



# TUALATIN CITY COUNCIL AND TUALATIN DEVELOPMENT COMMISSION

Monday, June 27, 2011

CITY COUNCIL CHAMBERS  
18880 SW Martinazzi Avenue  
Tualatin, OR 97062

**WORK SESSION** begins at 5:00 p.m.  
**REGULAR MEETING** begins at 7:00 p.m.

**Mayor Lou Ogden**

**Council President Chris Barhyte**  
**Councilor Monique Beikman    Councilor Wade Brooksby**  
**Councilor Frank Bubenik    Councilor Joelle Davis**  
**Councilor Ed Truax**

**Welcome!** By your presence in the City Council Chambers, you are participating in the process of representative government. To encourage that participation, the City Council has specified a time for citizen comments on its agenda - *Item C*, following Presentations, at which time citizens may address the Council concerning any item not on the agenda, with each speaker limited to three minutes, limited to three minutes, unless the time limit is extended by the Mayor with the consent of the Council.

Copies of staff reports or other written documentation relating to each item of business referred to on this agenda are available for review on the City's website at [www.ci.tualatin.or.us/government/CouncilPackets.cfm](http://www.ci.tualatin.or.us/government/CouncilPackets.cfm), the Library located at 18878 SW Martinazzi Avenue, and on file in the Office of the City Manager for public inspection. Any person with a question concerning any agenda item may call Administration at 503.691.3011 to make an inquiry concerning the nature of the item described on the agenda.

In compliance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, you should contact Administration at 503.691.3011. Notification thirty-six (36) hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.

Council meetings are televised *live* the day of the meeting through Washington County Cable Access Channel 28. The replay schedule for Council meetings can be found at [www.tvctv.org](http://www.tvctv.org). Council meetings can also be viewed by *streaming video* on the City's website the day of the meeting at [www.ci.tualatin.or.us/government/CouncilPackets.cfm](http://www.ci.tualatin.or.us/government/CouncilPackets.cfm).

Your City government welcomes your interest and hopes you will attend the City of Tualatin Council meetings often.

## PROCESS FOR LEGISLATIVE PUBLIC HEARINGS

A **legislative** public hearing is typically held on matters which affect the general welfare of the entire City rather than a specific piece of property.

1. Mayor opens the public hearing and identifies the subject.
2. A staff member presents the staff report.
3. Public testimony is taken.
4. Council then asks questions of staff, the applicant, or any member of the public who testified.
5. When the Council has finished questions, the Mayor closes the public hearing.
6. When the public hearing is closed, Council will then deliberate to a decision and a motion will be made to either *approve*, *deny*, or *continue* the public hearing.

## PROCESS FOR QUASI-JUDICIAL PUBLIC HEARINGS

A **quasi-judicial** public hearing is typically held for annexations, planning district changes, variances, conditional use permits, comprehensive plan changes, and appeals from subdivisions, partitions and architectural review.

1. Mayor opens the public hearing and identifies the case to be considered.
2. A staff member presents the staff report.
3. Public testimony is taken:
  - a) In support of the application
  - b) In opposition or neutral
4. Council then asks questions of staff, the applicant, or any member of the public who testified.
5. When Council has finished its questions, the Mayors closes the public hearing.
6. When the public hearing is closed, Council will then deliberate to a decision and a motion will be made to either *approve*, *approve with conditions*, or *deny the application*, or *continue* the public hearing.

## TIME LIMITS FOR PUBLIC HEARINGS

The purpose of time limits on public hearing testimony is to provide all provided all interested persons with an adequate opportunity to present and respond to testimony. All persons providing testimony **shall be limited to 3 minutes**, subject to the right of the Mayor to amend or waive the time limits.

## EXECUTIVE SESSION INFORMATION

Executive session is a portion of the Council meeting that is closed to the public to allow the Council to discuss certain confidential matters. No decisions are made in Executive Session. The City Council must return to the public session before taking final action.

The City Council may go into Executive Session under the following statutory provisions to consider or discuss: *ORS 192.660(2)(a)* the employment of personnel; *ORS 192660(2)(b)* the dismissal or discipline of personnel; *ORS 192.660(2)(d)* labor relations; *ORS 192.660(2)(e)* real property transactions; *ORS 192.660(2)(f)* non-public information or records; *ORS 192.660(2)(g)* matters of commerce in which the Council is in competition with other governing bodies; *ORS 192.660(2)(h)* current and pending litigation issues; *ORS 192.660(2)(i)* employee performance; *ORS 192.660(2)(j)* investments; or *ORS 192.660(2)(m)* security issues. **All discussions within this session are confidential.** Therefore, nothing from this meeting may be disclosed by those present. News media representatives are allowed to attend this session (unless it involves labor relations), but shall not disclose any information discussed during this session.



## OFFICIAL AGENDA OF THE TUALATIN CITY COUNCIL FOR JUNE 27, 2011

---

**A. CALL TO ORDER**  
Pledge of Allegiance

**B. ANNOUNCEMENTS**

1. New Employee Introductions - *Allison Schorr, Community Services Department*  
*Sara Hasegawa, Finance Department*
2. Library Summer Reading Program Update
3. Proclamation Declaring the Month of July 2011 as National Park and Recreation Month

**C. CITIZEN COMMENTS**

*This section of the agenda allows citizens to address the Council regarding any issue not on the agenda. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.*

**D. CONSENT AGENDA**

*The Consent Agenda will be enacted with one vote. The Mayor will first ask staff, the public and Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under, H) Items Removed from the Consent Agenda. The entire Consent Agenda, with the exception of items removed from the Consent Agenda to be discussed, is then voted upon by roll call under one motion.*

1. Approval of the Minutes for the Work Session and Meeting of June 13, 2011
2. Resolution No. **5047-11** Awarding the Bid for the 2011 Pavement Maintenance Schedule
3. Resolution No. **5048-11** to Close Out the Parks Improvement Fund and Transfer Remaining Funds to the General Fund
4. Resolution No. **5049-11** Authorizing the Mayor to Execute Amendment No. 1 to the Cooperative Intergovernmental Agreement Between the Library District of Clackamas County and Library Cities
5. Resolution No. **5050-11** Authorizing Changes to the Adopted 2010-2011 Budget

**E. SPECIAL REPORTS**

1. Tualatin Library Foundation Update
2. Transportation System Plan Presentation

**F. PUBLIC HEARINGS – Legislative or Other**

1. Resolution No. **5051-11** Adopting the City of Tualatin Budget for the Fiscal Year Commencing July 1, 2011, Making Appropriations, Levying Ad-Valorem Taxes, and Categorizing the Levies

**G. PUBLIC HEARINGS – *Quasi-Judicial***  
*None.*

**H. GENERAL BUSINESS**

1. Council Update on Transportation Activities in the Basalt Creek Area.
2. Ordinance No. **1325-11** Adopting the Core Area Parking District Tax Rate and Credit For Fiscal Year 2011-2012
3. Ordinance No. **1326-11** Granting a Non-Exclusive Telecommunications Franchise to Electric Lightwave LLC
4. Ordinance No. **1327-11** Allowing Regional Public Facilities to Treat Private Development's Stormwater; and Amending TDC 74.650 (PTA-11-04)
5. Recognition of Outgoing Council President Chris Barhyte
6. Appointment of a Councilor to Fill the Vacant Position No. 5 Seat

**I. ITEMS REMOVED FROM CONSENT AGENDA**

*Items removed from the Consent Agenda will be discussed individually at this time. The Mayor may impose a time limit on speakers addressing these issues.*

**J. COMMUNICATIONS FROM COUNCILORS**

**K. EXECUTIVE SESSION**

**L. ADJOURNMENT**



# Proclamation

## *PROCLAMATION DECLARING THE MONTH OF JULY 2011 AS NATIONAL PARK AND RECREATION MONTH*

WHEREAS parks and recreation programs are an integral part of communities throughout this country, including Tualatin, and provide a place for children and adults to connect with nature, recreate outdoors, and have fun participating in the world around them; and

WHEREAS our parks and recreation are vitally important to establishing and maintaining the quality of life in our communities, ensuring the health of all citizens, and contributing to the economic and environmental well-being of a community and region; and

WHEREAS parks and recreation programs build healthy, active communities that aid in the prevention of chronic disease, provide therapeutic recreation services for those who are mentally or physically disabled, provide peaceful and rejuvenating spaces for the weary which improve the mental and emotional health of all citizens; and

WHEREAS parks and recreation programs increase a community's economic prosperity through increased property values, expansion of the local tax base, increased tourism, the attraction and retention of businesses, and crime reduction; and

WHEREAS parks and recreation areas are fundamental to the ecological and environmental well-being of our community by improving water quality, protecting groundwater, preventing flooding, improving the quality of the air we breathe, providing vegetative buffers to development, and producing habitat for wildlife; and

WHEREAS Tualatin residents recognize the benefits derived from parks and recreation resources and are dedicated and enthusiastic parks and recreation program users.

NOW, THEREFORE BE IT PROCLAIMED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, that;

Section 1. All citizens are urged to celebrate our community's parks and recreation facilities and programs and learn more about how to support the places and programs that provide our community with so many benefits.

Section 2. The citizens of the City of Tualatin support the National Recreation and Park Association in their recognition of the value of parks and recreation by proclaiming the month of July as Parks and Recreation Month in Tualatin.

CITY OF TUALATIN, OREGON

BY

  
\_\_\_\_\_  
Mayor

ATTEST:

BY

  
\_\_\_\_\_  
City Recorder



City of Tualatin

# City Council SPEAKER REQUEST FORM

**IMPORTANT:** Any citizen attending Council meetings may speak on any item on the agenda. If you wish to speak, please complete this form and return to the **City Recorder**. *This document is a public record.*

NAME Kathy Newcomb DATE 6/27/11  
STREET ADDRESS 17515 SW Cheyenne Wy  
STATE OR ZIP 97062 E-MAIL overloaded

I wish to speak during **CITIZEN COMMENTS** on a subject that is not on the current Council agenda. **(3-minute time limit per speaker)**

Subject Transportation System Plan

I wish to speak on **PUBLIC HEARING ITEM No.** \_\_\_\_\_ (TESTIMONY TIME MAY BE LIMITED)

\_\_\_\_\_ IN FAVOR

\_\_\_\_\_ OPPOSED

\_\_\_\_\_ NEUTRAL

**NOTE:** IF WRITTEN DOCUMENTATION IS PRESENTED PLEASE FURNISH AT LEAST ONE (1) COPY, ALONG WITH THIS FORM, TO THE CITY RECORDER FOR THE OFFICIAL RECORD.



# STAFF REPORT

## CITY OF TUALATIN

APPROVED BY TUALATIN CITY COUNCIL  
Date 6-27-11  
Recording Secretary M. Smith

**TO:** Honorable Mayor and Members of the City Council  
**THROUGH:** Sherilyn Lombos, City Manager  
**FROM:** Maureen Smith, Executive Assistant  
**DATE:** 06/27/2011  
**SUBJECT:** Approval of the Minutes for the Work Session and Meeting of June 13, 2011

---

### ISSUE BEFORE THE COUNCIL:

The issue before the Council is to approve the minutes of the Work Session and Meeting of June 13, 2011.

### RECOMMENDATION:

Staff respectfully recommends that the Council adopt the attached minutes.

### FINANCIAL IMPLICATIONS:

There are no financial impacts associated with this item.

---

**Attachments:** A - Minutes of Work Session June 13, 2011  
B - Minutes of Meeting June 13, 2011



**OFFICIAL MINUTES OF TUALATIN CITY COUNCIL WORK SESSION FOR JUNE 13, 2011**

Present: Mayor Lou Ogden, Councilor Monique Beikman, Councilor Joelle Davis, Councilor Wade Brooksby (arrived at 6:13 p.m.), Councilor Frank Bubenik, Councilor Ed Truax

Absent: Council President Chris Barhyte

Staff Present: City Manager Sherilyn Lombos, City Attorney Brenda Braden, City Engineer Mike McKillip, Police Chief Kent Barker, Operations Director Dan Boss, Human Resources Director Nancy McDonald, Finance Director Don Hudson, Planning Manager Aquilla Hurd-Ravich, Development Manager Eric Underwood, Senior Planner William Harper, Assistant Planner Colin Cortes, Parks and Recreation Manager Carl Switzer, Library Manager Abigail Elder, Civil Engineer Kaaren Hofmann, Engineer Associate Tony Doran, Volunteer Services Coordinator Victoria Eggleston, Program Coordinator Kathy Kaatz, Management Intern Ben Bryant, Executive Assistant Maureen Smith, Assistant to the City Manager Sara Singer, Community Development Director Alice Rouyer

**1. CALL TO ORDER**

Mayor Ogden called the work session to order at 5:02 p.m.

**2. ITEMS FOR DISCUSSION**

**A. Discussion of Council Security and Council's Role During an Emergency**

Police Chief Barker began by explaining the changes that have been made regarding security at Council meetings, and the Council Chambers. Chief Barker further explained what actions Council can take with someone that is armed.

