT) agreed to allow dual southbound left turns from Springhill onto the Highway during the construction period. ODOT was reluctant due to concerns about safety, in that there is about a 10 percent slope with the north side of the highway about 8 feet higher than the south side, and the intersection has history of trucks flipping over and rolling into the park. An alternate truck route was posted during the detour to address those concerns. The alternate truck route worked very well and compliance was good during the project, due in part to an increased police presence and enforcement.

Irish said that, as the construction project was being completed, there was interest from the City Council and the Benton County Board of Commissioners to see about maintaining the dual left-turn lanes. City and County staff met with ODOT which, in order to consider the request, wanted a proposal very quickly which included weighing the capacity benefits of the dual left with safety concerns of the super elevation. They wanted to see data that involved performance analysis of the two conditions, turn movement analysis, and a plan from the City and the County related to how the detour would be posted and enforced. Staff estimated the analysis would cost about \$20,000 to prepare, money the County indicated it did not have for the project. ODOT staff also pointed out that the conversion to a dual-head signal pole would have an additional cost, estimated by staff to be about \$75,000. Based on the cost and the unlikely success, as well as the very short time allowed for an application to be submitted, staff did not pursue the item.

Irish noted that ODOT is just beginning a safety project for Highway 20 from Corvallis to the Springhill Drive intersection which will include some of the analysis they were requesting with the dual left-turn application. If the super elevation is found to be the problem that ODOT envisions, then it won't be possible to get dual left-turn lanes until that is fixed. There is a long-term project in Transportation System Plan for that section of Highway 20 that would add right-turn lanes on the north side of the road from base of the bridge to North Albany Road and which is envisioned to fix the super elevation at the intersection.

In response to questions from Collins, Irish said ODOT's analysis of Highway 20 is just beginning and he doesn't know the timeframe. The initial focus will be on areas where they have had crashes, such as Granger Road and Independence Highway, but also looking at the curves on Hwy 20 and at the North Albany Road and Springhill Drive intersections.

Coburn said he has previously voiced frustration on this issue. The dual left-turn lanes worked during the construction period and he thinks that has value. It's hard to understand ODOT's thinking that this is not safe but that they will allow it on a temporary basis; he doesn't think that makes sense. He asked if it would be possible to stripe the right lane wider and have trucks allowed only in that lane. Irish said ODOT wanted the study to show two trucks, side by side, a situation one would see very rarely, if ever. Brief discussion followed.

##### Quiet Zones for At-Grade Rail Crossings

Irish reviewed the written staff report. Councilors previously received an email from a citizen requesting that consideration be given to developing plans for implementing "quiet zones" for at-grade rail crossings within the City. Federal law requires that when a train approaches an at-grade crossing, they have to hit the horn, and often the engineer will hit the horn multiple times. In a quiet zone, there are changes made to the at-grade crossing to make it safer and the obligation for the train company to hit the horn goes away. A new quiet zone must be at least one-half mile in length and requires physical improvements at each crossing, which are negotiated between the Federal Railroad Administration (FRA), ODOT Rail, the affected railroad company(s), and the road authority. The City has 29 at-grade crossings and ODOT Rail has given an informal estimate of roughly \$500,000 per crossing. The cost of implementing quiet zone improvements at all 29 at-grade crossings would be about \$14.5 million. Even this would not eliminate all train horn noise in town. There are some rail corridors in town, such as Water Avenue between Main Street and Geary Street, where installation of quiet zone improvements is technically infeasible.

Irish said cities have implemented quiet zones in Oregon and throughout the country. Often, if a community is willing to close one crossing, they can obtain federal money to improve an adjoining crossing and fund quiet zone improvements. There are not a lot of crossings to trade away in Albany, so that raises the issue of how this would be funded. If Council is interested in pursuing quiet zones, staff could do an analysis for further consideration.

Kellum said the railroad was here first and everyone moved in next to it. He said creating quiet zones isn't going to save any money and, since we don't have several million dollars to pay for it, he thinks the whole point is moot.

Collins said this comes back to the priority for our capital investments. He doesn't want to lose track of the fact that this was raised and that there may be future opportunities. He suggested that it be added as an unfunded project in the Capital Improvement Program (CIP).

There was consensus to add quiet zones for at-grade crossings to the unfunded section of the CIP.

#### Bicycle and Pedestrian Advisory Commission Recommendation

Irish reviewed the written staff report. The Bicycle and Pedestrian Advisory Commission recommends that Council submit a request to ODOT for approval of sharrow installation on Lyon Street and Ellsworth Streets. A sharrow is a pavement marking often used on arterial and collector streets when striped bike lanes are not an option. The primary function is to remind drivers to expect cyclists and to provide cyclists with information on where to ride. Sharrow installation does not require the removal of on-street parking. The Transportation System Program (TSP) includes two projects for installation of sharrows on Lyon and Ellsworth Streets. ODOT has indicated they would consider a request to allow sharrow installation on the two roads. If the request is approved, ODOT would likely require the City to install and maintain the sharrow striping through an Intergovernmental Agreement (IGA). The cost for the project would be about \$6,000 and could be funded with TSDC funds. Staff requested Council direction.

Collins said the City is in the process of talking to ODOT about Lyon Street and Ellsworth Streets, related to the Central Albany Revitalization Agency (CARA) downtown improvements. He suggested the sharrow request be rolled into that discussion and, if approved, become a function of that improvement. Irish said that is a good suggestion as the City will likely have an IGA for some of those CARA-funded improvements.

Coburn said ODOT is involved in bicycle safety and he asked if there was any interest on their part to put in these sharrows. Irish said staff would likely start by asking if ODOT was willing to stripe them. There may be an opportunity for ODOT to share in funding the installation but the City is likely to be responsible for maintaining them.

Collins noted that he spoke with the new district manager at ODOT, and he stressed his concern as to why Albany comes up short on maintenance money for the state highway running through downtown while Corvallis, Lebanon, and Sweet Home have all had substantial improvements. He thinks this discussion should be incorporated into the overall discussion about Ellsworth and Lyon Streets.

There was general agreement that the recommendation regarding sharrow installation be included in discussions with ODOT related to Ellsworth and Lyon Streets.

#### Brandis Property Wetlands Delineation

Hare said Council previously directed staff to market the Brandis property near Timber Ridge School for future development to recover the City's cost for Local Improvement District (LID) improvements on that property. One of the barriers to selling the property has been the absence of wetland delineation work. After the staff report was prepared, an offer was received on a piece of the property.

Economic Development and Urban Renewal Director Kate Porsche described the cost to delineate the wetlands on the four tracts which is a total of \$21,675. She said the appraiser has said he is unable to calculate a price until the amount of buildable lands is known.

Collins said he thinks it's prudent to have the information available for a potential sale and it could add to the value of the property. He said the price of the delineation could be rolled into the price of the property when it is sold to recover that investment.

Konopa said there is a lot of potential for this area and she thinks it would be good for Council to consider an overall vision plan for what they would like to see there. Hare said, based on previous discussion by Council, staff has been in discussions with potential purchasers and a proposal is expected to come forward shortly for one tract which would be developed with multifamily housing.

Kopczynski asked if the offer is contingent upon the City doing the wetland delineation. Porsche said no, but other potential purchasers have raised the issue. Delapoer added that a developer would be unable to get through the approval process without the delineation and that an appraisal would help the City understand whether the offers being received are good offers.

Konopa said the question to Council is whether they would like to proceed with appropriating funds for the wetland delineation, but she would also like Council to think about whether they would like to come up with a vision plan for the area. Collins said it's difficult to come up with a vision until it's known what we have to work with. He thinks Council can have that discussion later.

MOTION: Collins moved to direct staff to proceed with getting the four tracts delineated using economic development funds with that money to come back into the Economic Development fund upon sale of the property. Kopczynski seconded the motion and it passed 6-0.

#### Transient Lodging Tax Policy

Porsche said this item came before Council at the November 9, 2015, Work Session. Because it did not receive four votes to go in a specific direction, it was held over to this meeting. Council is asked to review and provide feedback as to which body should be tasked with review and revisions of the Transient Lodging Tax (TLT) Policy. Staff recommends that City Council directly review the policy. At the last meeting, there was a hesitancy to do the same old thing. While it is up to Council what information staff brings and how it is organized, staff envisions a robust and rigorous dialog regarding this policy which could include bringing in experts or a facilitator for that process.

Kellum suggested that an outside group be appointed to review the policy. He suggested the group be made up of people with marketing skills who do not pay or receive the TLT. He named several potential members and suggested that one person could be appointed by each Councilor and the Mayor. He proposed to make a motion to that effect.

Hare recalled that the motion regarding TLT that was made at the November 9, 2015, meeting failed to get four votes. If there are not four votes in affirmative or negative, the question will be considered again at a future meeting. Delapoer advised that Council should first vote on this pending motion.

PENDING MOTION: The motion was to have the City Council, as the body that directs the TLT funding, review the policy.

Kopczynski said the Council is the final arbiter of how the money will be utilized across all the agencies that participate. He has no problem with having another group look at the topic with fresh eyes as long as all of the agencies are represented.

Collins said there is a need to go back and find the original requirement on this item, then to look at what is being funded and what we are trying to do with that money. Marketing is one component. He thinks Kellum's idea is valid and would add credibility to the process.

Coburn said Council used to review the TLT applications prior to forming a committee to do that. He supports having a group of people with the necessary expertise review how all the TLT revenues are being spent.

Konopa said the City Council knows the programs and the needs. She thinks it would be hard to get an outside group that knows the big picture like Council does, and she thinks that having Council be the reviewing body would expedite the process. Kellum disagreed; he said there is not the expertise on Council to do this review, and he thinks a committee could get the work completed just as timely.

Coburn suggested that Council could be the reviewing body for one year only to provide time for the committee work. Kellum said that was discussed last year but nothing was done since.

Collins said credibility is more important than pushing the timeframe. He would support getting a committee appointed and have it begin its work. Additional discussion followed.

VOTE ON PENDING MOTION: A vote was taken on the motion to have City Council, as the body that directs the TLT funding, review the policy and it failed 2 - 4, with Collins, Johnson, Kellum, and Kopczynski voting no.

MOTION: Kellum moved to appoint an outside body made up of individuals who do not receive or collect TLT funds, with one member to be appointed by each Councilor and the Mayor. Collins seconded the motion.

Konopa clarified that this would be an ad hoc recommendation committee.

Kopczynski said one of the key successes to the Public Safety Committee was that two people with impeccable reputations went out and got the people who would be involved in that planning. He suggested a similar process for this committee.

Coburn asked Kellum if it's reasonable that a committee could provide input in the next few months in preparation for the budget process. Kellum said not in total; however, they may be able to give some information and budget decisions will have to be made based on whatever information is available at that time.

Konopa said it is imperative that the group have input and experience related to tourism and the overall goal of "heads to beds". Council knows the budget, programs, gaps, and needs, and what is needed for our community and for tourism. The TLT program has gone from \$600,000 to almost \$1 million, and all the players are working hard to bring up tourism dollars. She is worried that someone may want to divert off one of the programs and, if Council doesn't agree, then we haven't accomplished a lot. Kellum reiterated that he doesn't think there is the marketing expertise on Council to do this review. Discussion followed.

Olsen said the City Manager has given budget messages each year that indicate things are getting tighter and tighter due to rising employee costs and limited revenues. He thinks it's the wrong time to impinge on our budgets.

VOTE: A vote was taken on the motion to appoint an outside body made up of individuals who do not receive or collect TLT funds, with one member to be appointed by each Councilor and the Mayor. The motion passed 4-2 with Olsen and Coburn voting no.

Konopa suggested that Council review the scope of the committee at a future work session.

#### BUSINESS FROM THE COUNCIL

Kopczynski congratulated Council on the process used to get to a vote on the ordinance related to marijuana. He has received an incredible number of emails applauding what he was trying to do. He thinks the process worked just fine. He ended up on the losing end but it wasn't for lack of trying.

Collins suggested that Council direct staff to bring back information on time, place, and manner restrictions for marijuana facilities after the first of the year.

Konopa said the downtown parade last night was great. It was the best turnout she has seen, despite the rain. She expressed appreciation to Peggy Burris for her work in getting the event coordinated.

#### NEXT MEETING DATE

Work Session: January 11, 2016; and Regular Session: January 13, 2016

#### ADJOURNMENT

There being no other business, the meeting was adjourned at 9:41 p.m.

Respectfully submitted,

Reviewed by,

Teresa Nix  
Administrative Assistant

Wes Hare  
City Manager

CITY OF ALBANY  
CITY COUNCIL WORK SESSION  
Municipal Court Room  
Monday, January 11, 2016  
4:00 p.m.

**MINUTES**

**CALL TO ORDER**

Mayor Sharon Konopa called the meeting to order at 4:00 p.m.

**ROLL CALL**

Councilors present: Mayor Sharon Konopa and Councilors Bessie Johnson, Rich Kellum, Ray Kopczynski, Bill Coburn (arrived at 4:07 p.m.), Dick Olsen, and Floyd Collins.

Councilors absent: None.

**BUSINESS FROM THE PUBLIC**

Duane Harris, 2711 Gibson Hill Road NW, owner of Cryptic Cuisine and President of the Albany Food Truck Association, came before the Council to request that they direct staff to review the current ordinance pertaining to food trucks in Albany. He pointed out that the current ordinance has them grouped with flower and fruit vendors and is a transient merchant ordinance. He is asking that Council consider adopting a new code, or revising the existing one, that allows for pods for food vendors. Harris added that Ed Wright, the owner of Original Breakfast, has agreed to construct a food pod at his business location for up to five vendors. Harris would like Council to add this item to a future agenda to discuss a code or ordinance specifically designed to accommodate food trucks.

Councilor Ray Kopczynski said he is in favor of having staff take a look at this ordinance, taking the City of Salem's current policy into account.

City Manager Wes Hare told the Council that there has been some internal discussion about the need to look at a food truck ordinance and that this is not a new issue for cities around the state. He explained that one of the barriers is staff time, the Community Development Department has been reduced, and staff hasn't had a lot of time to go over the code. Hare stated that staff can review this item, should Council direct them to pursue it.

Harris added that he has discussed this item with Aaron Panko, a planner for City of Salem, who helped to develop the food truck code they have; and Panko has expressed that he would be willing to assist Albany with development of a similar code.

Councilor Dick Olsen thinks this is a good idea.

**MOTION:** Kopczynski moved to direct staff to start the process of reviewing the code pertaining to food trucks and Olsen seconded.

Councilor Bessie Johnson asked if there will there be food pods just anywhere. Kopczynski explained that those questions would be part of the review process.

Hare pointed out that this is a land-use action and will take some time to review and go into effect.

Councilor Rich Kellum noted that the process will allow people with questions and opinions the opportunity to bring those forward.

**VOTE:** A vote was taken on the motion and it was approved 5-0, with Councilor Bill Coburn absent.

**UNIVERSITY OF OREGON SUSTAINABLE CITY YEAR INITIATIVE**

Hare gave some background for the University of Oregon (UO) Sustainable City Year Program and summarized the information provided in the staff report. He explained that management staff met and discussed this item on a number of occasions and felt there was benefit in this program. Hare added that many of the items listed are things that are slated to be done through another agency and this doesn't necessarily represent a new expense, just a different approach. He said that staff received great reports from other cities, including Redmond and Salem, and the interesting part about this program is that it allows the City to take advantage of an array of resources. The University looks over the project list and pairs items with the appropriate resources they have.

Hare noted that the Airport received particular attention from blogger Hasso Herring. Hare asked that the Airport be included as a project item since it has been 25 years since the Council reviewed this item. He pointed out that the Airport sits on some valuable land and so it may be something the Council wishes to look at, or it may be something they feel has already been addressed and can be excluded from the project list. Hare emphasized that it's not just students doing this work; it includes professors and other University resources.

Coburn arrived at 4:07 p.m.

Economic Development & Urban Renewal Director Kate Porsche said she has heard about this program for a number of years. She included seven possible projects, many of which are related to urban renewal activities that are already planned and for which funds have been allocated. Also included are some economic development projects that this program has completed for other cities which would be very valuable to her because of limited staff time available to do these projects in-house. She said the City of Redmond spoke very highly of this program and it would be an opportunity to get some of these projects off the back burner and gain some fresh perspective.

Parks & Recreation Director Ed Honey explained there are 11 or 12 possible projects that Parks has submitted. He said the Parks Master Plan is something they've had budgeted for a couple of years. He had intended on proceeding with hiring a consultant through a Request for Proposals (RFP) process but they've held off waiting to see if Council is interested in pursuing the UO program and whether the parks Master Plan would fit in as one of those projects.

Konopa asked whether the Parks Master Plan is the top priority for Parks. Hodney said the priorities would be the items which are funded. He noted that Parks has on the list a business plan and marketing campaign for the Albany Parks & Recreation Foundation, a foundation that's not yet been established. He said if they can get the Foundation up and running, it would then be a matter of collaboration between the City and the Foundation on fundraising campaigns, which he believes the UO Program could help to develop.

Porsche explained that staff was asked to compile a list of projects they felt would be a good fit for this program; and it is not required that all of the items be included. She pointed out that the Monteith River Park already has a budget line item in the Central Albany Revitalization Area (CARA) budget; so rather than using consultants, the project would be accomplished utilizing the program through the University.

Konopa asked whether this would include the design and master plan. Porsche confirmed that it would include everything. She added that staff had an opportunity to see the product produced for another city and it was very professional.

Planning Manager Bob Richardson pointed out that Megan Banks, Program Manager, was present and available to answer any questions from the Council.

Kellum stated that he wants expertise in dealing with recommendations for the City spending large sums of money. He wonders whether the level of expertise is the same with grad students as it would be with someone that's been in the profession for many years. He has concerns about grad students having relevant experience.

Hare shared a story about the beginning of his career when he worked as an intern for the City of Lowell. They were interested in looking at whether or not they could get funding for a new water reservoir and they also wanted him to work with computers, which were relatively new at the time. He recalled that they hired him a fairly low rate of pay and he was able to accomplish those tasks which they had been unable to complete prior to his arrival. In the end, they had a million dollar project that an intern helped them get taken care of. He gained a great deal of experience and City of Lowell received good value for their money. He feels that with the University program, as with his experience, there is benefit to both parties.

Banks explained that with the program, they don't typically want to replace consultants; they want to do the pre-consultant work that examines all of the alternatives. She said a consultant may seek to get you to the answer you want, whereas a student will take a step back and make sure that you're asking the right questions. The program may help frame a discussion with a consultant who's then more effective. She added that they also have consultants who want to engage with the students; they'll come in and offer suggestions and expertise so the students get the benefit of their knowledge and experience. Additionally, as Hare pointed out, the program includes the faculty.

Hare agreed there was a certain amount of risk in participating in the program but you minimize the risk by looking at past performances for other cities; and those that have taken advantage of it have very good things to say. He initially felt it was a lot of money but he took it to the management team which was unanimous in saying that it was worth doing and there would be a benefit.

Kopczynski said he wonders, if we took that same amount of money and hired professional staff, what we would be getting from the students that we wouldn't be getting from a professional; and what are the metrics to make sure that the work is successful.

Hare believes the metrics of success are whether they produce a product that makes it possible for staff to move forward with the work that needs to be done. Kopczynski asked, isn't that what staff is supposed to be doing anyway?

Banks elaborated that there could be upwards of 500 students working on projects throughout the year. She said it's difficult to compare professional staff with the work of students. She ran the numbers once and it was going to take a staff person 29 years to complete the same amount of work that students accomplish during the program year.

Olsen asked whether students have ever come up with a grant to accomplish the project they're proposing. Banks confirmed that it has happened in the past that students were able to secure funding. Olsen said it has the potential to pay for itself then, to which Banks agreed that is certainly possible.

Konopa asked Porsche what was in mind for the St. Francis Hotel. Porsche explained that we have a good feasibility study that was done by ReStore Oregon. Some communities have had the students look at specifics for next steps. She said that St. Francis was a late addition to the program but it's one of the projects that she feels very strongly about and feels it could be a game changer for downtown. She pointed out that if Council wanted to move forward with this project, there is still communication that would need to happen with the University to clarify which projects will be included.

Konopa clarified that what staff is asking of Council is their direction to continue working with UO.

Richardson explained that if Council wants staff to move forward, UO is only going to agree to projects that they feel they have the expertise to take on. He feels it is important for Council to understand that if the City applies for this program, while we still need to go through the process of signing contracts, fine-tuning details, and finalizing plans, the UO is looking at an application as a commitment to participate.

Hare said that if Council wants additional information about the program, staff can provide that but reiterated Richardson's point that once Council says they want to go ahead and apply, that's a commitment made to UO.

Konopa feels anything we can do to help with enhancing Parks programs is beneficial, especially if it's more cost effective. Hodney noted that other communities have worked with UO to do their Parks Master Plan. Konopa asked how many projects we're able to do. Richardson explained that the City would probably do 15 to 20 projects, depending on the cost and availability of the University. He said the idea is that you partner with UO and complete or advance projects that have been delayed because of lack of staffing or other resources. Konopa would be interested in a smaller-scale project.

Councilor Floyd Collins feels there are two issues to consider. First, do we even want to do the program? If the answer to that is yes, then the second issue is the content of the program. There are certain aspects he doesn't support. Having dealt with similar programs, he's not in favor of Council doing this, in part because of what Kellum said about expertise. He believes there's a significant difference between the output of a professional and those in the academic world. He sees this taking significant staff time for project management, much more so than with a private consultant company. He considers this to be a nice but not necessary item, so he wouldn't support it at this time.

Kellum is concerned that we don't know what projects we're accomplishing with spending this money and we don't know for certain that it will cost \$250,000. He feels we need to first identify what items we want to accomplish and then second, whether we have the money to complete them.

Johnson is concerned too that money will be spent on this program and then the City will not have the resources to follow through and complete the projects. She agrees with other Councilors that some of the items on the list require a lot of expertise and we need to get it right the first time. She would not be in favor of applying unless they have a lot more information and a finalized list of programs.

Kopczynski thinks the concept is great but doesn't like that the simple act of applying is a commitment to proceed.

Banks explained that they've already sent out requests for proposals so when they select a city, because they've already told the other cities no, they're assuming that a proposal is a commitment to participate. Kopczynski thinks they should be able to go to the next city in line if one city backs out. Banks stated that they haven't had that come up before.

Coburn is in favor of this program but recognizes that it is a leap of faith in making application and being committed. He pointed out that this is work that needs to be done anyway and consultants are extremely expensive. He figured that through the program it works out to \$12,500 to \$16,700 per project, which he feels is very cheap, and there's no way they can get consultants to do the work for that amount. He questions what more staff can bring to Council for them to make a decision.

Hare clarified that some of the information staff could bring back, for example, is that this is not General Fund money; it will come from Enterprise Funds, and knowing where the money is coming from may help. Staff could also provide copies of some of the reports that have been completed for other cities; staff has that information and could provide it to Council.

Olsen feels it is a good idea to get a fresh and perhaps more inventive perspective than just hiring the consultant who is reputed to be excellent for the type of project. He recalled the time when a professional was asked to provide a carousel design and none of the five versions that were brought back were satisfactory. He feels that if we'd had something like the University program to review the carousel project, it may have been better. He is also in favor of the program but would like to see some examples of the work done and would prefer not to vote yet.