Operations Director Dan Boss continued with a PowerPoint on the roles of Council during an emergency. He reviewed the organization and how the City handles emergencies. During large emergencies a new department is "created," an incident command structure. The City uses the National Incident Command System. 1990 was the first emergency plan adopted by Council. Staff holds two exercises a year. Operations Director Boss reviewed Council's role prior to and during an emergency. Brief discussion followed.

**B. Land Use Decision Approval & Extension Periods: Research & Alternative Actions**

Planning Manager Aquilla Hurd-Ravich began with a brief background on the first extension that was done in 2009, explaining the different hurdles that arose, primarily due to the economic downturn. In May, there was another request and approval that extended the time frame for some other architectural reviews. Staff then started looking at different ways to make the process work better by being able to give a longer period of time/extension. It also gives developers a reasonable amount of time to get started on their project, and less costly with extensions.

Assistant Planner Colin Cortes continued with an explanation of what an extension entails. It was asked and explained what it means to get a "project" going, and the permitting process. Giving a longer approval period from one to two years would allow for a developer to address issues such as financing, other agency regulations, and timeframes, etc. In looking at other cities, comparatively Tualatin has a short approval period. It was asked and explained about the costs associated with re-noticing for an extension request.

Discussion followed. It was asked about regulations that could change during the extension period, and how it would be addressed, and staff explained the proposal is to keep language that is already included to be able to deal with regulations changes. It was noted how Milwaukie handles their procedure.

City Manager Lombos summarized the discussion and said staff will bring back a draft, including some of the Milwaukie language, and present at a future Council meeting.

**C. Citizen Involvement Organization Program Proposed Code Language**

---

City Attorney Brenda Braden and Assistant to the City Manager Sara Singer presented a PowerPoint on the Citizen Involvement Organization Program, proposed code language. Ms. Singer also noted an e-mail received from Steve Stolze requesting it be included for the record.

Ms. Singer gave a recap of the May 23, 2011 special Council Work Session that was held, and the outcomes evolving around Scenario 2, which determined to include four main components of minimum criteria be included in the bylaws. City Attorney Brenda Braden recapped the legal issues that were raised at the special work session, and reiterated the issue of unlawful delegation of legislative authority. The three scenarios presented in her legal analysis were reviewed and possible legal issues associated with them.

Staff ran through each of the proposed section code language, that included, 11-9-020 Purpose, 11-9-030 Definition, which was modified, as was 11-9-040 Membership. A question was asked about having the Community Involvement Organizations (CIOs) follow Oregon's public meeting laws, however staff explained that the alternative added in the code was from Council's discussion. The other alternative is about being certain meetings are not closed, etc., that was discussed at the May 23rd meeting. Staff said this would then not be as stringent as adhering to the public meetings law. Also the issue of the City Manager addressing the paperwork associated with establishment of CIOs. Section 11-9-050 Termination or Recognition was reviewed. It was mentioned that original 11-9-050 was deleted based on Council direction and replaced with Termination and Recognition. Section 11-9-060 Boundaries, was reviewed with three alternatives were shown. 11-9-070 Responsibility, lists three alternatives and 11-9-080 CIO Rights and Responsibilities, and was explained it was removed as it made mention of bylaws, and also the grant funding language was removed. 11-9-090 Expenditure of Funds was reviewed. 11-9-100 Community Involvement Coordinating Committee (CICC) was reviewed and explained. Discussion followed and continued explanation of how the process was done by staff based on the discussion at the May 23, 2011 special work session.

Staff reviewed the Community Involvement Organization Program proposed boundary map, and staff's concerns of the proposed boundaries. Staff concluded the discussion.

Discussion followed by Council on what the next steps are. It was note that an e-mail was sent this date, from the ad hoc committee on their differences from staff's proposal. It was suggested having a subcommittee meet with members of the ad hoc committee on the areas of difference. Council discussed how the process could move forward, whether to have a subcommittee, or that there is enough information already for Council to make a policy decision. It was also suggested that Council could address the alternatives now, before having a subcommittee meet.

Discussion followed and two options were reviewed - address the issues prior to a subcommittee meeting, or create a subcommittee of three Council members and three ad hoc committee members to review the issues on the table. It was determined to proceed with a Council subcommittee, comprised of Councilors Brooksby, Davis and Truax, to meet with three members of the ad hoc committee.

### **3. AGENDA REVIEW**

There were no questions on the Consent Agenda.

#### **H. GENERAL BUSINESS**

2. Ordinance No. **1324-11** Amending the Extension of the Approval Periods of Certain Architectural Review Decisions and Amending TDC 73.056 (PTA-11-03)

MOTION by Councilor Truax, SECONDED by Councilor Beikman for a first reading by title only. MOTION by Councilor Truax, SECONDED by

Councilor Beikman for a second reading by title only. MOTION CARRIED . The poll was unanimous. *[Barhyte absent.]* MOTION by Councilor Truax, SECONDED by Councilor Beikman to place the ordinance on the Consent Agenda. MOTION CARRIED .

**4. EXECUTIVE SESSION**

*None.*

**5. COMMUNICATIONS FROM COUNCILORS**

City Manager Lombos mentioned the special work session regarding Council position interviews for the vacancy created by Council President Barhyte's resignation. Binders with candidate information were distributed and Council discussed the process. It was suggested having a ballot process, the same as when Council votes for Council president. Discussion followed on the balloting process.

**6. ADJOURNMENT**

The work session adjourned at 6:55 p.m.

Sherilyn Lombos, City Manager



Maureen Smith, Recording Secretary



OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL MEETING FOR  
JUNE 13, 2011

---

Present: Mayor Lou Ogden, Councilor Monique Beikman, Councilor Wade Brooksby,  
Councilor Frank Bubenik, Councilor Ed Truax, Councilor Joelle Davis

Absent: Council President Chris Barhyte

Staff Present: City Manager Sherilyn Lombos, City Attorney Brenda Braden, City Engineer  
Mike McKillip, Police Chief Kent Barker, Community Development Director  
Alice Rouyer, Human Resources Director Nancy McDonald, Finance Director  
Don Hudson, Planning Manager Aquilla Hurd-Ravich, Development Manager  
Eric Underwood, Assistant to the City Manager Sara Singer, Senior Planner  
William Harper, Associate Planner Cindy Hahn, Parks and Recreation  
Manager Carl Switzer, Engineer Associate Tony Doran, Teen Program  
Specialist Julie Ludemann, Program Coordinator Kathy Kaatz, Management  
Intern Ben Bryant, Executive Assistant Maureen Smith

**A. CALL TO ORDER**

Mayor Ogden called the meeting to order at 7:04 p.m.

Pledge of Allegiance was led by Boy Scout Troop 530.

**B. ANNOUNCEMENTS**

1. New Employee Introductions - *Heidi Blaine, Community Development Department*
- 

Community Development Director introduced Heidi Blaine, the new Office Coordinator for the Community Development Department, Planning Division.

2. Farmers Market Update - *Beth Roach*
- 

Tualatin Farmers Market representatives Beth Roach and Jane Morrill were present and gave a PowerPoint presentation on the grand opening of the Farmers Market for 2011 on June 17, 2011. There are new additions to the market, and also some expanded market programs. Ms. Morrill thanked everyone that has helped support this event, including sponsors and City Manager Sherilyn Lombos and Parks and Recreation Manager Carl Switzer.



**C. CITIZEN COMMENTS**

*This section of the agenda allows citizens to address the Council regarding any issue not on the agenda. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.*

*Toni Anderson, 17790 SW Cheyenne Way, Tualatin, OR , was present to comment on the citizen involvement issue. Mayor Ogden explained this portion of the agenda is for matters that are not on the agenda, and noted her comments would be heard when the item is discussed later in the meeting.*

**D. CONSENT AGENDA**

*The Consent Agenda will be enacted with one vote. The Mayor will first ask staff, the public and Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under, I) Items Removed from the Consent Agenda. The entire Consent Agenda, with the exception of items removed from the Consent Agenda to be discussed, is then voted upon by roll call under one motion.*

Ordinance No. 1324-11 had first and second readings and was placed on the Consent Agenda at Work Session.

MOTION by Councilor Ed Truax, SECONDED by Councilor Monique Beikman to adopt the Consent Agenda as amended and read.

**Vote:** 6 - 0 CARRIED.

1. Approval of the Minutes for Special Work Session of April 26, 2011, Work Session and Meeting of May 9, 2011, and Special Work Session of May 23, 2011
2. Resolution No. 5032-11 Approving and Authorizing the Provision of Workers' Compensation Insurance Coverage to Volunteers and Repealing Resolution No. 4978-10
3. Resolution No. 5033-11 Authorizing Non-Represented Employee Personal Services Updates for Fiscal Year 2011/2012
4. Resolution No. 5034-11 to Provide City-Designated Electronic Devices to New Council Members
5. Resolution No. 5035-11 Authorizing Changes to the Adopted 2010-2011 Budget
6. Resolution No. 5036-11 Certifying City of Tualatin Municipal Services
7. Resolution No. 5037-11 to Close Out the Library Improvement Fund and Transfer Remaining Funds to the General Fund
8. Resolution No. 5038-11 Approving the Allied Waste Services Rate Increase

9. Resolution No. **5039-11** Amending Sewer and Surface Water Management Rates Inside the City of Tualatin and Rescinding Resolution 4979-10
10. Resolution No. **5040-11** Awarding the Bid for the Saum Creek Landslide Repair
11. Resolution No. **5041-11** Authorizing an Intergovernmental Agreement for Concept Planning the Basalt Creek Area
12. Resolution No. **5042-11** Accepting Renewal of an Intergovernmental Cooperation Agreement with Washington County for the Community Development Block Grant Program
13. Resolution No. **5043-11** Approving Amendment No. 2 to a Contract with Washington County for a Community Development Block Grant to Expand and Renovate the Juanita Pohl Center
14. Resolution No. **5044-11** Authorizing the Mayor to Execute the Public Library Services Agreement and the WCCLS Information Network Agreement between the City of Tualatin and Washington County on Behalf of the Washington County Cooperative Library Services
15. Ordinance No. **1324-11** Amending the Extension of the Approval Periods of Certain Architectural Review Decisions and Amending TDC 73.056 (PTA-11-03)

**E. SPECIAL REPORTS**

1. Presentation of the 2011 Tualatin Science & Technology Scholarship Awards

Councilor Monique Beikman presented information on the Tualatin Science & Technology Scholarship recipients. This year's winners are Jason Cross and Monica Pleitez.

Councilor Beikman noted the scholarship committee is comprised of Chamber of Commerce representative Michael Halvorson, City Council representative Monique Beikman, and Tigard-Tualatin School Board representative Dr. Barry Albertson.

2. Presentation of the Tualatin Youth Advisory Council 2010/11 Annual Report

Representatives from the Tualatin Youth Advisory Council gave a PowerPoint presentation on their annual report. The five members present were graduating seniors that are all attending college in the fall. The youth thanked everyone for their support of the Youth Advisory Council.

Mayor Ogden presented to all Youth Advisory Council members that were present, a certificate of appreciation. Council congratulated the youth for their hard work and dedication while serving on the Advisory Council.

**F. PUBLIC HEARINGS – Legislative or Other**

1. Resolution No. 5045-11 Declaring the City's Election to Receive State Revenue Sharing Funds During Fiscal Year 2011-12
- 

Mayor Ogden opened the public hearing.

Finance Director Don Hudson presented the staff report and noted the public hearing is required for the City to receive state revenue shared funds, and briefly explained what the City is required to do to be able to accept the funds.

PROPOSERS/OPPONENTS - None.

Mayor Ogden closed the public hearing.

COUNCIL DISCUSSION/DELIBERATION

MOTION by Councilor Ed Truax, SECONDED by Councilor Monique Beikman to adopt the Resolution to accept state revenue shared funds.

**Vote:** 6 - 0 CARRIED.

2. Consideration of a Plan Text Amendment (PTA) that would Amend Storm Water Quality Regulations to Allow a Regional Public Water Quality Facility to Serve Private, Non-Residential Development; and Amend TDC 74.650 (PTA-11-04)
- 

Mayor Ogden opened the legislative public hearing.

Senior Planner Will Harper presented the staff report and entered the entire staff report into the record, and went on to explain the requirements to allow for water quality facilities to serve private, non-residential development. A PowerPoint was reviewed

PROPOSERS/OPPONENTS - None.

COUNCIL DISCUSSION

Councilor Bubenik had concerns about the financing of a private storm water facility and that the citizens would pay in the end, and Senior Planner Harper explained how the process would work. It was asked and answered that this would be tied to the owner of the property, whether it is occupied or not. Senior Planner Harper continued with explanation of the costs associated with the construction, etc. of the water quality facility.

Councilor Truax noted the letter of testimony included in the staff report requesting regional detention facilities, and Senior Planner elaborated on the request from PacTrust. They were interested in doing a regional facility and raised the idea of public detention in conjunction with private water quality facilities. Staff is reluctant to support the request but believes PacTrust will be able to do what they need to do without having a regional facility. It was asked and answered that this would not be used often or in the near future. Planning Manager Aquilla Hurd-Ravich said when the Southwest Concept Plan begins however, more of these will be seen. It was asked and answered that most all other surrounding cities have these same type of regulations.

Mayor Ogden closed the public hearing.