Kopczynski would like to see funding options and would also like to see examples of the work done.

Hare advised Council that application has to be made by the end of January. It was agreed that the item would be brought back to the January 27, 2016, City Council Meeting and staff would put more information together for Council to review.

Public Works Engineering & Community Development Director Jeff Blaine asked Council whether there are projects they definitely don't want to pursue and there was a general consensus not to include the airport.

Collins also pointed out that the two projects involving the Oregon Department of Transportation are not the City's responsibility and should be excluded. He's also not clear on what is involved with the Parks Foundation item. Hodney explained that they are looking for some sort of marketing or campaign strategy that would advocate the Foundation and there are resources at the UO that do exactly that sort of thing. He said the goal was to come up with a project that would benefit the City and the Foundation, and that would also match up with UO resources.

Collins feels that addressing the delivery of Parks services is a budgetary issue and is staff's job, and should not be a part of this program. Konopa doesn't think we need a floodplain outreach program.

Collins is concerned that the list needs many edits. If they see it at the January 27, 2016, Council Meeting, that doesn't give Council much time to agree or disagree with staff.

Banks clarified that the list is a starting point and once the City is selected, matching up programs with resources continues throughout the summer, before the fall term starts. She said the list is used as a starting point and a gauge for the City's diversity of interest in projects. Collins is concerned that we could end up with more than \$250,000 into this program.

Banks gave the example of the City of Redmond. They went with a not-to-exceed of \$375,000, and from what she's seen in the program year so far, they'll probably end of spending around \$275,000.

Olsen asked whether there are negotiations about what projects need to be done and Banks said they coordinate with staff and faculty to make sure it's a good fit.

#### TRANSIENT LODGING TAX AD HOC ADVISORY COMMITTEE

Porsche reviewed the items needing clarification, as outlined in the staff memo.

Porsche asked, should it be required that the ad hoc committee members be residents of the city of Albany? Discussion followed. Konopa commented that there are over 50,000 people in the city of Albany; Council should be able to find an appointee within the city limits.

MOTION: Kellum moved that ad hoc committee members do not have to be residents of the city of Albany, but should be familiar with Albany, and Kopczyński seconded.

Johnson suggested that although they would not have to be a resident of the city, they should at least work in Albany. Discussion followed and Kellum agreed with Johnson about the requirement to work in Albany, but he did not formally amend his motion.

Konopa stated that the motion was that they do not have to be a resident of Albany and called for a vote.

VOTE: A vote was taken on the motion and it failed 3-4 with Coburn, Olsen, Collins, and Konopa voting no.

Konopa stated that appointees will have to be a resident of the city of Albany. There was discussion about whether a vote against Kellum's motion implied an affirmative vote for a residency requirement.

Porsche asked, should current board members of TLT recipient organizations be excluded?

MOTION: Johnson moved that members of any board whose organization receives TLT funds should not be eligible for appointment to the ad hoc committee and Kellum seconded.

Kopczyński asked whether employees of organizations that receive or collect TLT funds would be eligible for appointment. Porsche clarified that the question of employees was discussed at a previous Council meeting and it was decided that employees of those organizations would not be eligible to serve on the committee.

Olsen asked what organizations receive TLT funds. Porsche, Hare, and Konopa named some of them: Albany Visitors Association (AVA), Albany Downtown Association (ADA), the Airport, Albany Millersburg Economic Development Corporation (AMEDC), Veterans Day Parade, Public Safety Facilities Review Committee, and the Parks & Recreation Commission.

VOTE: A vote was taken on the motion and it passed 4-2 with Olsen and Coburn voting no.

Porsche asked, should members of City boards, commissions, or committees be excluded?

MOTION: Kellum moved that members of City boards, commissions, or committees not be excluded and Johnson seconded.

Discussion followed relating to whether this applied to City boards and commissions that receive TLT funds, such as the Public Safety Committee or the Parks & Recreation Commission; whether this applied only to boards or commissions that do not receive TLT funds; or if it applied to all boards, commissions, or committees. Johnson pointed out that these are advisory boards to the Council, comprised of unpaid volunteers; they are in a different position than board members of private organizations. There was general agreement and understanding that the motion applied to all boards, commission, or committees, regardless of whether they receive TLT funds.

VOTE: A vote was taken on the motion and it passed 6-0.

Porsche directed Councilors to send their appointee information to staff so that the first meeting can be scheduled.

Konopa asked whether the hoteliers were excluded. Kellum stated that the decision was for no collectors or recipients of TLT funds, or their board members or employees, to be a part of the review process. He commented that based on tonight's votes, one of the three appointees would be disqualified because she works in Albany but does not live here.

Kopczynski proposed that the TLT policy review could be a project for the UO Sustainable City Year Program, if they decided to pursue that program, as it would be an opportunity to get a completely unbiased outside opinion. Hare agreed that the program could possibly address some of the issues related to the TLT policy and gave the example of a cost benefit analysis being done by students taking a related course at UO. He acknowledged that they're not going to get the perfect answer but the program could be of benefit.

Konopa asked Councilors to be sure that whoever they appoint is aware that recommendations made by the ad hoc committee could change at the Council level.

#### COUNCILOR COMMENTS

Johnson reminded Council that the Martin Luther King, Jr., birthday speech-reading event is on Friday, January 15, 2016, and encouraged people to attend.

Kopczynski raised a question related to the process of adopting City ordinances and discussion followed. Olsen asked about the use of the emergency clause. Hare stated that staff has received direction from Council that they want to minimize the use of the emergency clause and confirmed that staff is trying to do that when possible.

Kopczynski also brought up the process by which Council starts the search for a replacement for the City Manager position, and how they make that happen in a reasonable amount of time. Konopa added that Hare should clarify what capacity he would be acting in after his June 2016 retirement date.

Hare explained that he plans to work until June 30, 2016, at which point he will officially retire from his position through PERS but he will contract back from July 2016 to June 2017. He said this is similar to the arrangement Council made with his predecessor, and between former Superintendent Maria Delapoe and Greater Albany Public Schools. Hare explained that this will save the City the cost of his PERS input, which is approximately \$16,000 - \$17,000. After June 2016, he will be able collect his PERS retirement pay and his contract salary for the time that he is contracted back.

Hare thinks there is at least one incredibly strong internal candidate for the job and that's a factor for Council to be thinking about as well. He addressed Konopa's question of capacity and explained that a news editorial writer misinterpreted the role he was taking on - that he would be retiring as City Manager and essentially acting as a project manager for the new Police and Fire buildings, which is not the case. Engineering Manager Staci Belcastro and the Police and Fire Chiefs will be working with the contractor on those projects and Hare will continue with his normal duties. Hare asked Council to think about whether they want to use an outside recruiter, getting started at the end of June with one year to look for a new City Manager.

Collins stated that what Council is asking for is a process and a schedule. He feels they need to have an offer on the table for the chosen candidate by April 2017, giving the candidate the opportunity to clear up their business before assuming their new position with Albany. Collins feels they need to address whether they will be using a recruiter and whether or not there will be a citizen involvement committee. Hare said he will get to work on those questions and consult with Human Resources staff on the items.

#### CITY MANAGER REPORT

Hare addressed some misinformation being circulated that the City has never cut the budget by five percent. He said this is absolutely false information and he would be happy to go back through a year-by-year analysis and show where they've previously cut expenses by substantially more than five percent.

Assistant City Manager/Chief Information Officer Jorge Salinas said the City of Corvallis is going through the process of replacing their financial system. Corvallis City Manager Mark Shepard has asked if our Information Technology (IT) staff can assist with the management of that project. This would involve gathering the information related to system requirements, creating an RFP, evaluating the vendors, and then selecting the vendor with their team. Corvallis hasn't decided if they want to hire a project manager but if they do, then Albany staff will oversee that project manager. Salinas wants Council to be aware that there will be the potential for cooperating with the City of Corvallis on a large project. Salinas added that there will be very little impact to Albany as the commitment will be less than one Full Time Equivalent (FTE), divided among several employees, and we will be charging Corvallis the full FTE rate including all pay and benefits.

Collins asked what work will not be getting done if we give up that staff time. He elaborated, assuming that our fully staffed organization has work to do to consume all of our FTEs, and we give some of that staff time away, what are we not getting done? Salinas explained that the work will be divided among several employees and that the implementations of some current projects are coming to a close. He said that right now it's not known which projects, if any, will be postponed; but nothing is going to be dropped because of this collaboration with Corvallis.

Collins pointed out that one of the projects for the UO Sustainable City Year Program was database building, something for which we could be using staff time. Salinas explained that the UO project requires different skills than what we have on staff; database building is not something our staff specializes in. Collins argued that an FTE is a large commitment and there's going to be something that would get delayed or neglected in Albany.

Olsen asked if staff would be working on this outside of their normal work hours. Hare said that some of the work will be absorbed by people working additional hours. He stated that trust with the City of Corvallis is at an all time high. Hare noted that several years ago the City paid for a study to look at cooperation between Fire Departments. Hare believes that in the future, one of the ways we're going to be able meet future demands for service, is by figuring out how to collaborate with those who have similar resources. Salinas explained that Corvallis needs some specialized skills for this project that are hard for them to find. He reiterated that those funds will come back to Albany.

Hare shared with Council that Albany received another award from Government Technology Magazine for the great work done by Salinas and his staff, as well as the Finance staff, and commended both departments for the work they do.

Salinas reminded Council that he will need their feedback on the financial assessment/financial planning report by January 15, 2016, in order to make any changes in time for the information to be provided to the Budget Committee on January 25, 2016. Johnson said she thought the spreadsheet Salinas provided was great.

Blaine confirmed that staff will look into food carts and Richardson said there are examples they can look at including the cities of Salem, Gresham, and Portland.

Kopczynski stated that another important piece will be reviewing the proposed project and determining whether or not a food pod is even a workable option in the Original Breakfast location.

Olsen asked if there have there been any negative comments related to a food pod in that location. Hare confirmed there have been complaints from brick and mortar establishments relating to their requirement to pay property taxes while food carts are able to avoid that expense.

Konopa added that if we allow exceptions for food carts, we could get questioned about whether other merchants should be allowed. She recalled that it took about a year and half to go through the review process the last time this issue was raised.

#### ADJOURNMENT

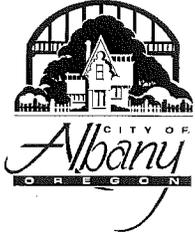
There being no other business, the meeting was adjourned at 5:24 p.m.

Respectfully submitted,

Holly Roten  
Administrative Assistant I

Reviewed by,

Stewart Taylor  
Finance Director



TO: Albany City Council  
VIA: Wes Hare, City Manager  
FROM: John R. Bradner, Fire Chief *JRB*  
DATE: February 16, 2016, for the February 24, 2016, City Council Meeting  
SUBJECT: Declaration and Disposal of Surplus Property  
RELATES TO STRATEGIC PLAN THEME: ● A Safe City

Action Requested:

City Council approval to declare two Fire Department ambulance chassis as surplus property and authorize the Fire Department to dispose of the assets in accordance with Albany Municipal Code 2.66.080 Disposition of Surplus Property.

Discussion:

On January 14 and June 24, 2015, the Albany City Council approved by resolution #6377 and #6439, respectively, the purchase of two new chassis through Braun Northwest, Inc. to remount and refurbish two 2006 Lifeline ambulances. The chassis for the Lifeline ambulances are actually 2007 International truck chassis and were included for their trade-in value in the purchase of the new chassis from Braun Northwest.

The City must declare the old chassis surplus property in order to transfer ownership to Braun Northwest. The two chassis are:

- Asset #123 - 2007 International Truck, VIN #1HTMNAAM37H464702
- Asset #124 - 2007 International Truck, VIN #1HTMNAAMX7H464700

Budget Impact:

\$1,000 trade-in value credited to the purchase of the two new chassis for Medic Units #123 & #124.



TO: Albany City Council  
VIA: Wes Hare, City Manager  
FROM: Mario Lattanzio, Chief of Police  
DATE: February 17, 2016, for February 24, 2016, City Council Meeting  
SUBJECT: Full On-Premises Sales, Private Club, New Outlet Liquor License Application for Albany Post No. 10, The American Legion, Department of Oregon, dba American Legion Post #10 Albany, located at 1215 Pacific Boulevard SE.

Action Requested:

I recommend the Full On-Premises Sales, Private Club, New Outlet Liquor License Application for Albany Post No. 10, The American Legion, Department of Oregon, dba American Legion Post #10 Albany, located at 1215 Pacific Boulevard SE, be approved.

Discussion:

Robert Sechrest and Blake Lee, on behalf of Albany Post No. 10, The American Legion, Department of Oregon, dba American Legion Post #10 Albany, have applied for a Full On-Premises Sales, Private Club, New Outlet liquor license. Based on a background and criminal history investigation through Albany Police Department records, we recommend approval of this license.

Budget Impact:

None.

MSR



TO: Albany City Council

VIA: Wes Hare, City Manager

FROM: Mario Lattanzio, Chief of Police *ML*

DATE: February 17, 2016, for February 24, 2016, City Council Meeting

SUBJECT: Off-Premises Sales, Additional Privilege, Liquor License Application for Cellar Cat and Company, LLC, d/b/a Cellar Cat, located at 211 First Avenue W, Suite 102.

Action Requested:

I recommend the Off-Premises Sales, Additional Privilege Liquor License Application for Cellar Cat and Company, LLC, d/b/a Cellar Cat, located at 211 First Avenue W, Suite 102, be approved.

Discussion:

Holly Evans-White, Greg Burt, and James Evans-White on behalf of Cellar Cat and Company, LLC, have applied for a Off-Premises Sales, Additional Privilege, liquor license. Based on a background and criminal history investigation through Albany Police Department records, the applicants have no criminal record.

Budget Impact:

None.

MSR



TO: Albany City Council  
 VIA: Wes Hare, City Manager  
 FROM: Stewart Taylor, Finance Director  
 Mary Dibble, City Clerk

DATE: February 18, 2016, for the February 24, 2016, City Council Regular Session

SUBJECT: Certifying Properties Exempt from Taxes

RELATES TO: ● Create and sustain a city of diverse neighborhoods where all residents can find and afford the values, lifestyles, and services they seek.

Action Requested:

By separate resolutions, certify to the Linn County Assessor properties exempt from taxation.

Discussion:

The City Council annually considers resolutions to exempt low income and transitional housing properties from property tax per ORS 307.543. The properties include five low-income housing properties owned by the Albany Partnership for Housing and Community Development: Songbird Village, Periwinkle Place, Park Rose, 1680-1682 Oak Street SE, and 515 Geary Street SE.

The 133 low-income apartments and three transitional housing units that these properties provide are an integral part of providing an affordable quality of life in Albany. The Partnership depends on the tax exemption to keep their rental costs affordable to residents earning less than 60 percent of the area median income. Details of the requested exemptions are presented in the table below.

	Exempt Properties Estimate of Taxes *		
	2015 Market Value (RMV)	2015 Assessed Value (AV)	2015 Estimated City Tax (AV/1000*7.5484)
Songbird Village	2,625,180	1,814,740	13,698
Periwinkle Place	1,639,650	1,335,300	10,079
ParkRose	1,254,060	851,630	6,428
1680-1682 Oak Street	179,100	97,860	739
515 Geary Street SE	142,750	75,750	572
<b>Total</b>	<b>\$5,840,740</b>	<b>\$4,175,280</b>	<b>\$31,517</b>

\* Estimates provided by the Linn County Assessor's Office.

Budget Impact:

The exemptions reduce the property tax that the City would otherwise receive.

MD  
 Attachment

2016 Exempt Properties (2015 values for 2016 Council action)

	2015 Market Value (RMV)	2015 Assessed Value (AV)	2015 Estimated City Tax (AV/1000*7.5484)	Map & Tax Lot	Acct #
Songbird Village	2,625,180	1,814,740	13,698	11S-03W-07CD-00901	841789
Periwinkle Place	1,639,650	1,335,300	10,079	11S-03W-08DB-05200	106506
ParkRose	1,254,060	851,630	6,428	11S-03W-08BA-03101	841589
1680-1682 Oak Street	179,100	97,860	739	11S-03W-07DA-04000	96160
515 Geary Street SE	142,750	75,750	572	11S-03W-05CD-03200	77384
<b>Total</b>	<b>\$5,840,740</b>	<b>\$4,175,280</b>	<b>\$31,517</b>		

City Tax Rate	6.3984
Public Safety Levy	1.1500
<b>Total Rate</b>	<b>\$7.5484</b>

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION CERTIFYING TO THE LINN COUNTY ASSESSOR THAT THE SONGBIRD VILLAGE PROPERTY SHALL BE EXEMPT FROM PROPERTY TAXATION.

WHEREAS, the Albany City Council in 1993 adopted the provision of ORS 307.540 to 307.547, which allows for a low-income housing tax exemption when specific standards are met; and

WHEREAS, the Albany Partnership for Housing and Community Development is the senior partner of Albany Family Housing Limited Partnership, the owner of Songbird Village, an affordable housing project located at 215-245 21<sup>st</sup> Avenue SE and 2020-2040 Lyon Street SW (Assessor's Map No. 11S-3W-7CD, Tax Lot 901); and

WHEREAS, the Albany Partnership has submitted an application for property tax exemption; and

WHEREAS, the owner meets the requirements of ORS 307.541 and their application meets the requirements of ORS 307.545.

NOW, THEREFORE, BE IT RESOLVED that the Albany City Council certifies to the Linn County Assessor that the property on which the Songbird Village project is located (Map No. 11S-3W-7CD, Tax Lot 901) shall be exempt from taxation under the City's tax levy as provided in ORS 307.543.

DATED AND EFFECTIVE THIS 24th DAY OF FEBRUARY 2016.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION CERTIFYING TO THE LINN COUNTY ASSESSOR THAT THE PERIWINKLE PLACE PROPERTY SHALL BE EXEMPT FROM PROPERTY TAXATION.

WHEREAS, the Albany City Council in 1993 adopted the provision of ORS 307.540 to 307.547, which allows for a low-income housing tax exemption when specific standards are met; and

WHEREAS, the Albany Partnership for Housing and Community Development is the owner of Periwinkle Place, an affordable housing project located at 1700-1860 Periwinkle Circle (Assessor's Map No. 11S-3W-8DB, Tax Lot 5200); and

WHEREAS, the Albany Partnership has submitted an application for property tax exemption; and

WHEREAS, the owner meets the requirements of ORS 307.541 and their application meets the requirements of ORS 307.545.

NOW, THEREFORE, BE IT RESOLVED that the Albany City Council certifies to the Linn County Assessor that the property on which the Periwinkle Place project is located (Map No. 11S-3W-8DB, Tax Lot 5200) shall be exempt from taxation under the City's tax levy as provided in ORS 307.543.

DATED AND EFFECTIVE THIS 24th DAY OF FEBRUARY 2016.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION CERTIFYING TO THE LINN COUNTY ASSESSOR THAT THE PARKROSE PROPERTIES SHALL BE EXEMPT FROM PROPERTY TAXATION.

WHEREAS, the Albany City Council in 1993 adopted the provision of ORS 307.540 to 307.547, which allows for a low-income housing tax exemption when specific standards are met; and

WHEREAS, the Albany Partnership for Housing and Community Development is the owner of ParkRose, an affordable housing project associated with the Pacific Boulevard/9<sup>th</sup> Avenue Couplet Project of the Oregon Department of Transportation; and

WHEREAS, the Albany Partnership has submitted an application for property tax exemption; and

WHEREAS, the owner meets the requirements of ORS 307.541 and their application meets the requirements of ORS 307.545.

NOW, THEREFORE, BE IT RESOLVED that the Albany City Council certifies to the Linn County Assessor that the properties on which the ParkRose project is located (Map No. 11S-3W-8BA Tax Lot 3101) shall be exempt from taxation under the City's tax levy as provided in ORS 307.543.

DATED AND EFFECTIVE THIS 24th DAY OF FEBRUARY 2016.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION CERTIFYING TO THE LINN COUNTY ASSESSOR THAT THE PROPERTY LOCATED AT 1680-1682 OAK STREET SE SHALL BE EXEMPT FROM PROPERTY TAXATION.

WHEREAS, the Albany City Council in 1993 adopted the provision of ORS 307.540 to 307.547, which allows for a low-income housing tax exemption when specific standards are met; and

WHEREAS, the Albany Partnership for Housing and Community Development is the owner an affordable transitional housing project located at 1680-1682 Oak Street SE (Assessor's Map No. 11S-3W-7DA, Tax Lot 4000); and

WHEREAS, the Albany Partnership has submitted an application for property tax exemption; and

WHEREAS, the owner meets the requirements of ORS 307.541 and their application meets the requirements of ORS 307.545.

NOW, THEREFORE, BE IT RESOLVED that the Albany City Council certifies to the Linn County Assessor that the property located at 1680-1682 Oak Street SE (Map No. 11S-3W-7DA, Tax Lot 4000) shall be exempt from taxation under the City's tax levy as provided in ORS 307.543.

DATED AND EFFECTIVE THIS 24th DAY OF FEBRUARY 2016.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION CERTIFYING TO THE LINN COUNTY ASSESSOR THAT THE PROPERTY LOCATED AT 515 GEARY STREET SE SHALL BE EXEMPT FROM PROPERTY TAXATION.

WHEREAS, the Albany City Council in 1993 adopted the provision of ORS 307.540 to 307.547, which allows for a low-income housing tax exemption when specific standards are met; and

WHEREAS, the Albany Partnership for Housing and Community Development is the owner of the affordable transitional housing project located at 515 Geary Street SE (Assessor's Map No. 11S-3W-5CD, Tax Lot 3200); and

WHEREAS, the Albany Partnership has submitted an application for property tax exemption; and

WHEREAS, the owner meets the requirements of ORS 307.541 and their application meets the requirements of ORS 307.545.

NOW, THEREFORE, BE IT RESOLVED that the Albany City Council certifies to the Linn County Assessor that the property located at 515 Geary Street SE (Map No. 11S-3W-5CD, Tax Lot 3200) shall be exempt from taxation under the City's tax levy as provided in ORS 307.543.

DATED AND EFFECTIVE THIS 24th DAY OF FEBRUARY 2016.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



TO: Albany City Council  
VIA: Wes Hare, City Manager  
FROM: Jorge Salinas, Assistant City Manager/Chief Information Officer *js*  
DATE: February 15, 2016, for the February 24, 2016, City Council Regular Session  
SUBJECT: Intergovernmental Agreement with the City of Corvallis for IT Project Management Support and Services.

RELATES TO STRATEGIC PLAN THEME: ● Effective Government

Action Requested:

Staff is seeking Council approval to enter into an intergovernmental agreement (IGA) with the City of Corvallis for project management support on the Corvallis Financial and Human Resources software upgrade.

Discussion:

Corvallis has operated with the same financial software package since 1995. Though the core software remains stable, the organization that owns it has not been providing some of the significant upgrades the City has requested for several years. Improvements in technology including graphic user interfaces, workflows, data portability between subsystems, and automated reporting mechanisms would improve access and use of City of Corvallis financial data.

A new financial and Human Resources software system will also allow the City of Corvallis to better track, measure, and report on work. This will be a valuable tool for managing personnel and financial resources.