#### COUNCIL DELIBERATION

MOTION by Councilor Ed Truax, SECONDED by Councilor Monique Beikman to approve PTA-11-04 as presented in the staff report.

**Vote: 5 - 1 CARRIED.**

Nay: Councilor Frank Bubenik

#### **G. PUBLIC HEARINGS – Quasi-Judicial** *None.*

#### **H. GENERAL BUSINESS**

##### **1. An Ordinance Allowing Regional Public Facilities To Treat Private Developments Stormwater and Amending TMC 3-5-340, 3-5-380, and 3-5-390**

MOTION by Councilor Truax, SECONDED by Councilor Beikman for a first reading by title only. MOTION by Councilor Truax, SECONDED by Beikman for a second reading by title only. The poll was unanimous. MOTION CARRIED . [Barhyte absent.] MOTION by Councilor Truax, SECONDED by Councilor Davis to adopt the ordinance. MOTION CARRIED .

**Vote : 5 - 1**

Nay: Councilor Frank Bubenik  
Absent: Councilor Chris Barhyte

##### **2. An Ordinance Amending the Extension of the Approval Periods of Certain Architectural Review Decisions and Amending TDC 73.056 (PTA-11-03)**

The ordinance had first and second readings at Work Session and was placed on the Consent Agenda.

##### **3. Authorizations for the Use of City Resources and Facilities by the Chamber of Commerce for the 2011 Crawfish Festival**

Linda Moholt, Chamber of Commerce, and Carl Switzer, Parks and Recreation Manager were present and noted the staff report is to authorize use of city resources and facilities for the 61st annual Crawfish Festival on August 12 - 13, 2011.

A PowerPoint was presented by Linda Moholt giving a brief background of the history of the Crawfish Festival, and this year's activities and events that will take place. This theme for 2011 is "Crawfish in Paradise."

MOTION by Councilor Ed Truax, SECONDED by Councilor Joelle Davis to authorize the use of City resources and facilities by the Chamber of Commerce for the 2011 Crawfish Festival.

**Vote: 6 - 0 CARRIED.**

**4. Resolution Adopting Principles of Citizen Involvement**

---

Mayor Ogden noted these policies came out of the discussion the Council had regarding citizen involvement. There are six area of principles of citizen involvement as determined by the Council at various work sessions.

MOTION by Councilor Joelle Davis, SECONDED by Councilor Frank Bubenik to approve the Resolution adopting Principles for Enhancing Citizen Involvement.

**Vote: 6 - 0 CARRIED.**

**I. ITEMS REMOVED FROM CONSENT AGENDA**

*Items removed from the Consent Agenda will be discussed individually at this time. The Mayor may impose a time limit on speakers addressing these issues.*

**J. COMMUNICATIONS FROM COUNCILORS**

Councilor Bubenik noted at the last Washington County Commission on Children and Families meeting, Tualatin has been selected as part of a pilot project of the summer lunch program for children, to be available at Atfalati Park, in addition to Bridgeport Elementary. Bridgeport will also have breakfast available.

**K. EXECUTIVE SESSION**

*None.*

**L. ADJOURNMENT**

MOTION by Councilor Ed Truax, SECONDED by Councilor Monique Beikman to adjourn the meeting at 8:13 p.m.

**Vote: 6 - 0 CARRIED.**

Sherilyn Lombos, City Manager

*Maureen Smith* Maureen Smith / Recording Secretary



# STAFF REPORT

## CITY OF TUALATIN

APPROVED BY TUALATIN CITY COUNCIL

Date 10-27-11

Recording Secretary [Signature]

**TO:** Honorable Mayor and Members of the City Council  
**THROUGH:** Dan Boss, Operations Director  
**FROM:** Bert Olheiser, Street/Sewer/Storm Manager  
**DATE:** 06/27/2011  
**SUBJECT:** Resolution Awarding the Bid for the 2011 Pavement Maintenance Schedule

---

### ISSUE BEFORE THE COUNCIL:

Awarding the bid for the 2011 Pavement Maintenance Schedule.

### RECOMMENDATION:

Staff recommends that City Council adopt the Resolution (Attachment A), awarding the bid for the 2011 Pavement Maintenance Schedule project and authorizing the Mayor to execute a contract with Eagle-Elsner, Inc., in the amount of \$415,805.

### EXECUTIVE SUMMARY:

- This project consists of street pavement overlays, full-depth patch or inlays, traffic signal detection replacement, and other pavement-related work on Bradbury Court, Stoneridge Subdivision, 112th Avenue, Avery Street from Boones Ferry Road to 95th Avenue, Talawa Court and 91st Court.
- The Invitation to Bid was published in the Daily Journal of Commerce on May 12 and 19, 2011.
- Bids for this project were opened on Friday, June 3, 2011 at 1:00 pm. Six bidders responded:

Eagle-Elsner, Inc.	\$415,805.00
S-2 Contractors, Inc.	\$437,420.00
Oregon Asphaltic Paving, LLC.	\$470,435.00
Knife River	\$479,815.00
Kodiak Pacific Construction	\$480,095.00
Brix Paving NW, Inc.	\$510,818.66

- The project is to be completed before August 15, 2011.
- The Engineer's Estimate was \$477,181.
- The lowest responsible bidder is Eagle-Elsner, Inc., in the amount of \$415,805.

### OUTCOMES OF DECISION:

If awarded, the contractor will begin on July 1 and be done by August 15, 2011.

### FINANCIAL IMPLICATIONS:

Funds for this project are available in the 2011/2012 fiscal year budget, Road Utility Fund  
016-0000-641.64-33.

---

**Attachments:**    A - Resolution



RESOLUTION NO. 5047-11

RESOLUTION AWARDING THE BID FOR THE 2011 PAVEMENT  
MAINTENANCE SCHEDULE

WHEREAS the 2011 Pavement Maintenance Schedule project was advertised in the *Daily Journal of Commerce* on May 12 and 19, 2011; and

WHEREAS the six proposals were received prior to the close of the bid period on June 3, 2011; and

WHEREAS Eagle-Elsner, Inc., submitted the lowest responsible bid for the project in the amount of \$415,805.00; and

WHEREAS funding for this project is budgeted in the 2011/2012 fiscal year Road Utility Fund line item 016-0000-641.64-33.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The contract is awarded to Eagle-Elsner, Inc.

Section 2. The Mayor and City Recorder are authorized to execute a contract with Eagle-Elsner, Inc., in the amount of \$415,805.

Section 3. The Operations Director is authorized to execute change orders totaling up to 10% of the original contract amount.

INTRODUCED AND ADOPTED this June day of 27, 2011.

CITY OF TUALATIN, OREGON

BY \_\_\_\_\_

Mayor

ATTEST:

BY \_\_\_\_\_

City Recorder



# STAFF REPORT

## CITY OF TUALATIN

APPROVED BY TUALATIN CITY COUNCIL  
Date 6-27-11  
Recording Secretary [Signature]

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Don Hudson, Finance Director

**DATE:** 06/27/2011

**SUBJECT:** Resolution to Close Out the Parks Improvement Fund and Transfer Remaining Funds to the General Fund

---

### ISSUE BEFORE THE COUNCIL:

Whether to close out the Parks Improvement Fund and transfer the remaining balance to the General Fund.

### RECOMMENDATION:

Staff recommends adoption of the attached resolution closing out the Parks Improvement Fund and transferring the remaining balance to the General Fund.

### EXECUTIVE SUMMARY:

The Parks Improvement Fund was created to account for the parks capital projects funded through a variety of sources, including the 2005 Parks Bond, parks development funds, library improvement funds and urban renewal funds. At the time the 2010-2011 budget was prepared, it was anticipated that all remaining funds would be expended by June 30, 2010, so no funds were budgeted for fiscal year 2010-2011, but the fund was not dissolved. However, when the audit was completed for the fiscal year ending June 30, 2010, there remained a balance of approximately \$740. Oregon Revised Statutes (ORS) 294.475, Elimination of unnecessary fund; disposition of balance, states that when the necessity of a fund ceases to exist and a balance remains in the fund, the balance shall be transferred to the general fund. The attached resolution includes the allocation of the balance to the General Fund.

### OUTCOMES OF DECISION:

This action closes the Parks Improvement Fund and transfers the remaining balance to the General Fund.

### FINANCIAL IMPLICATIONS:

The balance of the Parks Improvement Fund is reduced to zero and the General Fund is increased by \$740.

---

**Attachments:** A Resolution Closing Out the Parks Improvement Fund

**RESOLUTION NO. 5048-11**

**A RESOLUTION TO CLOSE OUT THE PARKS IMPROVEMENT FUND AND  
TRANSFER REMAINING FUNDS TO THE GENERAL FUND**

WHEREAS, the Parks Improvement Fund was created to account for park related capital expenditure projects;

WHEREAS, the final expenditures of the fund have been expended and the fund is no longer needed; and

WHEREAS, Oregon Revised Statutes (ORS) 294.475 dictates the elimination of an unnecessary fund and the disposition of any balance remaining in the fund.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF TUALATIN that:

Section 1. The remaining balance of the Parks Improvement Fund is to be transferred to the General Fund, per ORS 294.475.

Section 2. This resolution is effective immediately following adoption by the City Council and signature by the Mayor.

INTRODUCED AND ADOPTED this 27th day of June, 2011.

BY

  
\_\_\_\_\_  
Mayor

ATTEST:

BY

  
\_\_\_\_\_  
City Recorder



# STAFF REPORT

## CITY OF TUALATIN

APPROVED BY TUALATIN CITY COUNCIL  
Date 6-27-11  
Recording Secretary [Signature]

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Abigail Elder, Library Manager  
Paul Hennon, Community Services Director

**DATE:** 06/27/2011

**SUBJECT:** Resolution Authorizing the Mayor to Execute Amendment No. 1 to the Cooperative Intergovernmental Agreement Between the Library District of Clackamas County and Library Cities

---

### ISSUE BEFORE THE COUNCIL:

The City Council will consider an amendment to an intergovernmental agreement required to annex into the Library District of Clackamas County.

### RECOMMENDATION:

Staff respectfully recommends City Council adoption of the attached resolution authorizing the Mayor to execute Amendment No. 1 to the Cooperative Intergovernmental Agreement Between the Library District of Clackamas County and Library Cities.

### EXECUTIVE SUMMARY:

Voters within the city of Tualatin approved annexation of the Clackamas County area of Tualatin into the Library District of Clackamas County in the May 2010 election by passing Measure 34-177. In order to complete the annexation process into the Library District of Clackamas County, Tualatin must enter into the Cooperative Intergovernmental Agreement Between the Library District of Clackamas County and Library Cities. This can be accomplished by approving the attached resolution authorizing the Mayor to execute Amendment No. 1 to the Cooperative Intergovernmental Agreement Between the Library District of Clackamas County and Library Cities.

All of the Library Cities in Clackamas County have recently approved Amendment No. 1 to the Cooperative Intergovernmental Agreement Between the Library District of Clackamas County and Library Cities. The last step in the annexation process is for Tualatin to approve the Amendment No. 1.

For purposes of the Agreement, Tualatin will not be considered a Library City within the Library District since the Tualatin Public Library is located in Washington County and Tualatin is a member of the Washington County Cooperative Library Services. Under the proposed Amendment No. 1, Tualatin will receive fifty percent of the Library District property tax revenue generated within Tualatin city limits effective June 17, 2010, including delinquent taxes and any generated interest, for use in support of the Tualatin Public Library. The Library District will retain the remaining fifty percent of revenue for distribution to the cities of Lake Oswego, Wilsonville, and West Linn to support their libraries, which these Tualatin residents also utilize.

Tualatin's intention is to amend the funding distribution formula for property currently located in unincorporated areas when they annex into Tualatin so those funds can be used to support the Tualatin Public Library. Section 3.3 of the attached Cooperative Intergovernmental Agreement Between the Library District of Clackamas County and Library Cities provides a mechanism for its amendment. In the meantime, funds collected from unincorporated properties are distributed to the aforementioned cities under terms of Amendment No. 1.

**OUTCOMES OF DECISION:**

If approved, the City will complete the process of annexing the Clackamas County portion of Tualatin into the Library District of Clackamas County pursuant to voter approval. Tualatin's Clackamas County residents will continue to have the same access to library services as Tualatin's Washington County residents and can continue to borrow library materials from partner libraries in Clackamas, Washington, Multnomah and Hood River Counties in Oregon, and the Fort Vancouver Regional Library System in southwest Washington (includes Clark, Skamania and Klickitat counties). Property within the Clackamas County area of Tualatin will be subject to the Library District tax rate and the City of Tualatin will begin annually receiving fifty percent of the revenue generated from the Library District property taxes collected within the Clackamas County area of Tualatin.

If not approved, the City would not complete the annexation process approved by voters.

**FINANCIAL IMPLICATIONS:**

The Library District of Clackamas County has a permanent tax rate of \$0.3974 per \$1,000 of assessed value, collected from all parcels of real property in the District. The projected revenue for the City of Tualatin from the Library District of Clackamas County in fiscal year 2010-2011 is approximately \$70,000.

All funds received by the Library District of Clackamas County must be used in support of library services under terms of the Agreement.

---

**Attachments:**     A - Cooperative Intergovernmental Agreement Between the Library District of Clackamas County and Library Cities  
                          B - Resolution with attached Amendment No. 1 to the Cooperative Intergovernmental Agreement Between the Library District of Clackamas County and Library Cities

**PROPOSED FINAL MASTER IGA v.5  
LIBRARY DISTRICT  
2 March 2009**

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

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

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

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

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

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

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

**Section 1      Obligations of the District**

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

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

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

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

## **Section 3      Term and Amendment**

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## Attachment A

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

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

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

2. The Formula has two components:

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

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

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

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

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

## Library District Distribution Formula

<i>Assessed Value 2008</i>		
Total County Assessed Value (AV)	\$32,936,836,893	100%
Less: Non-Participating City AV	\$(1,239,770,249)	-4%
Equals: Total Library District AV	<u>\$31,697,066,644</u>	96%
Participating Cities:	Assessed Value	
Canby	\$999,941,295	6%
Estacada	\$179,662,976	1%
Gladstone	\$635,886,719	4%
Happy Valley	\$1,508,430,197	9%
Lake Oswego	\$4,756,391,295	28%
Milwaukie	\$1,467,817,328	9%
Molalla	\$409,821,923	2%
Oregon City	\$2,002,572,357	12%
Sandy	\$551,473,814	3%
West Linn	\$2,655,549,376	16%
Wilsonville	\$1,652,437,025	10%
Total Participating Cities AV	<u>\$16,819,984,305</u>	100%
Total Library District AV	\$31,697,066,644	100%
Less: Participating Cities AV	\$(16,819,984,305)	-53%
Equals: Unincorporated AV in District	<u>\$14,877,082,339</u>	47%
<i>Unincorporated Population Served 2008</i>		
Canby	10,221	6%
Estacada	16,802	9%
Gladstone	8,506	5%
Happy Valley (Town Center)	32,373	18%
Lake Oswego	3,305	2%
Milwaukie	10,756	6%
Molalla	15,001	8%
Oregon City	28,015	15%
Sandy	22,236	12%
West Linn	5,691	3%
Wilsonville	3,421	2%
Oak Lodge	28,036	15%
	<u>184,363</u>	100%

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

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



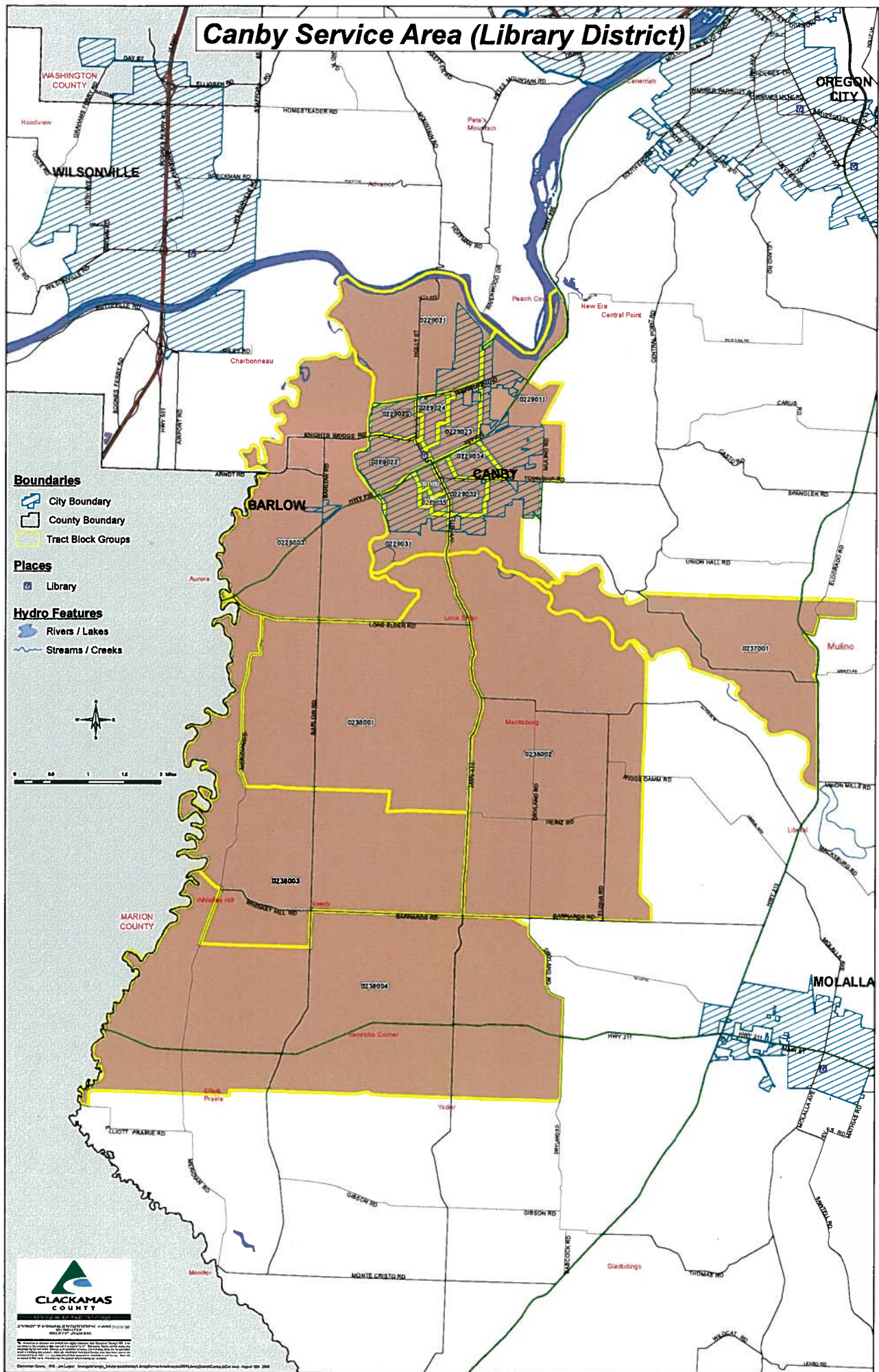
## **Attachment B**

Service population maps are included as Attachment B.

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

**[See attached maps]**

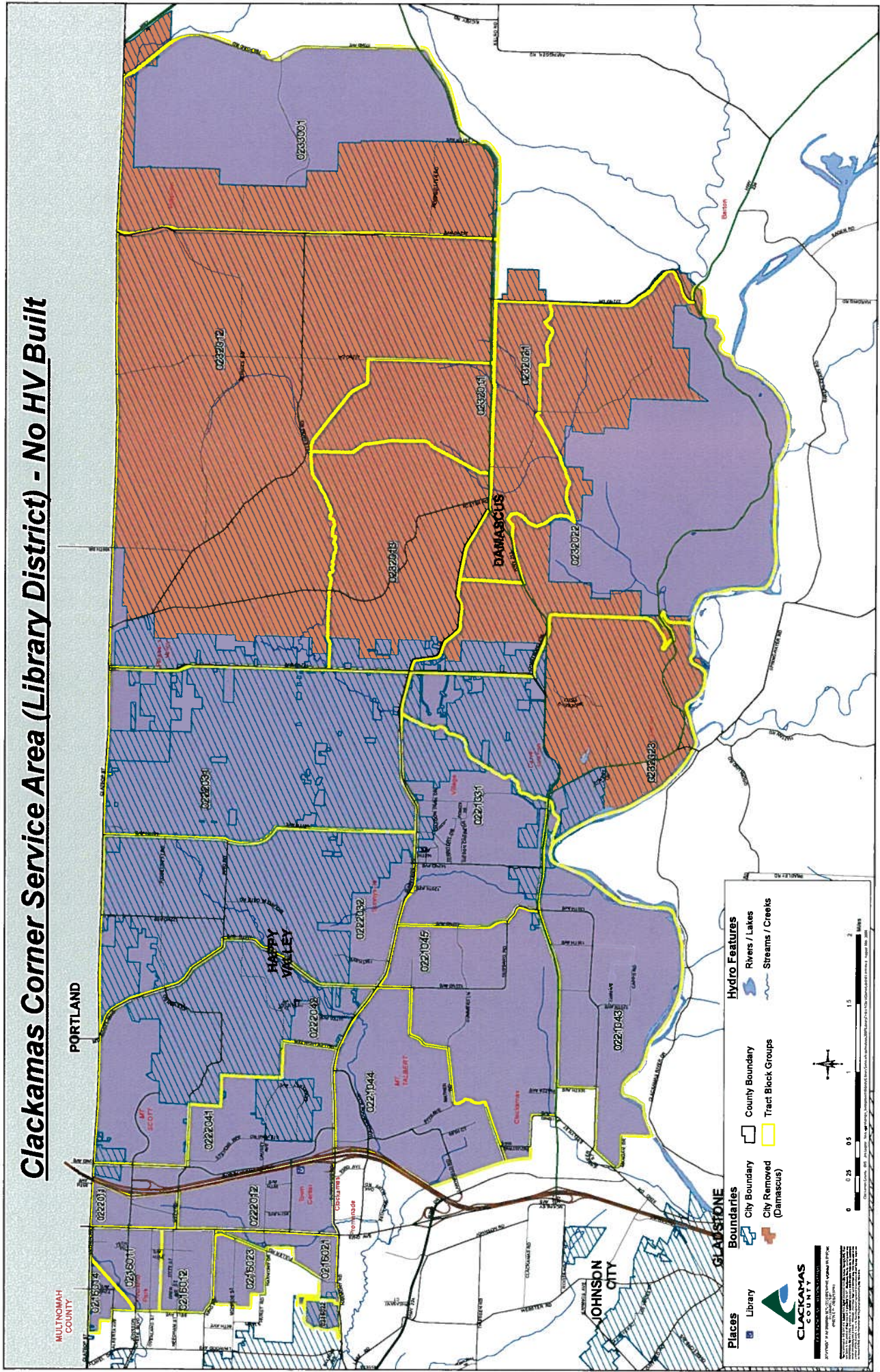
# Canby Service Area (Library District)



CLACKAMAS COUNTY  
 2014-2015  
Clackamas County, 401 251-1234, www.clackamas.gov, 1000 NE Oregon Street, Portland, OR 97232