There are many examples of failed software implementation projects across the state and country. These failures are costly, reduce people's confidence in their government, and can interrupt or affect service delivery. To avoid these issues, it is important to have an experienced and skilled IT project management team. Corvallis has highly skilled technical personnel in the Management Information System work group; however, their staff does not have much experience with implementation of a project of this scope and scale.

Albany's Information Technology Department has completed several large-scale software implementation projects within our organization and has developed an IT project management methodology that has resulted in successful software implementations. This experience makes Albany's IT Department well suited to partner with the City of Corvallis on their project.

There are multiple advantages to working with Albany on this project. Unlike a consultant, Albany does not have any interest in steering Corvallis to a specific software product or package. Albany will partner with Corvallis at a lower cost than a consultant. Under the terms of the IGA, Corvallis will cover the staff costs for Albany's involvement in their project.

In addition, this partnership will allow Corvallis staff to gain valuable experience in the IT project management processes developed by Albany staff so it can be adapted and applied to future software projects; and Albany staff will have an opportunity to gain additional experience through this implementation for the City of Albany's upcoming Financial System upgrade.

Intergovernmental Agreement with the City of Corvallis

Page 2

February 18, 2016

Council's approval authorizes the Assistant City Manager/Chief Information Officer to enter into an intergovernmental agreement (IGA) with the City of Corvallis for IT project management services on the Corvallis Financial and Human Resources software upgrade.

Budget Impact:

Under the terms of the IGA, Corvallis will cover the staff costs for Albany's involvement in their project. Albany will not make a profit on the work nor will Albany subsidize Corvallis' project.

JS:hr

## INTERGOVERNMENTAL AGREEMENT

This Agreement is made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2016, under the authority of ORS 190.010 by and between the CITY OF ALBANY, OREGON, a Municipal corporation organized under the laws of the State of Oregon (hereinafter referred to as "COA") and the CITY OF CORVALLIS, OREGON, a Municipal corporation organized under the laws of the State of Oregon (hereinafter referred to as "CORVALLIS").

### 1. PURPOSE OF AGREEMENT

The City of Albany's Department of Information Technology Services is hereinafter referred to as "COA". COA will provide IT Project Management services to CORVALLIS, which in Phase I includes RFP development, evaluation, and vendor selection process. Phase II includes IT Project Management Services for the deployment of the Enterprise Resource Planning (ERP) Software Application including the installation, data conversion, configuration, training, technical support, and on-going application support.

### 2. RECITALS

- A. WHEREAS, ORS 190.003 *et seq.* provides for intergovernmental cooperation in the interest of furthering economy and efficiency of local government; and
- B. WHEREAS, ORS 190.003 for purposes of such intergovernmental cooperation defines a unit of local government as including a county, city, district, or other public corporation, commission, authority, or entity organized and existing under statute or city or county charter; and
- C. WHEREAS, ORS 190.010 provides that a unit of local government may enter into a written agreement with any other unit or units of local government for the performance of any or all functions and activities that a party to the agreement, its officers or agencies, have authority to perform; and
- D. WHEREAS, in an effort to further economy and efficiency, the parties hereto wish to cooperatively support sharing IT Project Management services.

### 3. COA OBLIGATIONS

- A. COA shall be responsible for providing IT Project Management Services for the ERP System selection and implementation Project, hereinafter referred to as "PROJECT". The outline of the Project Plan is attached to and incorporated as part of this agreement as Exhibit A.
- B. COA shall gather requirements and develop an RFP for the PROJECT.
- C. COA shall manage the vendor evaluation and selection process for the PROJECT.
- D. COA shall be responsible for providing and managing a project plan developed with the collaboration of CORVALLIS and third-party vendor.
- E. COA shall be responsible for providing CORVALLIS weekly project status updates.
- F. COA shall make COA staff available to manage the PROJECT.
- G. COA shall invoice CORVALLIS on a monthly basis for the hours consumed by the PROJECT at the rate of \$70.00 per hour.

**4. CORVALLIS OBLIGATIONS**

- A. CORVALLIS shall provide answers to questions the outside vendor poses in support of setup and configuration requirements.
- B. CORVALLIS shall make subject matter experts, hereinafter referred to as "SME", available to provide requirements information for the PROJECT.
- C. CORVALLIS SME shall meet with COA staff to prioritize requirements for the PROJECT.
- D. CORVALLIS shall be responsible for providing a training and testing facilities for the PROJECT.
- E. CORVALLIS shall contract with a third-party outside vendor to provide data conversion services, configuration services, training, and long term support services for the PROJECT.
- F. CORVALLIS shall be responsible to provide IT services that will render server and client side hardware for the PROJECT.
- G. CORVALLIS shall be responsible for providing overall technical support and IT services for the PROJECT.

**5. SCHEDULE OF SERVICES**

The schedule of services will be in the project plan. Every attempt to stay on the anticipated schedule will be made, however, the parties recognize obstacles can present themselves and dates may require adjustment.

**6. CONSIDERATION AND PROVISIONS FOR PAYMENT**

- A. Project Cost - CORVALLIS agrees to pay all third-party vendor cost related to the PROJECT. All expenses to fulfill the third-party vendor contract are the responsibility of CORVALLIS and are to be covered by CORVALLIS.
- B. IT Project Management Services Cost – CORVALLIS agrees to pay COA at a rate of \$70.00 per hour for services rendered during the PROJECT. CORVALLIS also agrees to pay mileage reimbursement at a rate of \$0.54 per mile to COA employees required to travel between COA and CORVALLIS in fulfillment of IT Project Management Services for the PROJECT.

**7. SUBCONTRACTS**

CORVALLIS may enter into any subcontracts for any of the work scheduled under this Agreement.

**8. FUNDS AVAILABLE AND AUTHORIZED**

CORVALLIS certifies at the time the Agreement is written that sufficient funds will be available and authorized for expenditure to finance costs of the Agreement within the CORVALLIS current appropriation/limitation. As this Agreement crosses fiscal years, the obligations of both parties are contingent upon each City Council approving appropriations for any future fiscal year.

**9. AMENDMENTS**

The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner, except by written agreement signed by all parties.

**10. TERMINATION**

Either party may terminate the agreement upon 60 days written notice to the other party.

**11. SEVERABILITY**

If any provision of this Agreement is held illegal or unenforceable in a judicial proceeding, such provision shall be severed and shall be inoperative, and, provided that the fundamental terms and conditions of this Agreement remain legal and enforceable, the remainder of this Agreement shall remain operative and binding on the Parties. It is further agreed that if part of the Agreement is determined invalid, either party may open negotiations solely with respect to a substitute for such Article, Section, or portion, within two (2) weeks after a ruling has been made.

**12. COMPLIANCE WITH APPLICABLE LAW**

Without limiting the generality of the foregoing, CORVALLIS expressly agrees to comply with: (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659.425; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations.

**13. ASSIGNMENT**

COA shall not assign or transfer their interest in this Agreement without the express written consent of CORVALLIS.

**14. FORCE MAJEURE**

COA shall not be held responsible for delay or default caused by fire, riot, acts of God, and war or any other cause which was beyond COA's reasonable control.

**15. RECORDS MAINTENANCE; ACCESS; CONFIDENTIALITY**

A. Each party shall maintain its own records, and each party agrees that any record it obtains from the other is the property of the other and may only be used or released to any third party with the advance written consent of the party that owns the records.

B. The parties do not expect that this work will require COA to have access to any CORVALLIS records containing personal identifying information or protected health information. Should the scope of work for this IGA include tasks that require COA to access processes, records, or systems that contain protected personal identifying information or protected health information, COA will enter into a Business Associate Agreement and agree to safeguard personal identifying information in compliance with Oregon and Federal statutory and regulatory requirements.

**16. DECISIONS**

In any decisions regarding the operation of this Agreement, it is the intent of both parties hereto that the specific provisions of this Intergovernmental Agreement shall govern. Decisions necessary to implement this Agreement that are not covered by the specific provisions of this Agreement shall require the agreement of both parties.

**17. DISAGREEMENTS**

Disagreement/Arbitration: In the event the parties to this Agreement are unable to agree, as specified in Paragraph 16, either party may apply to the presiding judge of Linn or Benton County requesting the appointment of a neutral arbitrator. The arbitrator thus selected shall establish the procedures for arbitration of the dispute and his/her decision shall be final. The parties shall share equally in all arbitration fees and costs.

Attorneys' Fees: In the event a suit or action is commenced to enforce the terms of this Agreement, the prevailing party shall recover and the losing party shall pay the prevailing party court costs and reasonable attorney fees incurred in the suit or action. This provision specifically includes any court costs and attorneys' fees incurred by the party prevailing on appeal.

**CITY OF ALBANY**

\_\_\_\_\_  
Jorge Salinas  
Assistant City Manager/Chief Information Officer

\_\_\_\_\_  
Date

**CITY OF CORVALLIS**

\_\_\_\_\_  
Mark Shepard  
City Manager

\_\_\_\_\_  
Date

**Objectives for Phase I (Vendor Selection)**

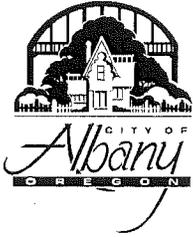
1. Develop RFP
  - Develop framework for RFP
    - This also includes evaluation criteria
  - Identify stakeholders and subject matter experts (SMEs) that could contribute to the RFP/Requirements
  - Define scope (What is in/What is out)
    - Do you want to replace all current legacy modules (i.e., MuniCourt/UB) under this new solution or focus on Finance/HR related modules)?
  - Document Requirements for in scope modules
  - Review/Approve/Send RFP
  
2. Evaluate Vendor Response/Demo
  - Evaluation Committee (EC) (Stakeholders/SMEs/IT)
    - Review vendor response, determine initial ranking of proposals
      - Evaluation fulfillment of existing business requirements
      - Evaluation their understanding and approach to this project
      - Evaluate cost proposal
    - Demo Evaluations (Top three or four vendors)
      - Evaluation fulfillment of existing business requirements
      - Evaluation Ease of Use
    - Vendor Interviews
    - Client Reference
    - Provide City Council vendor recommendation
    - Letter of Intent to Award

**Objectives for Phase II (Oversight/Project Administration – Conversion and Implementation)**

3. Software Conversion/Implementation
  - Define and assign roles and responsibilities for the implementation phase. This includes IT staff expectations and responsibilities.
  - Perform some initial needs assessments with one or two departments (Corvallis IT staff will shadow you initially with a plan for them to do bulk of the assessment once trained).
    - Define HW and additional SW needs.
    - Purchase HW and additional SW

#### 4. Review Implementation Plan

- Project Planning:
  - Project Kick-off
  - Develop WBS/Project Plan
    - During this milestone we define a high-level project plan and establish a project baseline with estimated delivery dates (This may start towards the end of phase I).
  - Develop Communication Plan
  - Develop Training Plan
  - Develop Testing Plan
- Project Execution:
  - Deploy to Test Environment
  - Data Migration
  - Interface Testing
  - Update Training Plan
  - Execute Training Plan
  - Update Testing Plan
  - Execute Testing Plan
  - Review & Sign-off on deliverables
- Project Monitor & Control
  - Participate in twice monthly project meetings/conference calls to assist in addressing issues and manage project implementation
  - Provide ad hoc advice and input as issues arise
- Project Closure
  - Review lessons learned



TO: Albany City Council  
FROM: Sharon Konopa, Mayor *Sharon (sk)*  
DATE: February 16, 2016, for February 24, 2016, City Council Meeting  
SUBJECT: Reappointments to the Human Relations Commission

RELATES TO STRATEGIC PLAN THEME: • An Effective Government

Action Requested:

Council approval of the following reappointments to the Human Relations Commission:

***Human Relations Commission***

Tina Dodge Vera (Councilor Coburn's reappointment)  
Kim Whitley (Councilor Johnson's reappointment)

Discussion:

Council adopted Ordinance No. 5866 on January 13, 2016, which removed the term limitations for city residents serving on this commission. The ordinance was effective February 12, 2016. Councilors Coburn and Johnson are recommending the reappointments of Tina Dodge Vera and Kim Whitley respectively.