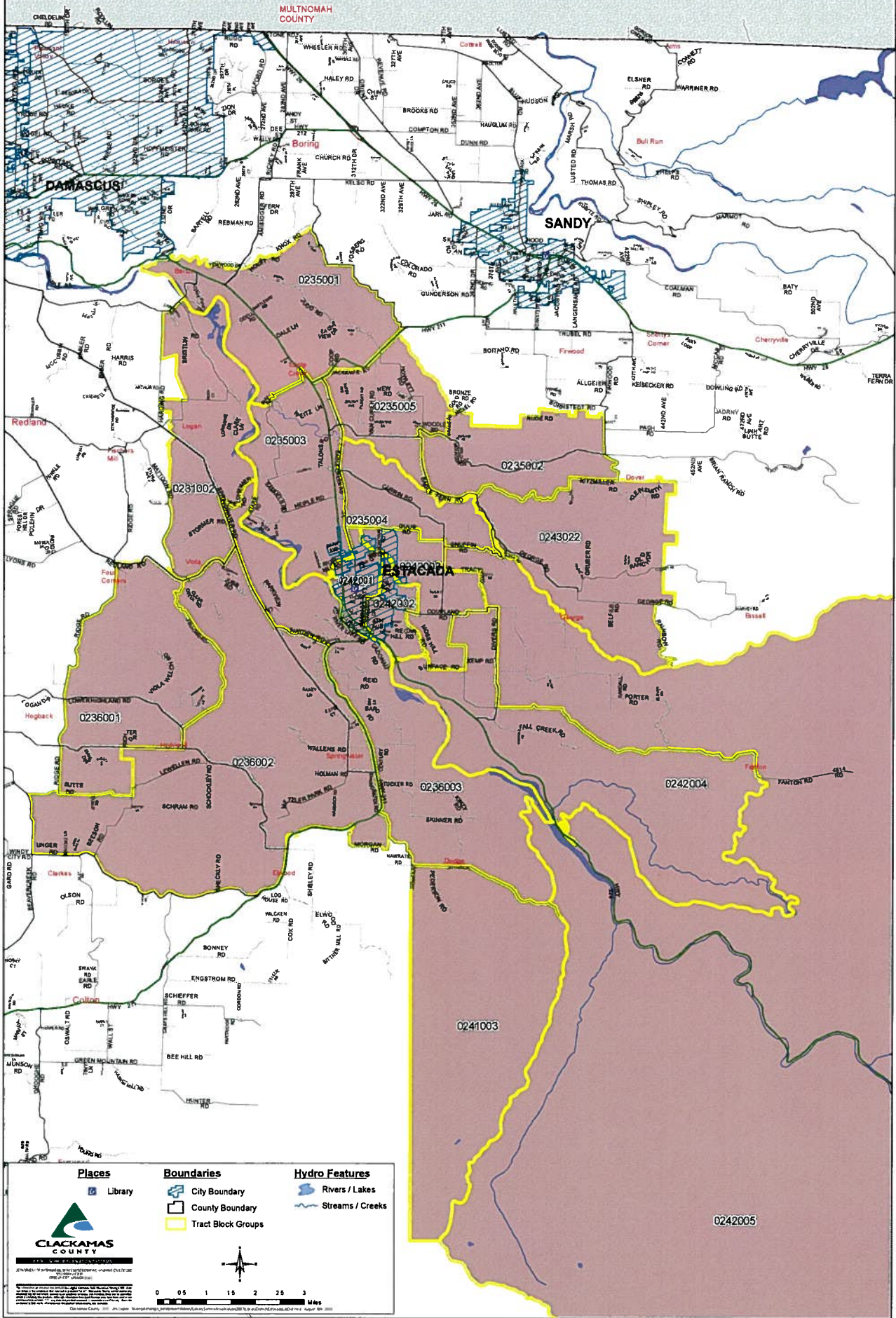


# Clackamas Corner Service Area (Library District) - No HV Built





# Estacada Service Area (Library District)

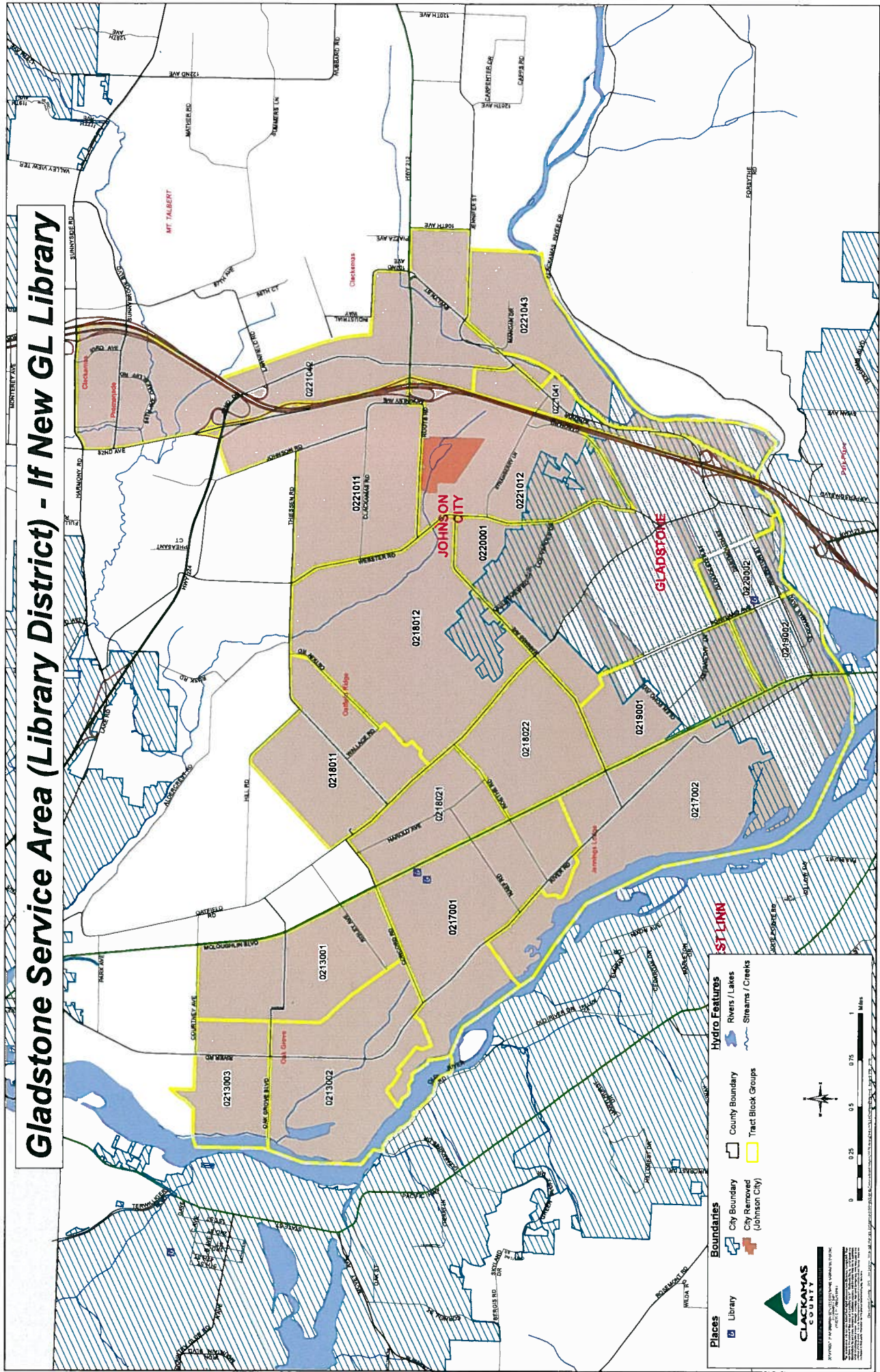


Places	Boundaries	Hydro Features
Library	City Boundary	Rivers / Lakes
County Boundary	Tract Block Groups	Streams / Creeks

**CLATSOP COUNTY**  
 COUNTY OF CLATSOP, OREGON  
 2014  
 0 0.5 1 1.5 2 2.5 3 Miles



# Gladstone Service Area (Library District) - If New GL Library



**CLACKAMAS COUNTY**  
 2024-01-15 10:00 AM  
 PROJECT: GLADSTONE SERVICE AREA (LIBRARY DISTRICT) - IF NEW GL LIBRARY  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]  
 APPROVED BY: [Name]

**Legend:**

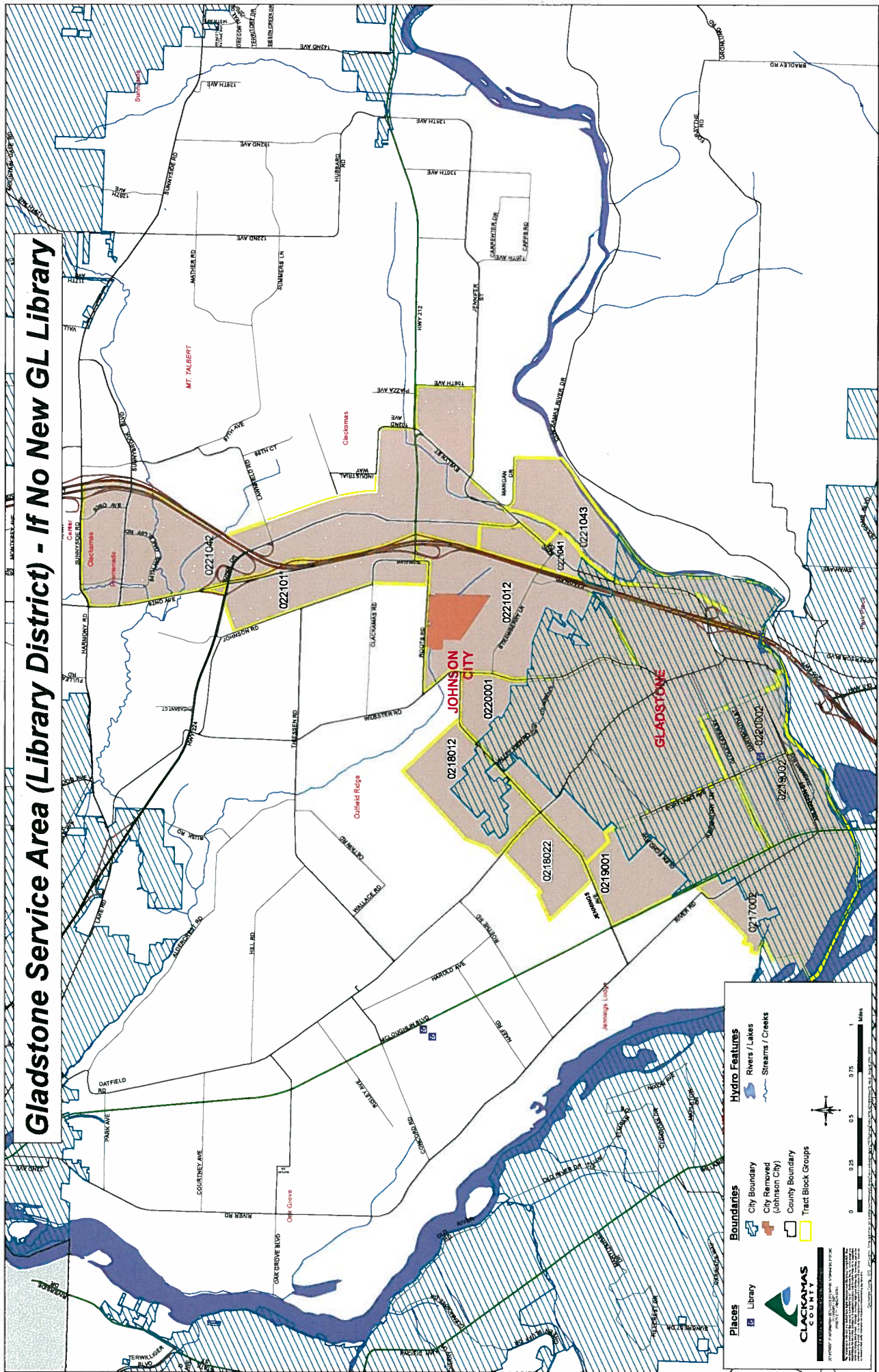
- Places:** Library (Red square)
- Boundaries:** City Boundary (Red outline), City Removed (Johnson City) (Red outline), County Boundary (Dashed line), Tract Block Groups (Yellow outline)
- Hydro Features:** Rivers / Lakes (Blue area), Streams / Creeks (Blue line)

**Scale:** 0 0.25 0.5 0.75 1 Miles

**North Arrow:** [North Arrow Symbol]



# Gladstone Service Area (Library District) - If No New GL Library



**Places**

- Library

**Boundaries**

- City Boundary
- City Removed (Johnson City)
- County Boundary
- Tract Block Groups

**Hydro Features**

- Rivers / Lakes
- Streams / Creeks

**CLACKAMAS COUNTY**

2017 OFFICIAL GENERAL ELECTORAL MAPS, CLACKAMAS COUNTY, OREGON

DATE: 01/11/2017 11:05 AM

PROJECT: 2017 GEN. ELECT. MAPS

CLACKAMAS COUNTY, OREGON





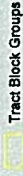
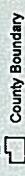
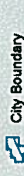


# Ledding/Milwaukie Service Area (Library District) - HV & GL Built

**Places**



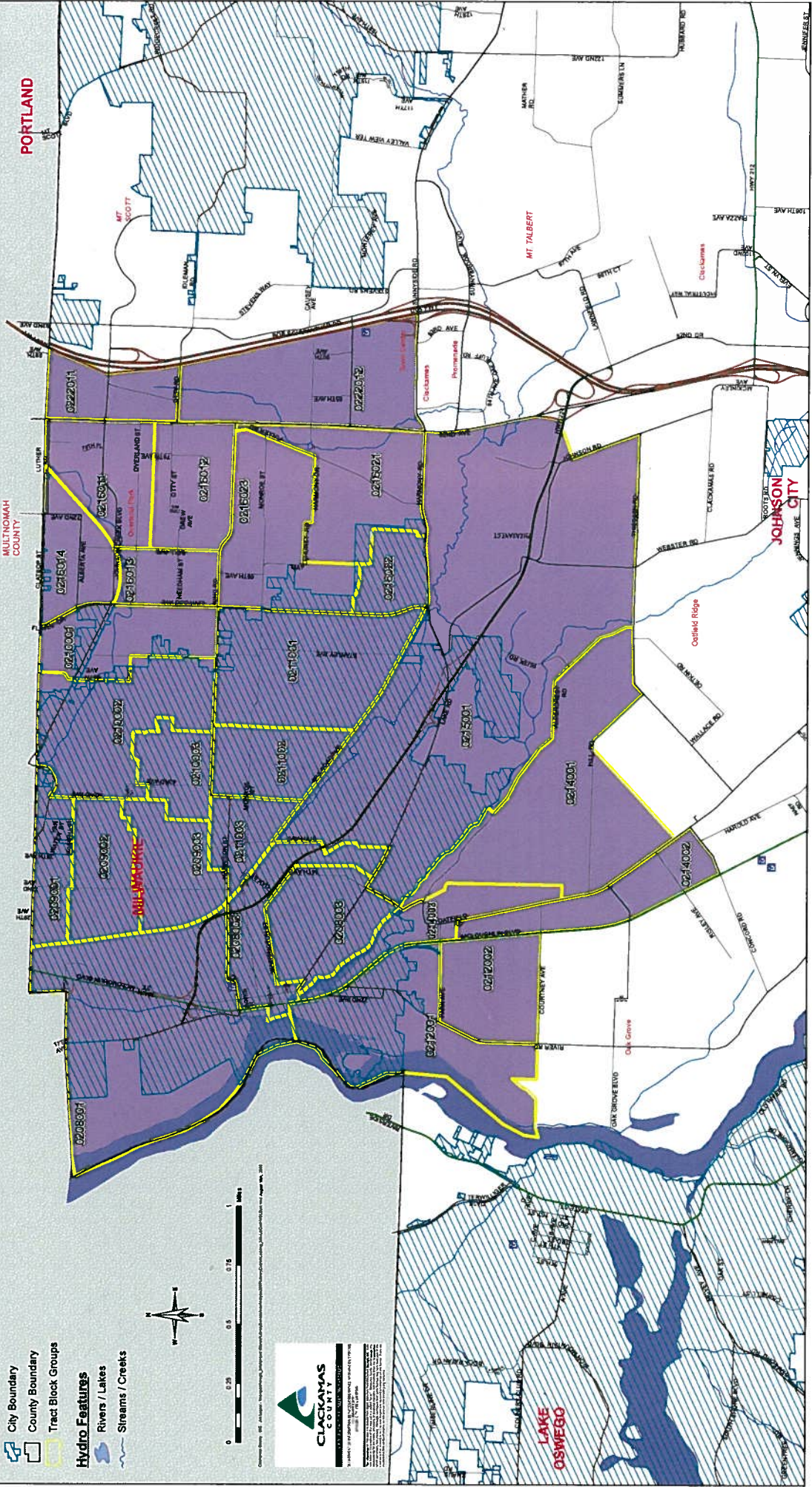
**Boundaries**



**Hydro Features**



Copyright 2018, City of Clackamas, 10000 NE Oregon Street, Clackamas, OR 97015. All rights reserved. This map is provided for informational purposes only. It is not intended to be used for legal or financial purposes. For more information, please contact the City of Clackamas at 503.655.3000.



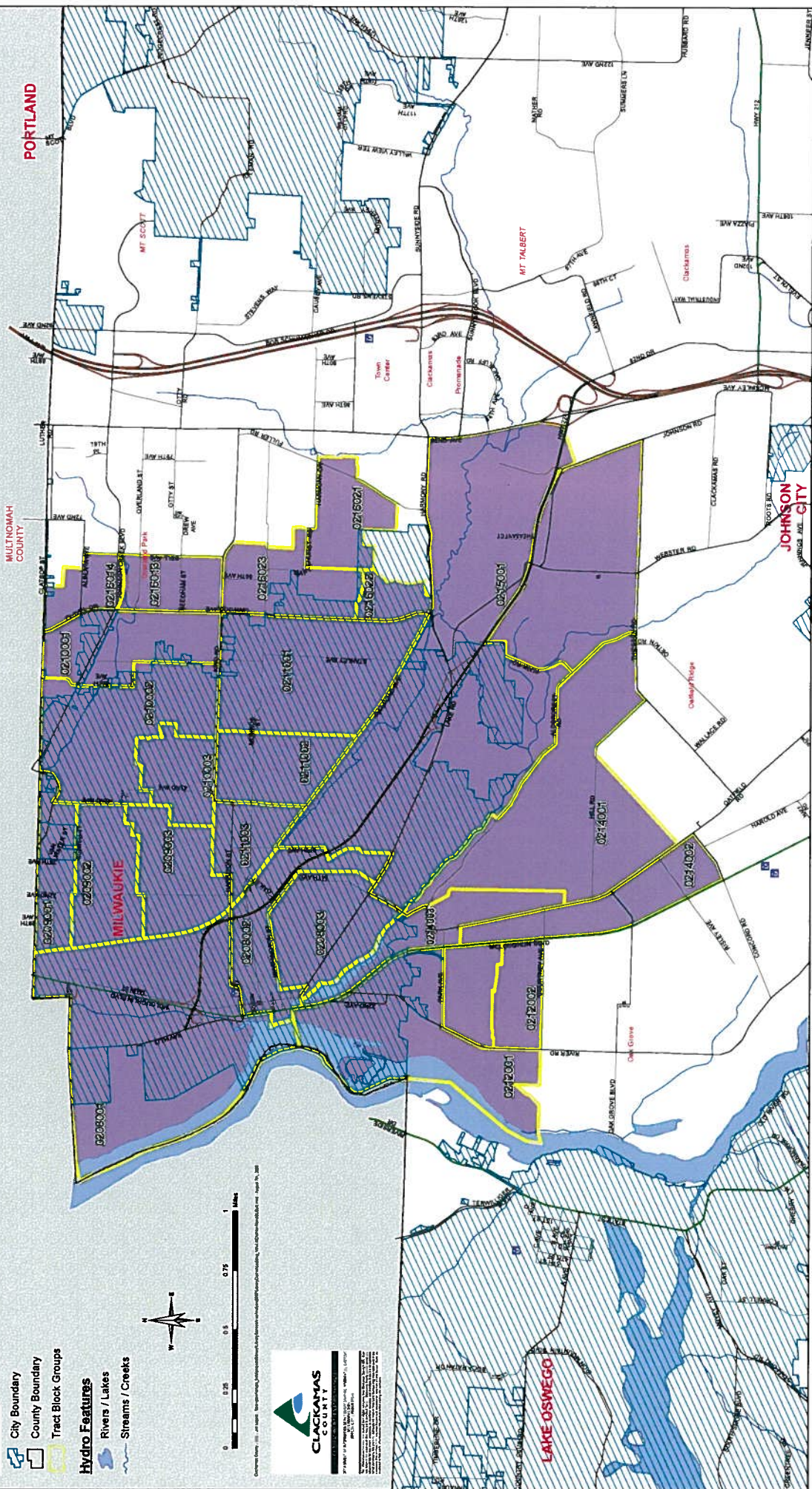


# Ledding/Milwaukie Service Area (Library District) - No HV But GL is Built

- Places**
-  Library
- Boundaries**
-  City Boundary
-  County Boundary
-  Tract Block Groups
- Hydro Features**
-  Rivers / Lakes
-  Streams / Creeks



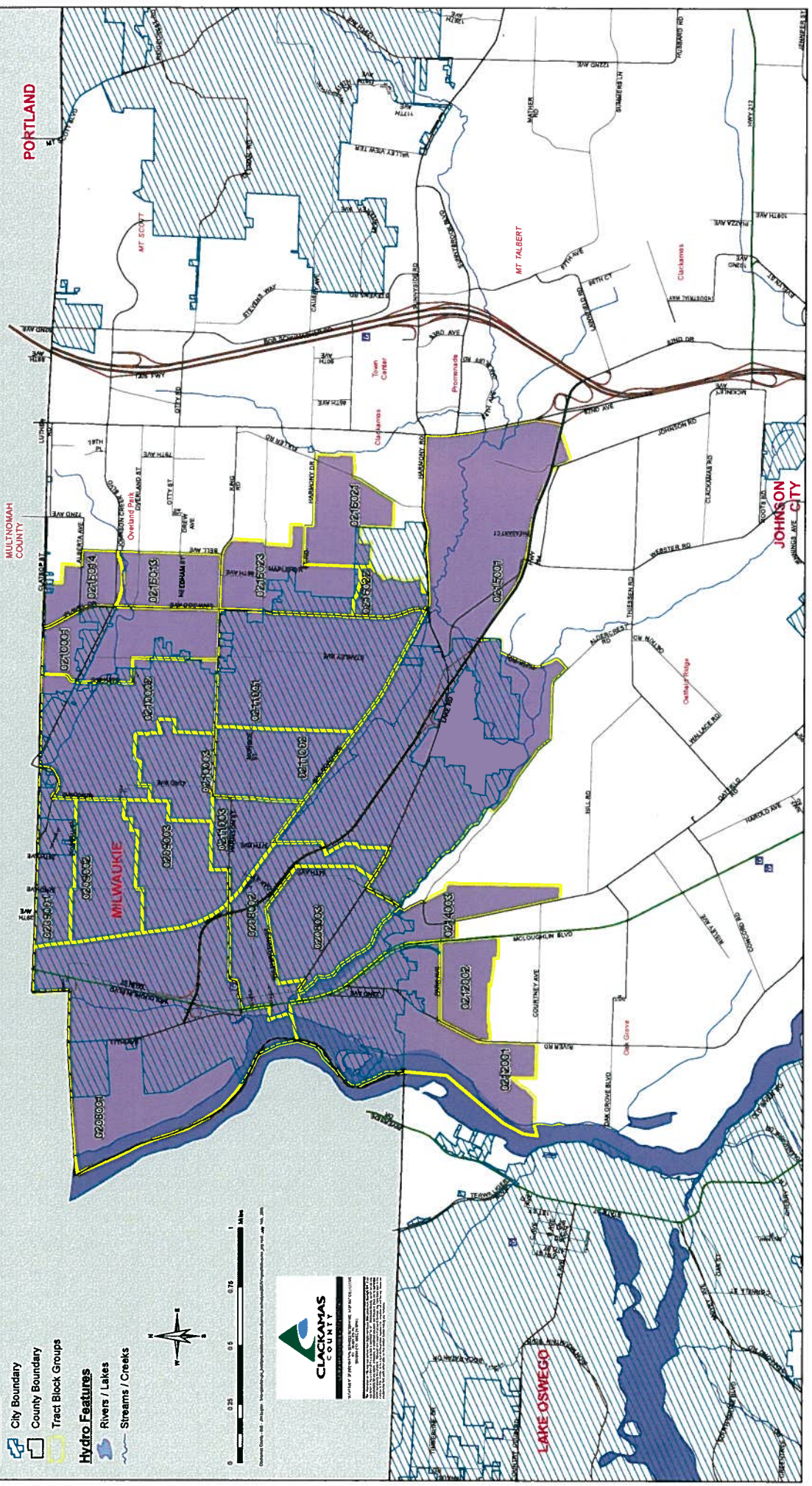
Copyright 2018 by Clackamas County, Oregon. All rights reserved. This map is a representation of the current information available to Clackamas County as of the date of publication. Clackamas County is not responsible for any errors or omissions on this map.





# Ledding/Milwaukie Service Area (Library District) - Neither HV nor GL Built

- Places**
  - Library
- Boundaries**
  - City Boundary
  - County Boundary
  - Tract Block Groups
- Hydro Features**
  - Rivers / Lakes
  - Streams / Creeks