Recommendation for the remaining vacancy on this Commission will be submitted for approval at a subsequent council meeting.

Budget Impact:

None.

SK:ldh

*G:\Administrative Services\City Manager's Office\Boards-Commissions\2016 Recruitment\^2016 appointments-Human Relations Commission-msk.doc*



TO: Albany City Council  
VIA: Wes Hare, City Manager  
FROM: Kate Porsche, Economic Development & Urban Renewal Director *Kate (ldh)*  
DATE: February 16, 2016, for the February 24, 2016, City Council Meeting  
SUBJECT: Appointment to TLT Ad Hoc Advisory Committee

RELATES TO STRATEGIC PLAN THEME: ● An Effective Government

Action Requested:

Council approval of the following appointment to the TLT Ad Hoc Advisory Committee:  
Chuck Leland (Councilor Olsen's appointment)

Discussion:

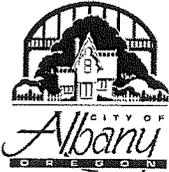
None.

Budget Impact:

Staff support and administrative costs for this committee is estimated at \$5,000.

KP:ldh  
Attachment

*G:\Economic Development\TLT\TLT Ad Hoc Advisory Committee - January 2016\2016 appointments-TLT Ad Hoc Advisory Committee-final-mkp-#2.docx*



# BOARD, COMMISSION, AND COMMITTEE APPLICATION

(Please print legibly or type)

**RECEIVED**  
FEB 18 2016  
City of Albany  
City Manager's Office

**CITY HALL**  
333 Broadalbin Street SW  
P.O. Box 490  
Albany, OR 97321-0144  
www.cityofalbany.net

## Board, Commission, and/or Committee Preference:

TLT Ad Hoc Advisory Committee  
(list all for which you are applying)

(41) 917-7500

CHARLES LELAND  
CHUCK

Name: Preferred First Name: \_\_\_\_\_

### Residential Information:

Home Address:	ALBANY, ORE	Phone:	_____
	97321	Cellular:	_____
E-mail: AB_TS@HOTMAIL.COM		Fax: N/A	_____
		(Optional)	_____

### Employment Information:

Please provide

Employer's Name: Work Address:		Phone: Cellular:	_____
RETIRED			_____
E-mail:	_____	Fax:	_____
		(Optional)	_____



information as requested below to describe your qualifications to serve on this City of Albany Board, Commission, or Committee. Feel free to provide additional information that you may wish to share with the City.

- List current or most recent occupation, business, trade, or profession:  
 CERTIFIED PUBLIC ACCOUNTANT. OWNER AND OPERATOR OF SMALL TAX AND ACCOUNTING PRACTICE. MOST RECENTLY A PARTNER WITH KOBAYASHI, DOI, LUM AND YASUDA, CPAS

---



---



---

For City use only: Ward: I II III or Lives Outside City Limits (Circle One)

If lives outside city limits, does applicant meet special definition for the specific b/c/c for which applying?

Yes No If yes, how? \_\_\_\_\_

BOARD,

COMMISSION, AND COMMITTEE APPLICATION FORM  
Page 2

- List community/civic activities. Indicate activities in which you are or have been active:
- MEMBER HAWAII TAX REVIEW BOARD, 1985 – 1991; MEMBER HAWAII SOCIETY OF CPAS AND AMERICAN SOCIETY OF CPAS OVER 30 YEARS. SERVED AS DIRECTOR OF THE HAWAII SOCIETY OF CPAS AND MANY HONOLULU BASED BUSINESS AND SOCIAL ORGANIZATIONS.
- MOST RECENT MEMBER ALBANY CARA AND ALBANY ART COMMISSION. ACTIVE MEMBER OF THE MCKENZIE CHAIN SAW FESTIVAL COMMITTEE – SUPPORTING THE PRIVATE FOUNDATION OWNING AND OPERATING THE MCKENZIE TRACK AND FIELD FACILITY IN BLUE RIVER OREGON. ALSO MEMBER OF CORVALLIS ELKS AND ALBANY KIWANIS CLUB.

---



---



---



---



---

- Indicate why you are interested in serving on this board, commission, or committee and what other qualifications apply to this position.
- HOTEL / MOTEL TAX (TLT) SUPPORTS CITY FUNCTIONS DEALING WITH TOURISM IN AND AROUND ALBANY. REVIEW OF ALLOCATION TO VARIOUS SOURCES / NEEDS, IS TO BE EXAMINED BY THIS COMMITTEE. MY INTEREST IS TO SEE THE BEST AND HIGHEST USE OF THIS INCOME FOR THE BETTERMENT OF ALBANY'S FUTURE.





TO: Albany City Council

VIA: Wes Hare, City Manager

FROM: Jeff Blaine, P.E., Public Works Engineering and Community Development Director *JB*  
Chris Bailey, Public Works Operations Director *CB for*

DATE: February 16, 2016, for the February 24, 2016, City Council Meeting

SUBJECT: Canal Intergovernmental Agreement with the City of Lebanon

RELATES TO STRATEGIC PLAN THEME:

- A Safe City
- An Effective Government

**Action Requested:**

Staff requests that Council review and provide direction on the terms of the draft Intergovernmental Agreements with the City of Lebanon regarding the Santiam-Albany Canal.

**Discussion:**

The Cities of Albany and Lebanon have been relying on the Santiam-Albany Canal (Canal) for various uses for more than 100 years. In 1984 the City of Albany purchased the Albany water system, which included the Canal and all of its appurtenances, from Pacific Power and Light (PP&L). At that same time, Lebanon purchased their water system from PP&L. To facilitate Lebanon's continued reliance on the Canal, the two communities entered into their first Canal Intergovernmental Agreement (IGA) on December 12, 1984.

In the summer of 2013 Lebanon initiated discussions with Albany regarding construction of a new water treatment plant that would continue to rely on the Canal for raw water. However, Lebanon ultimately decided to move their water intake off of the Canal and construct a new water intake on the South Santiam River. Even with Lebanon planning to move off of the Canal for raw water, staff identified a need for a new IGA to address interim water service and other areas of shared interest on the Canal, such as stormwater.

The two communities initially struggled to find common ground for a new IGA but converged on potential solutions last summer. Staff proceeded to present the conceptual solutions to their respective Councils and sought direction prior to fully developing concepts in two draft IGAs. Upon receiving that direction, the two staffs and their attorneys worked together to develop the draft IGAs provided as *Attachment 1*. Attachment 1 incorporates all of the concepts previously reviewed with Council.

Albany and Lebanon City Councils will both review the draft IGAs for the first time on February 24, 2016. While the IGAs are ready for Council review, we are not yet asking for formal action since several exhibits still need to be created. If both Councils generally agree with the draft IGAs in Attachment 1, staff will create the remaining exhibits and bring the final documents forward for Council action.

**Budget Impact:**

There is no budget impact at this time. Future approval of the proposed IGAs would result in additional revenues to the water fund.

JB:prj

Attachment

c: Jim Delapoer, City Attorney (via e-mail)  
Karen Kelley, Water Superintendent (via e-mail)  
Jeff Babbitt, Public Works Senior Accountant (via e-mail)  
Susie Smith, Program Development Coordinator (via e-mail)

## SANTIAM-ALBANY CANAL GENERAL AGREEMENT

THIS AGREEMENT is made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between the CITY of ALBANY, a Municipal Corporation, hereinafter referred to as "Albany," and the CITY of LEBANON, a Municipal Corporation, hereinafter referred to as "Lebanon."

The purpose of this Agreement is to terminate and replace the Agreement titled "Intergovernmental Agreement for Operation of Albany-Santiam Canal," dated April 23, 1986, between Albany and Lebanon, including that Agreement referenced therein referred to as dated December 12, 1984.

### RECITALS

WHEREAS, Albany and Lebanon are Municipal Corporations of the State of Oregon;

WHEREAS, Albany owns the Santiam-Albany Canal (Canal), Diversion Dam, Intake (or Headworks) Facilities, Flow Control Facilities, and other appurtenances to the Canal;

WHEREAS, Canal flows and the Canal itself must be maintained;

WHEREAS, Albany and Lebanon have other areas of shared interest regarding the Canal that will require cooperation into the future;

WHEREAS, Albany and Lebanon are units of local government, authorized under ORS 190.010 to enter into written intergovernmental agreements for the performance of specified activities; and

WHEREAS, both communities desire a fair and equitable cost-sharing arrangement for their respective rate payers.

NOW, THEREFORE, the Parties agree as follows:

#### 1. **Background:**

1.1 The Canal as it presently exists was built in two phases:

1.1.1 The first section, known as the "Albany Canal" was built in 1872-73, and reached from the South Santiam River near Lebanon and stretched 12 miles in a generally northwestern direction to Albany.

1.1.2 In approximately 1891-92, a second intake from the South Santiam River was constructed with an accompanying six miles of Canal built to the south of the Albany Canal, referred to as the "Lebanon Canal."

1.2 The Canal was constructed to allow water gravity flow across the valley floor from the South Santiam River south of Lebanon to the Calapooia River in Albany. When built, the Canal intercepted and changed some of the natural drainage

patterns/contours. Over time as development occurred, further changes in these natural drainage patterns occurred. The nature and location of the changes are not presently known and these changes are not the subject of this agreement.

- 1.3 In 1921 a flood destroyed the original intake to the Albany Canal. At that time, the upper reaches of the Albany Canal built in 1872-73 were abandoned and the diversion from the South Santiam River to the Lebanon Canal was used to deliver water through both Canal systems. In 1923, the two Canals came under single ownership.
  - 1.4 Canal ownership has changed hands over the years. The City of Albany purchased the Canal and all of its appurtenances from Pacific Power and Light (PP&L) in 1984.
  - 1.5 In 1984 Albany also acquired from PP&L the Vine Street water treatment plant (WTP), Albany's power generation facilities, associated water rights, and Albany's water distribution system.
  - 1.6 In 1984, Lebanon purchased its WTP and distribution system along with the associated water rights.
  - 1.7 Subsequent to the 1984 purchases, Albany and Lebanon entered into an Intergovernmental Agreement for use of the Canal.
  - 1.8 At various times, bridges, utility, and other types of crossing over, under, or through the Canal were also constructed.
  - 1.9 Stormwater enters the Canal along its 18.3 miles.
2. **New Agreement:** This Agreement terminates, replaces, and resolves all claims related to the Agreement titled "Intergovernmental Agreement for Operation of Albany-Santiam Canal," dated April 23, 1986, between Albany and Lebanon, including that Agreement referenced therein referred to dated December 12, 1984, and all subsequent modifications to those agreements.
- While this Agreement is in effect, its terms shall govern the parties' rights and responsibilities for discharges into the Canal. Following termination, nothing in this agreement shall be deemed to grant, recognize, or limit any claim or defense either party may wish to advance concerning their respective rights or liabilities for discharges subsequent to the termination of this Agreement.
3. **Lebanon's Uses of Canal:** Lebanon's current use of the Canal includes the matters listed below. Further terms concerning these uses are set forth in this Agreement.
- 3.1 **Raw Water Supply and Delivery:** Upon execution of this agreement, and except as authorized by an accompanying water delivery agreement, the Canal shall not be used for raw water supply and delivery except as may be provided for through a separate written Intergovernmental Agreement or contract.

**3.2 Drainage:** The locations of known public drainage connections within Lebanon's urban growth boundary are identified in Exhibit A. Other unknown connections may exist.

**3.3 Crossings:** The locations of known crossings within Lebanon's urban growth boundary are identified in Exhibit B attached hereto. Other unknown crossings may exist.