# Lake Oswego Service Area (Library District)

## Places

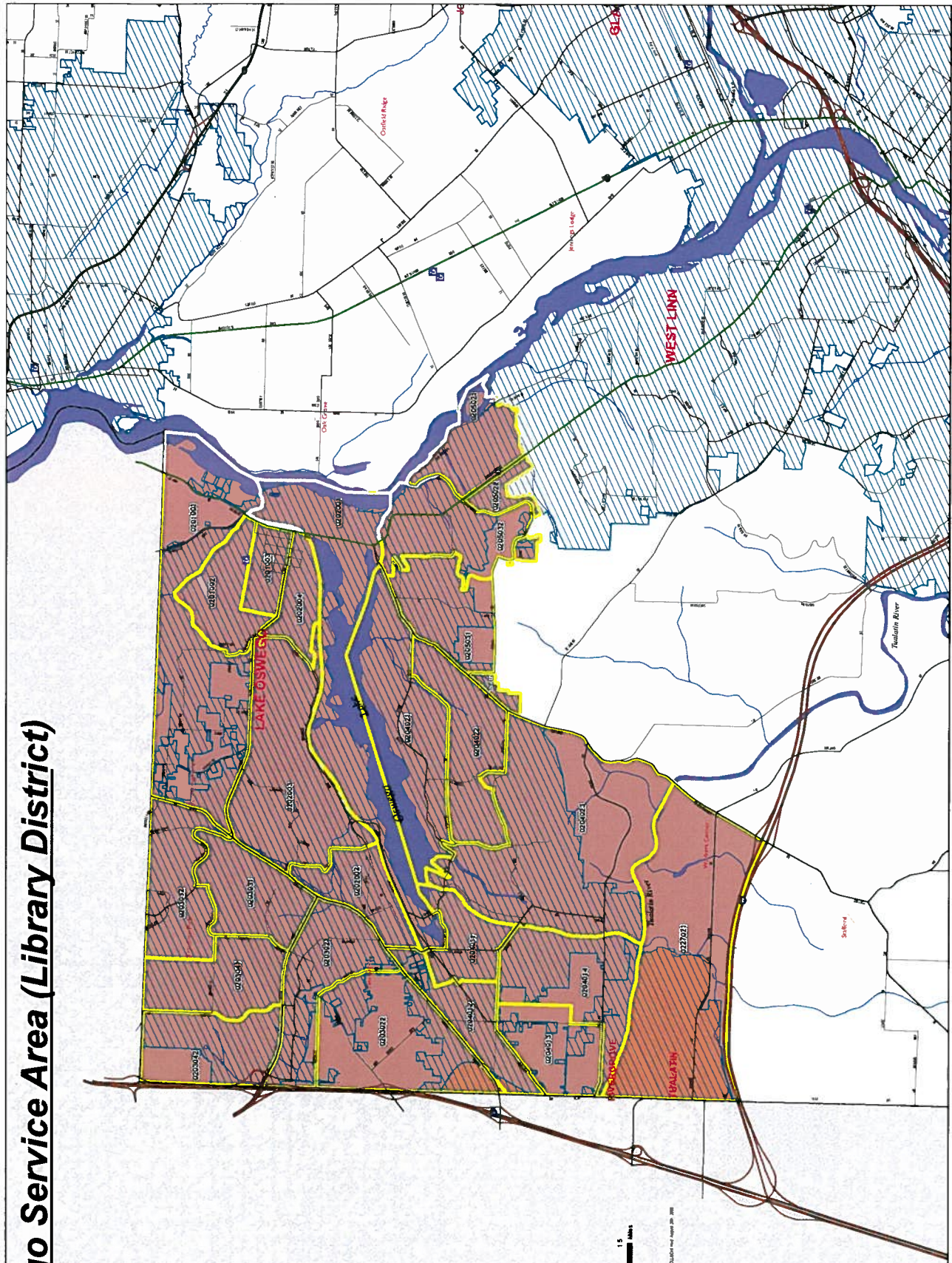


## Boundaries

- City Boundary
- City Removed (Tualatin)
- County Boundary
- Tract Block Groups

## Hydro Features

- Rivers / Lakes
- Streams / Creeks

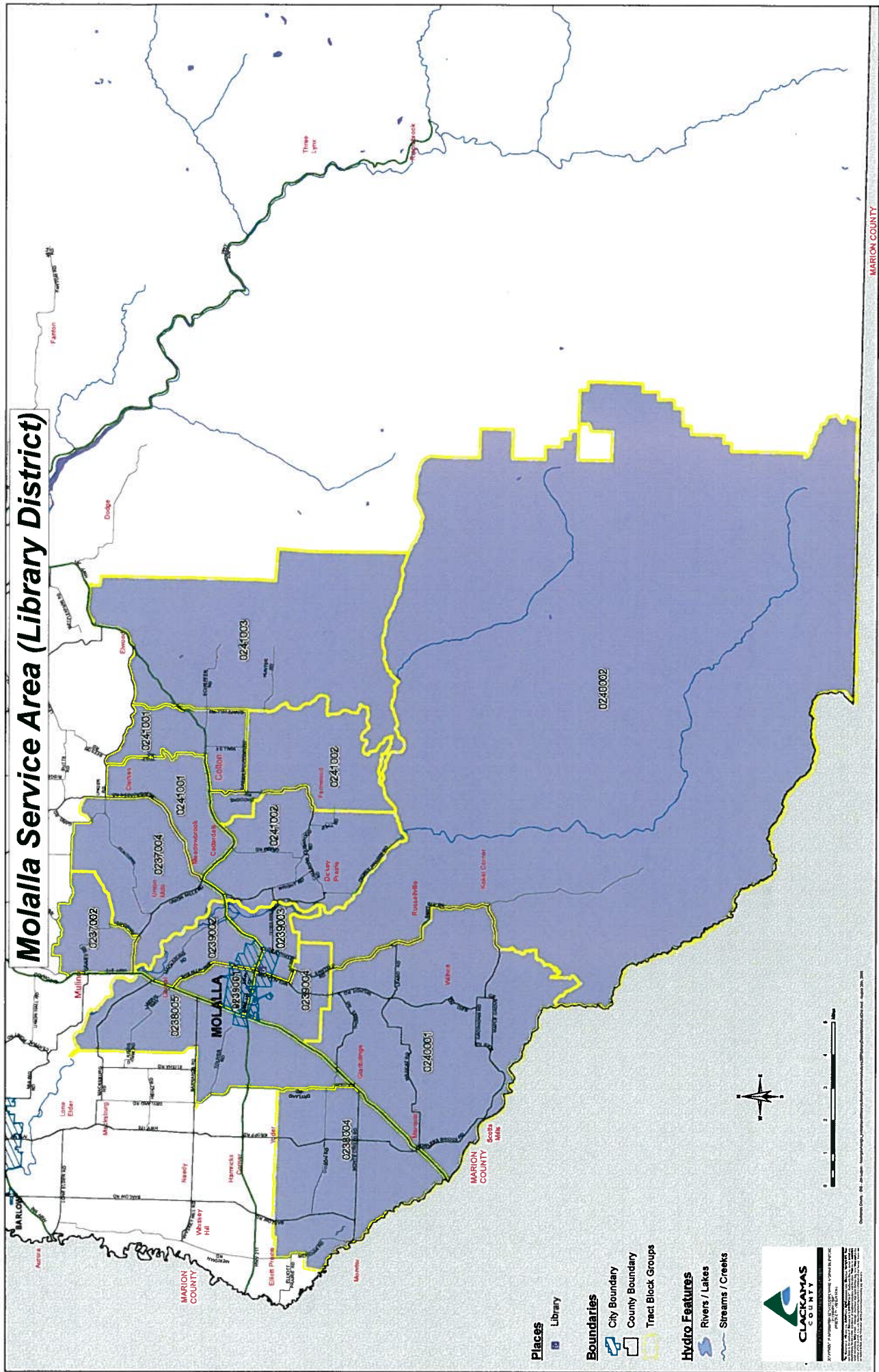


Esri and ArcGIS are trademarks of Esri. All other trademarks are the property of their respective owners. © 2011 Esri. All rights reserved.

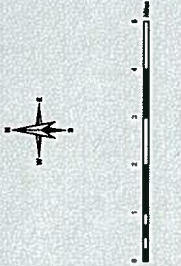
**CLACKAMAS COUNTY**  
 CLACKAMAS COUNTY, OREGON  
 CLACKAMAS COUNTY COURTHOUSE  
 1000 NE Oregon Street  
 Clackamas, Oregon 97015  
 Phone: (503) 263-2000  
 Fax: (503) 263-2001  
 Website: www.clackamascounty.org



# Molalla Service Area (Library District)

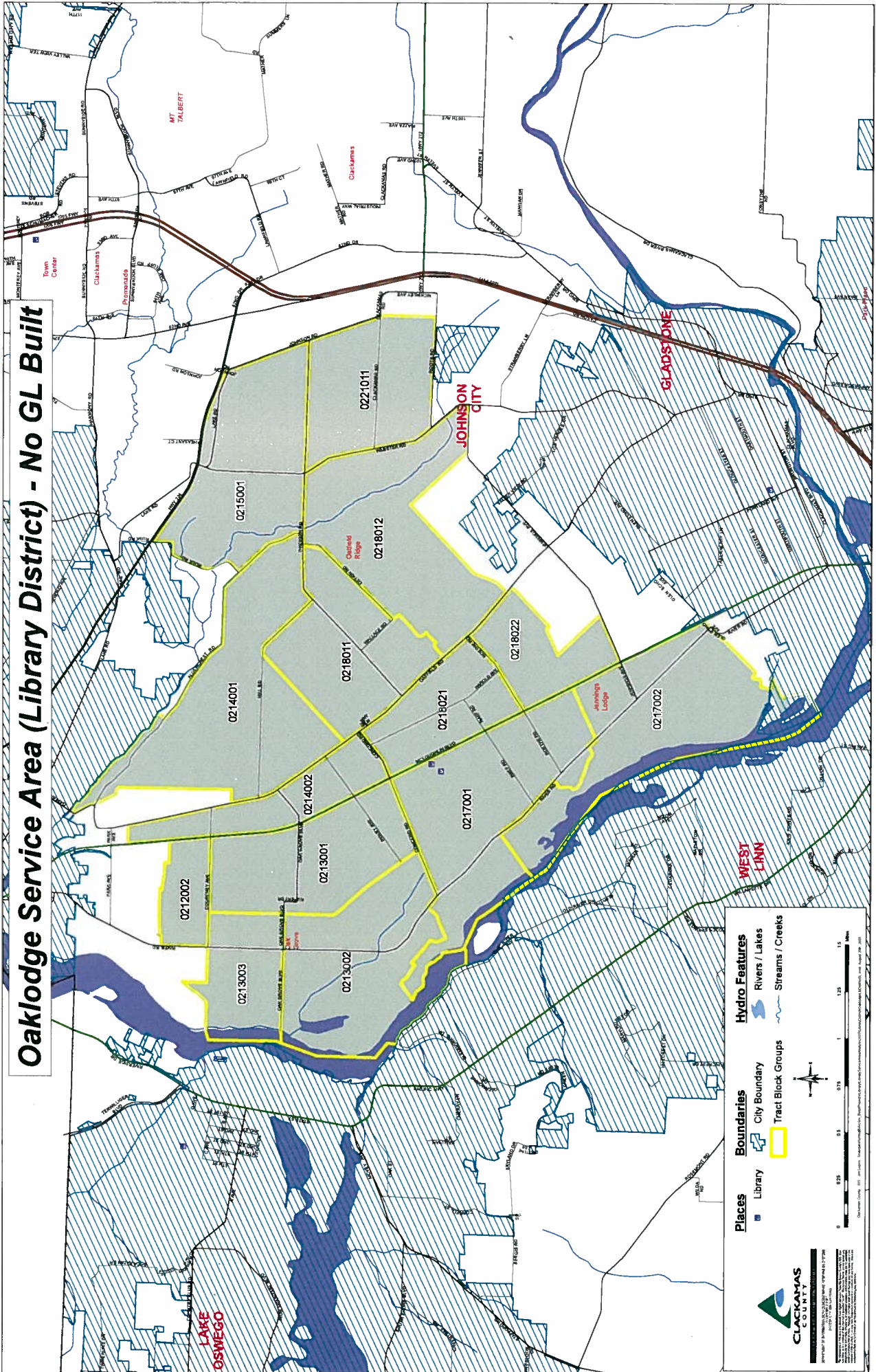


- Places**
  - Library
- Boundaries**
  - City Boundary
  - County Boundary
  - Tract Block Groups
- Hydro Features**
  - Rivers / Lakes
  - Streams / Creeks





# Oaklodge Service Area (Library District) - No GL Built



**CLACKAMAS COUNTY**

**Placed**

- Library
- City Boundary

**Boundaries**

- Library
- Tract Block Groups

**Hydro Features**

- Rivers / Lakes
- Streams / Creeks

0 0.25 0.5 0.75 1 1.25 1.5 Miles

October 2008 05 - 2011 Update: Standardized to Oregon Statewide GIS Standards and adopted on 08/28/2011

Prepared by: **CLACKAMAS COUNTY**  
 10000 NE Oregon Street, Suite 200, Portland, OR 97220  
 Phone: (503) 944-2000  
 Fax: (503) 944-2001  
 Website: www.clackamascounty.gov



# Oregon City Service Area (Library District)

**Places**

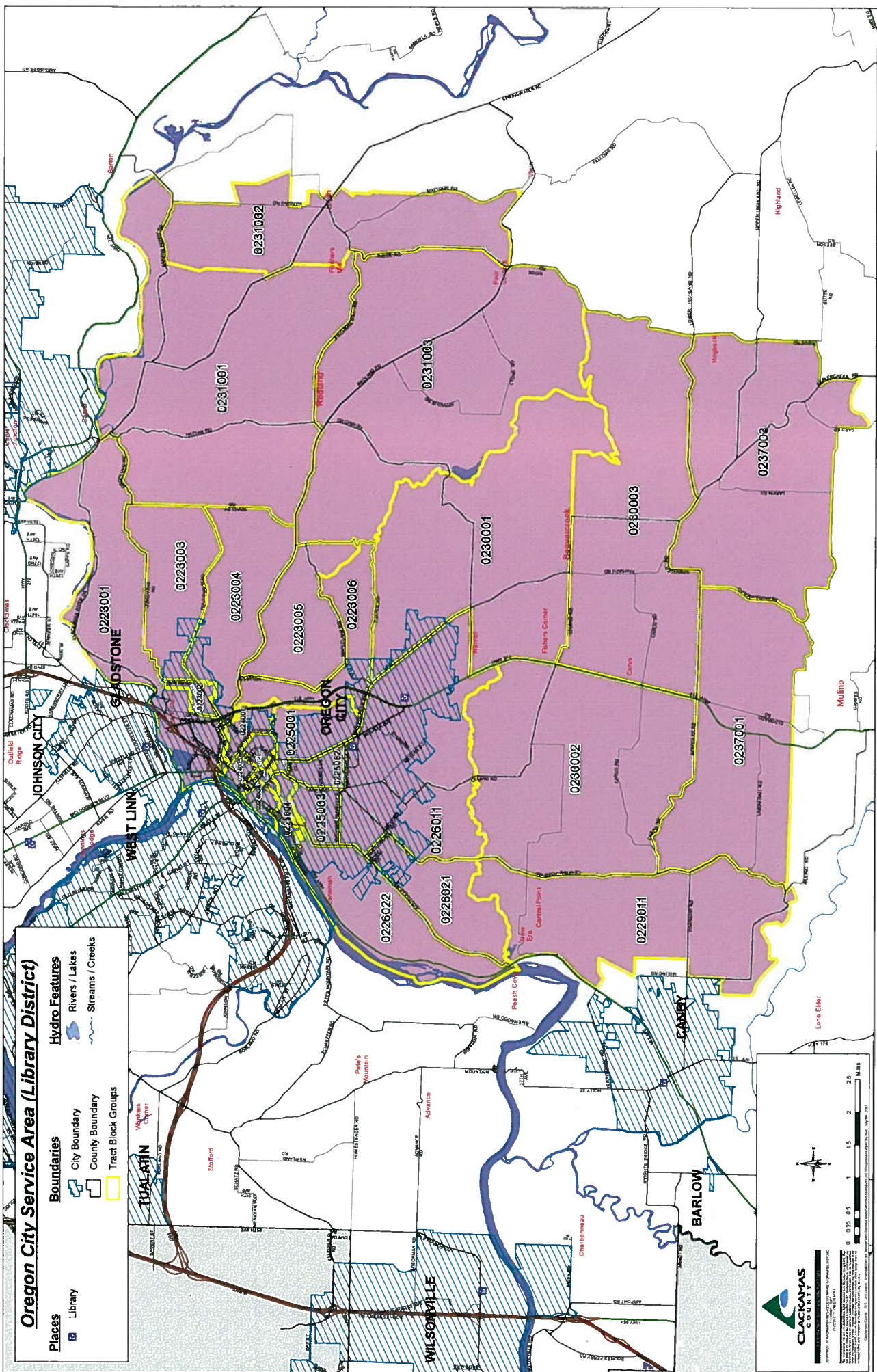
- Library

**Boundaries**

- City Boundary
- County Boundary
- Tract Block Groups

**Hydro Features**

- Rivers / Lakes
- Streams / Creeks



**CLATSOP COUNTY**

2017/07/17 10:00 AM (2017/07/17 10:00 AM) (2017/07/17 10:00 AM)