**4. Drain/Storm Water Management:**

**4.1** The Parties agree that Lebanon shall pay Albany \$900,000 for stormwater removal and/or maintenance projects on the Canal. The Parties agree that, once improved, and as allowed by regulatory agencies, the Crown Zellerbach Gates and Mark's Slough weir can be used to help mitigate the impact of storm event flows to the Canal and reduce the risk of downstream Canal flooding by diverting flows to Mark's Slough.

**4.1.1** Lebanon will pay Albany the following sums:

4.1.1.A \$500,000 July 15, 2016;

4.1.1.B \$250,000 January 15, 2018;

4.1.1.C \$75,000 January 15, 2019;

4.1.1.D \$75,000 January 15, 2020; and

4.1.1.E Albany will invoice Lebanon for payments required per this Agreement. Lebanon agrees to pay all amounts owed by the dates shown, unless otherwise agreed to in writing by both parties. Any late payment shall bear interest at three (3) percent per annum if not paid within 30 days of invoice. Interest shall accrue automatically with written notice from Albany. Unless otherwise requested by the City of Albany, payments shall be submitted to:

City of Albany Public Works Department  
Attention: Jeff Babbitt  
333 Broadalbin Street SW  
PO Box 490  
Albany, OR 97321-0144

**4.1.2** Albany will use the monies paid by Lebanon for projects and activities intended to remove stormwater from, and maintain, the Canal, including, but not limited to, the projects identified in 4.1 above.

- 4.1.3 Lebanon will transfer to Albany by appropriate deed, title of the Crown Zellerbach (CZ) gates by January 1, 2017. The form of deed and legal description is attached as Exhibit C.
- 4.1.4 Lebanon will convey to Albany permanent easements to allow Albany access to Marks Slough weir structure for construction, inspection, maintenance, and improvement activities by January 1, 2017. The form of easement and legal description is attached as Exhibit D.
- 4.2 Lebanon agrees to undertake the following projects:
- 4.2.1 Lebanon will rehabilitate or replace the two facilities that drain Cheadle Lake over and under the Canal. A capacity analysis will be completed to determine if additional capacity is required for replacement facilities. This work is estimated to cost \$100,000 and will be completed by January 1, 2018.
- 4.2.2 Lebanon will reroute the inlet on Bromil Street away from the Canal and fill the abandoned drain line with non-shrink grout for a distance of approximately 10 feet from the current outlet to the Canal. This work does not have a significant cost and will be completed by January 1, 2018.
- 4.2.3 As part of the Russell Drive street project identified in the Cheadle Lake Urban Renewal Plan, Lebanon will construct stormwater infrastructure necessary to redirect approximately 15 acres of property (portions of parcels 12S02W14DC00100 and 12S02W14DC02300) away from the Canal. This work is estimated to cost \$50,000 and will be completed by January 1, 2019.
- 4.3 Within five (5) years of the date of this Agreement, Lebanon will complete and follow a refinement plan to Lebanon's Stormwater Master Plan for the portions of Lebanon that drain to the Canal or have the potential to drain to the Canal through future development (Lebanon-Albany Canal Basin (L), the Cox Creek Basin and other known smaller areas of Lebanon public discharges to the Canal.). The refinement plan will be completed in compliance with the requirements of Exhibit E.
- 4.3.1 "Master Plan" and "Refinement Plan" for purposes of this agreement are defined as a municipal utility master planning documents developed based on industry standard methods and practices that contain the items identified in Exhibit E and establish a comprehensive long-term strategy for removing stormwater from, and preventing stormwater from entering, the Canal.
- 4.3.2 It is anticipated that the refinement plan effort can be completed for less than \$150,000 in consultant costs. If consultant proposals exceed this amount the Parties will meet to identify funding/scope alternatives to bring the project within budget or identify additional funding sources.

- 4.4 Lebanon will not construct or authorize any new stormwater connections to the Canal without Albany's written approval. As used in this subsection, new stormwater connection refers to a new manmade point of connection, or increase in capacity of an existing connection, between a stormwater collection facility or drainage way and the Canal, usually in the form of a pipe or ditch.
- 4.5 The Parties are each responsible for complying with any current and future legal or regulatory requirements placed on, or resulting from drainage entering the Canal from their respective jurisdictions, including any identified and/or incremental costs required to assure compliance with regulatory standards directly resulting from discharges within their respective jurisdictions.
- 4.6 For developing and redeveloping properties that drain directly or indirectly to the Canal (meaning, any property where drainage ultimately discharges to the Canal) in a legal, Albany-approved pre-developed or existing condition, and have no other drainage options available, Lebanon will require the development to detain 100 percent of stormwater runoff through a 100-year event (10-, 25-, 50-, and 100-year) with a 10-year pre-development maximum release rate and provide permanent post-construction stormwater quality improvements that meet Oregon DEQ 401 Water Quality Certification requirements for all runoff. The requirement of this section shall only apply to development/re-development projects on property of 0.5 acres or more.
- 4.6.1 For redevelopment projects with existing impervious surfaces, the assumed run off coefficient for existing impervious areas, for detention calculations, shall be no greater than 0.4.
- 4.7 Albany agrees to continue/initiate discussions with Oregon Department of Transportation (ODOT) and the Linn County Road Department regarding removal of other unauthorized stormwater inflows to the Canal, as may be applicable.
- 4.8 Impact of this Agreement on Future Land Use Decisions: In making future land use decisions, Lebanon shall consider and be bound by the terms of this Agreement and the Refinement/Master Plan. Albany will be entitled to notice of all land use proposals wherein development/redevelopment is proposed in drainage basins that drain directly or indirectly to the Canal.
5. **Cheadle Lake:** Prior to June 1, 2017, Albany and Lebanon agree to develop and implement a Cheadle Lake Management Plan that is protective of the Canal berm, and downstream properties. Neither party, by virtue of this agreement, assumes any additional liability related to Cheadle Lake.
6. **Access and Use:** As owner of the Canal and its appurtenances, access to the Canal and the extents of the Canal rights-of-way and easements is restricted to Albany staff and its agents, except as may be expressly allowed through this Agreement, separate written agreements, or deeded rights. The Parties agree to comply with all state and federal environmental and safety laws and regulations when accessing and using the Canal.

Notwithstanding the termination clause set forth in Section 11 below, the rights and responsibilities set forth in this Section 6 survive termination of the Agreement.

**6.1 General Authorizations and Restrictions:**

- 6.1.1 Lebanon shall not authorize any public or private uses of, or access to, the Canal rights-of-way or easements, or the Albany owned assets within those boundaries, for any purpose. Lebanon shall refer such requests to Albany.
- 6.1.2 Lebanon must obtain written permission from Albany for any new infrastructure proposed within Canal rights-of-ways or easements (i.e., crossings where they do not currently exist).
- 6.1.3 Each party grants to the other the right to enter onto and across the property of the other as reasonably necessary for the construction, maintenance, and protection of their respective facilities and improvements. Nothing herein shall separately authorize the placement of any facilities, improvements, fixtures, appurtenances, or other property in, on, or across the Canal and/or property of the other.
- 6.1.4 Lebanon will convey to Albany permanent easements to allow Albany access to the Lebanon Flow Control Structure for construction, inspection, maintenance, and improvement activities by January 1, 2017. The form of easement and legal description is attached as Exhibit F.
- 6.1.5 Either Party exercising their rights hereunder to gain access over or across the property of the other shall take all reasonable steps to return the property to its original condition following the completion of the work for which access is required. Either Party causing damage to real or personal property of the other shall promptly restore and repair the damage at no cost to the other Party.

**6.2 Maintenance/Construction – Lebanon’s Existing Infrastructure:**

- 6.2.1 **When Permissions are Required.** Lebanon will seek and obtain permission from Albany prior to conducting work on existing infrastructure (i.e. bridge and utility crossings identified in Section 3.3) that impacts Canal flows, water quality, water diversions, the integrity of Canal infrastructure, access within Canal right-of-way and easements for more than 24 hours, or if the desired infrastructure repair/replacement is different in size, location, elevation, or cross-section from what exists. Lebanon understands that some maintenance/construction activities may require FERC review and approval.
- 6.2.2 **Emergencies.** In the case of emergency not covered by the terms of Section 8 below, Lebanon will attempt to notify appropriate Albany staff before proceeding to affect emergency repairs on Lebanon’s infrastructure, but in any event shall notify Albany within 24 hours of its emergency activity.

- 6.3 Indemnification:** Each party shall indemnify and hold harmless from all claims, demands, regulatory sanctions, and damages, including costs of defense, arising from their use of, or access onto and across, the property of the other.
7. **Communications of Hazardous Conditions:** Lebanon agrees to communicate potentially hazardous conditions that may impact Canal operations or that may warrant a response. Examples of these types of conditions include, but are not limited to, animal carcasses, downed trees, pollution or unidentified substances, obstructions, observable water losses or intrusions, and vandalism or other nuisance conditions in the Canal requiring remediation. Albany will communicate with Lebanon if they identify any potentially hazardous conditions that could impact Lebanon.
8. **Emergency Preparedness and Response:**
- 8.1 Albany agrees to maintain an Emergency Action Plan (EAP) for the Canal and its associated structures, and to implement the EAP as necessary to protect the health, safety, and welfare of Albany and Lebanon citizens and properties.
- 8.2 Lebanon agrees to assign qualified staff and to participate, as staff is available, in the development and updates to the EAP for the Canal, and to carry out the roles and responsibilities agreed to by Lebanon in the EAP.
- 8.3 Lebanon agrees to take all prudent measures to respond to spills, accidents, or other emergency situations in Lebanon that may impact the Canal and/or the health and safety of adjacent or downstream properties and residents, and to communicate with Albany as soon as the situation is identified.
9. **Indemnification:** Each Party agrees to indemnify and hold the other Party and its agents harmless from any governmental or third party claims or damages, including costs of defense and mitigation, resulting, or claimed to result, in any manner from the indemnifying Party's acts or omissions in violation of the terms of this Agreement.
10. **Modification:** All modifications to the Agreement must be approved in writing by both cities' governing bodies.
11. **Term and Termination:** The initial term of this Agreement is 15 years. Following the initial term, this Agreement may be terminated as follows:
- 11.1 Either Party gives written Notice to the other Party of its intent to terminate the Agreement at least two years in advance in which case this Agreement will terminate automatically on the second annual anniversary of the written Notice.
- 11.2 In the event of the termination of this Agreement, except for the terms of Section 6 above, the rights and responsibilities of the parties will thereafter be determined without regard to the recitals, statements or terms of this Agreement. In such a circumstance, claims or defenses based upon time limitations, laches or waiver shall be tolled as of the date of this Agreement until the date of termination.

12. **Good Faith**: With regard to their respective obligations and commitments under this Agreement, each party covenants that it shall act in good faith and deal fairly with the other party.
13. **Dispute Resolution**: It is the intent of the Parties to limit the issues available for dispute resolution. The issues raised must be related to interpretation of the express terms of this Agreement and the enforcement thereof and/or damages for breach. Disputes shall first be subject to mediation followed by binding arbitration. Either party may initiate the mediation/arbitration process by providing written notice to the other suggesting the persons proposed to mediate or arbitrate and the procedures and timelines therefore. Should the parties be unable to agree upon these matters, within 30 days of the written demand for mediation/arbitration set forth above, either party may apply to the presiding judge of Linn County for the selection of the mediator and/or arbitrator(s) and the presiding judges selection thereof shall be binding. In such event, the mediator or arbitrator(s) thus selected shall determine the procedures and timelines to be employed and the Parties shall share equally in all dispute resolution costs.
14. **Compliance with Applicable Law**: The Parties shall comply with all federal, state and local laws and ordinances applicable to the Agreement, including, without limitation, applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations.
15. **Severability**: The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction or authorized regulatory agency to be illegal or in conflict with any law or applicable government regulation, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid or in conflict with regulations. In the event that the invalidation of the term or provision results in the Agreement thereby failing in its essential purpose, the parties may proceed pursuant to law subject to the dispute resolution procedures contained here.
16. **Construction of Contract**: This Agreement shall not be construed against either Party regardless of which Party drafted it. Other than as modified by this Agreement, the applicable rules of contract construction and evidence shall apply.
17. **Waiver**: No provision of this Agreement may be waived except in writing by the Party waiving compliance. No waiver of any provision of this agreement shall constitute waiver of any other provision, whether similar or not, nor shall any one waiver constitute a continuing waiver. Failure to enforce any provision of this Agreement shall not operate as a waiver of such provision or any other provision.
18. **Resolution**: Both Parties agree to adopt this Agreement by Resolution of its respective City Council.

## EXHIBIT E

The refinement plan analysis will:

- Begin soon after execution of this Agreement. The Parties agree to develop a work plan, with identification of interim milestones, which will accomplish the identified tasks within the five-year window.
- Clearly and accurately delineate areas that directly and indirectly drain to the Canal. (Meaning, all areas for which their drainage ultimately discharges to the Canal. This will include areas that are not adjacent to the Canal but are within a drainage basin discharging to the Canal.)
- Define required long-term infrastructure improvements to redirect stormwater away from the Canal, if allowed or able to be permitted by regulatory agencies. (Pumped solutions will not be required.)
- Identify infrastructure in undeveloped areas to route stormwater away from the Canal with future development, as allowed or able to be permitted by regulatory agencies. (Pumped solutions will not be required.)
- Identify areas that have “no other drainage options available” (as used in Section 4.6) other than the Canal for the purposes of clearly defining development requirements in areas that potentially drain to the Canal. These areas will be identified in collaboration with the City of Albany.
- Quantify Canal inflows from each drainage area in Lebanon draining to the Canal at 10-, 25-, 50-, and 100-year rain events for existing conditions and buildout conditions (post-reroute).

As it relates to Canal drainage, Lebanon will include Albany in the refinement/master planning process, including but not limited to, providing an opportunity for Albany to review and comment on the methodology, data collection, and work efforts required for each of the items identified above.

## SANTIAM-ALBANY CANAL WATER DELIVERY AGREEMENT (AGREEMENT)

THIS AGREEMENT is made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between the CITY of ALBANY, a Municipal Corporation, hereinafter referred to as "Albany," and the CITY of LEBANON, a Municipal Corporation, hereinafter referred to as "Lebanon."

### RECITALS

WHEREAS, Albany and Lebanon are Municipal Corporations of the State of Oregon;

WHEREAS, Albany and Lebanon have entered into a general Intergovernmental Agreement (IGA) regarding the Santiam-Albany Canal titled Santiam-Albany Canal General Agreement and dated \_\_\_\_\_, 2016;

WHEREAS, Albany owns the Canal, Diversion Dam, Intake (or Headworks) Facilities, Flow Control Facilities and all other appurtenances to the Canal; and

WHEREAS, Canal flows and the Canal itself must be maintained;

WHEREAS, the Parties, through separate authorizations from the Oregon Water Resources Department, hold certificates and permits to divert and beneficially use water from the South Santiam River;

WHEREAS, Lebanon will continue to rely on the diversion and delivery of South Santiam River water by way of the Canal for its raw source of municipal water supply until their new water treatment plant (located at 2500 River Road) with a dedicated South Santiam River intake is fully operational;

WHEREAS, Lebanon intends to abandon the current water intakes at Cheadle Lake and the water treatment plant (WTP) located at 1155 South Second Street once the new WTP is commissioned to obtain its water supply directly from the South Santiam River without the aid of the Canal;

WHEREAS, Albany and Lebanon are units of local government, authorized under ORS 190.010 to enter into written intergovernmental agreements for the performance of specified activities; and

WHEREAS, both communities desire a fair and equitable cost-sharing arrangement for their respective rate payers.

NOW, THEREFORE, the Parties agree as follows:

1. **Purpose:** The Parties have entered into an Intergovernmental Agreement (IGA) titled Santiam-Albany Canal General Agreement and dated \_\_\_\_\_, 2016. The IGA requires a separate written agreement or contract between the Parties for any

raw water supply and delivery via the Santiam-Albany Canal. The purpose of this Agreement is to satisfy that requirement and allow use of the Canal for water delivery from the South Santiam River to Cheadle Lake and Lebanon's Water Treatment Plant.

## **2. Water Supply and Delivery**

### **2.1 Albany's Duties**

- 2.1.1** Under the terms of this agreement, the Canal will continue to deliver water from the South Santiam River to Lebanon's diversions to Cheadle Lake and Lebanon's Water Treatment Plant (WTP) located at 1155 South Second Street (also referred to as Canal WTP herein), in volumes not to exceed Lebanon's municipal water rights of use on record with the Oregon Water Resources Department, not to exceed 37 cfs.
- 2.1.2** Albany owns or controls, and agrees to take all reasonable actions to operate and maintain in good and proper working condition the Diversion Dam on the South Santiam River, the Canal intake facilities, and the Canal, for the purposes of delivering water as described in 2.1.1.
- 2.1.3** Albany shall not be responsible or liable for the quality of the water delivered to Lebanon Canal WTP or any cost associated with treating water delivered.
- 2.1.4** Any water delivery from the South Santiam River through the Canal to others holding water rights of use from the Oregon Water Resources Department, is between Albany and the user; not the City of Lebanon.
- 2.1.5** If Albany must temporarily interrupt or curtail water delivery for a non-emergency situation, Albany agrees to notify Lebanon a minimum of one week prior to altering flows to the Lebanon Canal WTP.
- 2.1.6** Albany agrees to notify Lebanon as soon as reasonably possible once an imminent or emergency need to curtail or interrupt water delivery from the South Santiam River to the Lebanon Canal WTP is identified.
- 2.1.7** Notwithstanding any other provision in this Agreement, Albany shall have the right to interrupt, terminate, or reduce water delivery to Lebanon's WTP as a result of acts beyond Albany's control such as floods, low stream flows, equipment or structural failures, or contamination.
- 2.1.8** Albany shall have the right to reduce water delivery to Lebanon's Water Treatment Plant as necessary to meet any curtailment or conservation measure imposed upon Albany by any other unit of government. In such circumstance Albany shall provide Lebanon with any pre-curtailment notification received from regulators.

## 2.2 Lebanon's Duties

- 2.2.1 Lebanon is responsible for operating and maintaining the Lebanon WTP.
- 2.2.2 Lebanon agrees to share water withdrawal information with Albany as necessary to assist Albany in managing the Canal.
- 2.2.3 Lebanon is solely responsible to comply with requirements imposed by the Oregon Water Resources Department or any other regulatory agency.
- 2.2.4 Lebanon is responsible for all fees and charges for water supply and delivery as identified in Section 3.

3. **Fees and Charges for Water Supply and Delivery:** In addition to the items identified elsewhere in this Agreement where funding requirements and responsibilities are explicitly stated, this section identifies the fees and charges to be paid to Albany by Lebanon. These charges are in consideration of the provision of capital infrastructure and operations, maintenance and management services associated with water delivery to Lebanon from the South Santiam River to Cheadle Lake and the Lebanon WTP located at 1155 South Second Street

- 3.1 Lebanon shall pay to Albany \$77,000 for fiscal year 2015-2016 (July 1, 2015, through June 30, 2016).
- 3.2 Lebanon shall pay to Albany \$133,000 per fiscal year (July 1st through June 30th) beginning July 1, 2016.
- 3.3 Lebanon shall not be responsible for additional capital expenses related to raw water supply and delivery through the Canal by Albany.
- 3.4 The annual payment referenced in Section 3.2 shall be adjusted annually based on the year-to-year increase in the March CPI-W rate for the previous year.
- 3.5 Lebanon will submit quarterly payments to Albany for one-fourth of the annual payment. Albany will invoice Lebanon for regular quarterly payments. Unless otherwise requested by the City of Albany, payments shall be submitted to: City of Albany Public Works Department, Attention: Jeff Babbitt; 333 Broadalbin Street SW; PO Box 490; Albany, OR 97321-0144. Payments are due: July 15th, October 15th, January 15<sup>th</sup>, and April 15th.
- 3.6 Lebanon agrees to pay all quarterly amounts owed by the dates shown on the payment schedule above, unless otherwise agreed to in writing by both parties. Any late payment shall bear interest at three (3) percent per annum, 30 days from invoice. Interest shall automatically accrue with written notice from Albany.

4. **Abandonment of Canal WTP:** Upon termination of this agreement, or within 18 months of Lebanon's South Santiam River WTP coming fully online (providing potable water for consumption), whichever occurs first, Lebanon will abandon its Cheadle Lake

- and WTP diversions/intakes on the Canal, the discharge connections from any backwash water and settling ponds, and restore the Canal banks/berms in the area of the Canal WTP and along Cheadle Lake where equipment has been removed or abandoned.
5. **Sharing of Information:** The Parties agree to promptly share information received from regulatory bodies that may be reasonably expected to impact the other Party's water use from the Canal.
  6. **Termination:** The rights and obligations set forth in this Agreement shall expire 120 days after written notice from Lebanon to Albany that it will discontinue water delivery from the South Santiam River through the Canal, or five years from the date of this Agreement, whichever occurs first. The Parties may renew or extend the term of this Agreement upon mutual written agreement.
  7. **Good Faith:** With regard to their respective obligations and commitments under this Agreement, each party covenants that it shall act in good faith and deal fairly with the other party.
  8. **Dispute Resolution:** It is the intent of the Parties to limit the issues available for dispute resolution. The issues raised must be related to interpretation of the express terms of this Agreement and the enforcement thereof and/or damages for breach. Disputes shall first be subject to mediation followed by binding arbitration. Either party may initiate the mediation/arbitration process by providing written notice to the other suggesting the persons proposed to mediate or arbitrate and the procedures and timelines therefore. Should the parties be unable to agree upon these matters, within 30 days of the written demand for mediation/arbitration set forth above, either party may apply to the presiding judge of Linn County for the selection of the mediator and/or arbitrator(s) and the presiding judges selection thereof shall be binding. In such event, the mediator or arbitrator(s) thus selected shall determine the procedures and timelines to be employed and the Parties shall share equally in all dispute resolution costs.
  9. **Indemnification:** Each Party agrees to indemnify and hold the other Party and its agents harmless from any governmental or third party claims or damages, including costs of defense and mitigation, resulting, or claimed to result, in any manner from the indemnifying Party's acts or omissions in violation of the terms of this Agreement.
  10. **Modification:** All modifications to the Agreement must be approved in writing by both Parties' governing bodies.
  11. **Compliance with Applicable Law:** The Parties shall comply with all federal, state and local laws and ordinances applicable to the Agreement, including, without limitation, applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
  12. **Severability:** The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction or authorized regulatory agency to be illegal or in conflict with any law or applicable government regulation, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the

Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid or in conflict with regulation. In the event that the invalidation of the term or provision results in the Agreement thereby failing in its essential purpose, the parties may proceed pursuant to law subject to the dispute resolution procedures contained here.

13. **Construction of Contract:** This Agreement shall not be construed against either Party regardless of which Party drafted it. Other than as modified by this Agreement, the applicable rules of contract construction and evidence shall apply.
14. **Waiver:** No provision of this Agreement may be waived except in writing by the Party waiving compliance. No waiver of any provision of this agreement shall constitute waiver of any other provision, whether similar or not, nor shall any one waiver constitute a continuing waiver. Failure to enforce any provision of this Agreement shall not operate as a waiver of such provision or any other provision.
15. **Resolution:** This Agreement will be adopted by City Council Resolution of each Party.

DRAFT