0 0.25 0.5 1 1.5 2 2.5 Miles

North Arrow

Map Scale: 1 inch = 0.25 miles







# West Linn Service Area (Library District)

**Places**

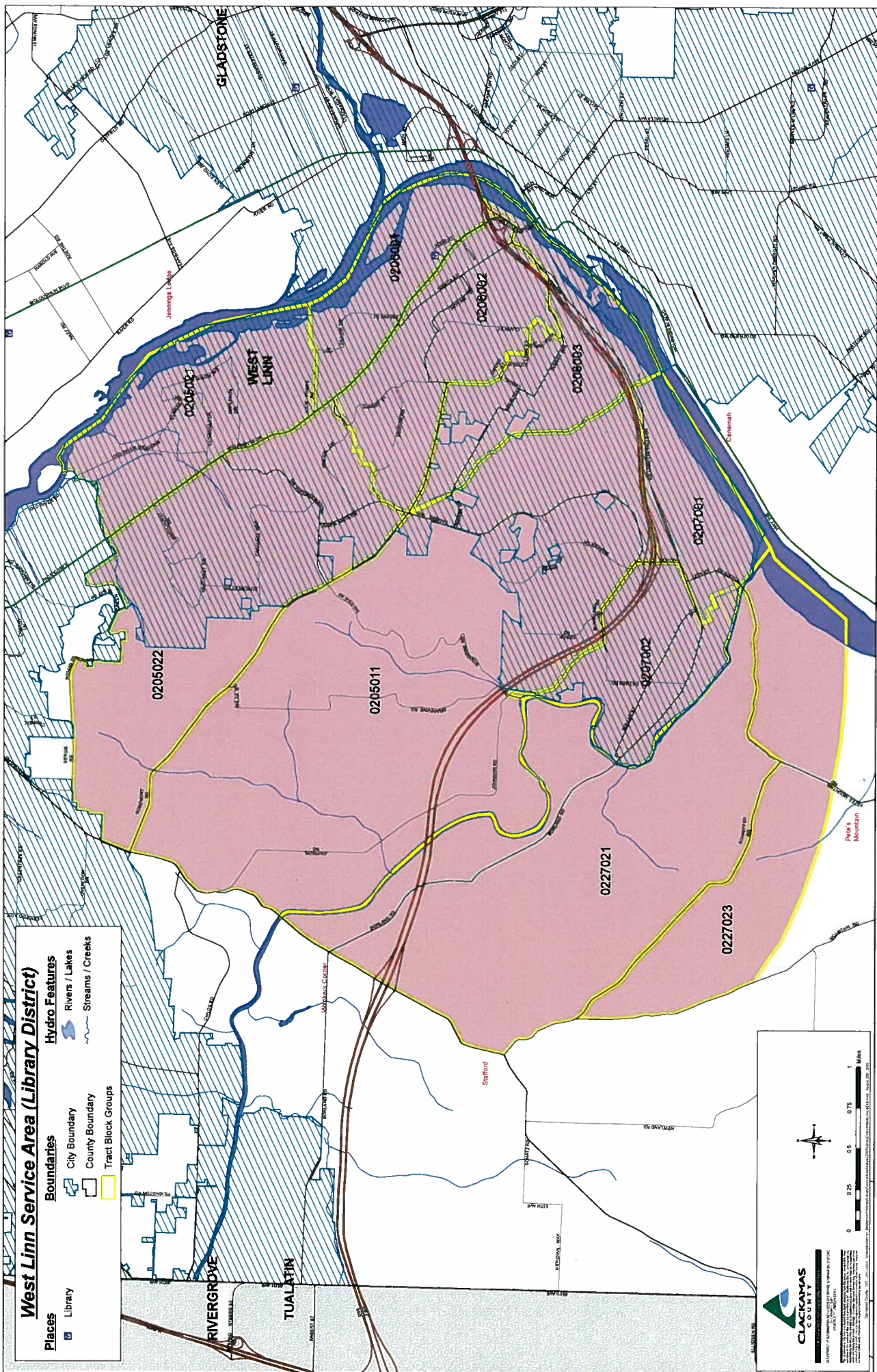
- Library

**Boundaries**

- City Boundary
- County Boundary
- Traffic Block Groups

**Hydro Features**

- Rivers / Lakes
- Streams / Creeks



**CLACKAMAS COUNTY**

CLACKAMAS COUNTY, OREGON  
 2023  
 0 0.25 0.5 0.75 1 Miles



# Wilsonville Service Area (Library District)

## Places



Library

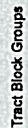
## Boundaries



City Boundary



County Boundary



Tract Block Groups

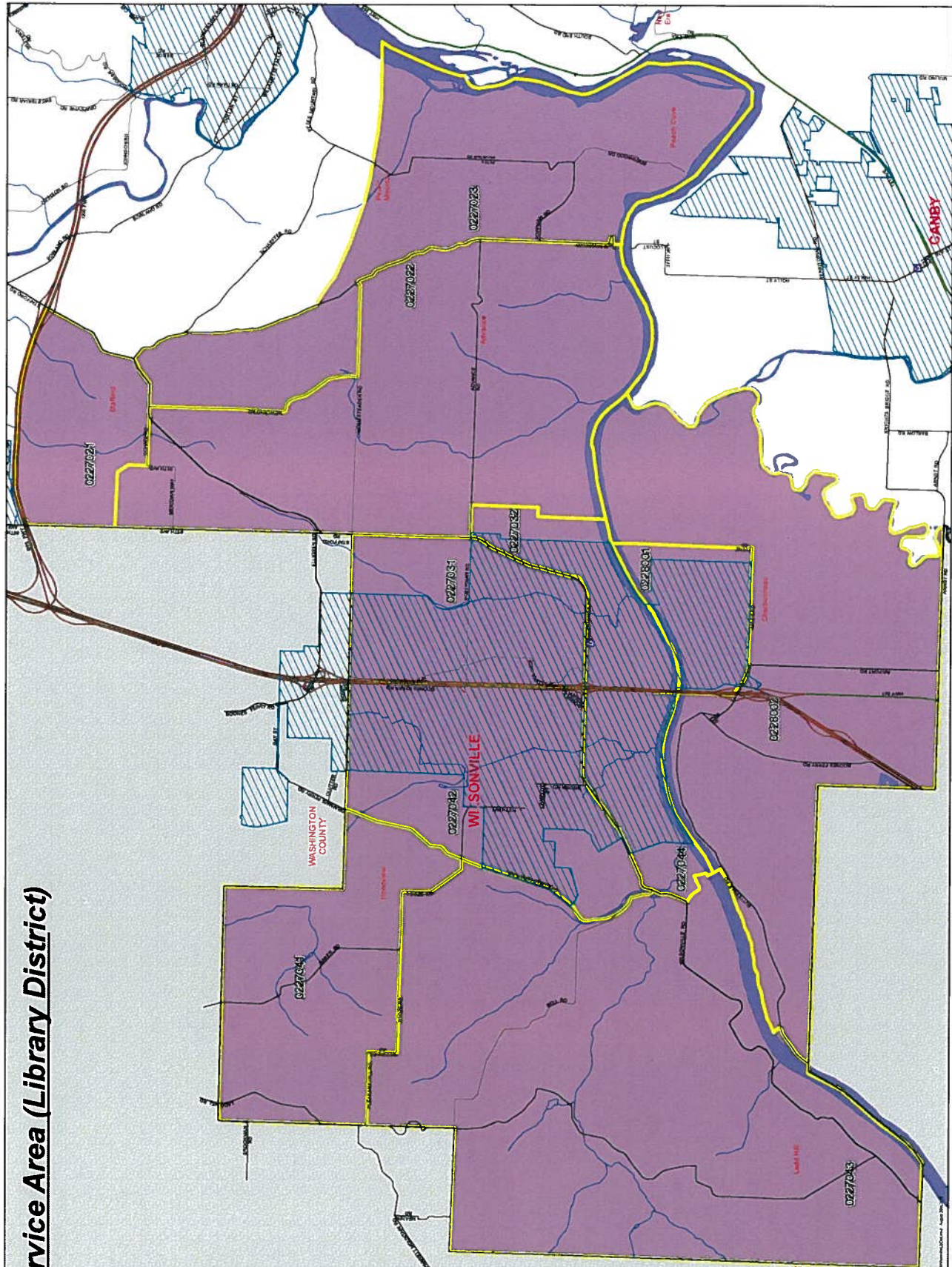
## Hydro Features



Rivers / Lakes



Streams / Creeks



CLACKAMAS COUNTY  
 COUNTY OF CLACKAMAS, OREGON  
 1000 NE Oregon Street, Portland, OR 97232  
 Phone: 503.944.2000  
 Fax: 503.944.2001  
 Website: www.clackamascounty.gov

**Attachment C**  
**Service Standards**

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

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

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

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

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

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

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

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

RESOLUTION NO. 5049-11

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

WHEREAS formation of the Library District of Clackamas County was approved by voters in November 2008 through Measure 3-310 to provide library service to the residents of Clackamas County; and

WHEREAS the voters of the City of Tualatin voted to annex the Clackamas County area of Tualatin into the Library District in May 2010 through Measure 34-177 and that portion of Tualatin that lies in Clackamas County was annexed into the Library District pursuant to Board Order 2010-73 adopted June 17, 2010; and

WHEREAS the all the Library Cities of Clackamas County have approved Amendment No. 1 to the Cooperative Intergovernmental Agreement between the Library District of Clackamas County and Library Cities and the last step in the annexation process is for Tualatin to approve Amendment No. 1.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The Mayor be, and hereby is, authorized and instructed to execute the attached Amendment No. 1 to the Cooperative Intergovernmental Agreement between the Library District of Clackamas County and Library Cities.

INTRODUCED AND ADOPTED this 27th day of June, 2011.

CITY OF TUALATIN, OREGON

BY 

\_\_\_\_\_  
Mayor

ATTEST:

BY 

\_\_\_\_\_  
City Recorder

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

THIS AMENDMENT NO. 1 (this "Amendment") is entered into this \_\_\_\_ day of \_\_\_\_\_, 2011, by and between the Library District of Clackamas County (the "District") a county service district formed under ORS Chapter 451, Clackamas County, a political subdivision of the State of Oregon ("County"), each of the Cities of Canby, Estacada, Gladstone, Lake Oswego, Milwaukie, Molalla, Oregon City, Sandy, West Linn, and Wilsonville (each, a "City" and collectively, the "Library Cities"), and the City of Tualatin ("Tualatin").

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

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

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

WHEREAS, the Parties hereto desire to amend the Agreement to reflect the annexation of Tualatin territory; and

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

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

**Section 1      Amendments**

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



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

1.2

## **Section 2      Ratification**

- 2.1 Affirmation. The District and the Library Cities ratify the remainder of the Agreement and affirm that no other changes are made hereby.

*[Signature Page Follows]*

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

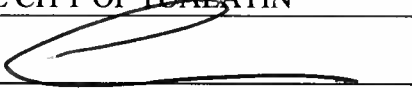
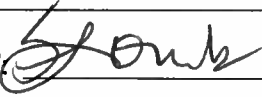
CLACKAMAS COUNTY BOARD OF COMMISSIONERS, AS THE GOVERNING BODY OF THE LIBRARY DISTRICT OF CLACKAMAS COUNTY	CLACKAMAS COUNTY BOARD OF COMMISSIONERS, AS THE GOVERNING BODY OF CLACKAMAS COUNTY
By: _____ Title: Chair	By: _____ Title: Chair
ATTEST: _____	ATTEST: _____

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

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

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

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

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

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



## STAFF REPORT CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council  
**THROUGH:** Sherilyn Lombos, City Manager  
**FROM:** Don Hudson, Finance Director  
**DATE:** 06/27/2011  
**SUBJECT:** Resolution No. 5050-11 Authorizing Changes to the Adopted 2010-2011 Budget

---

### ISSUE BEFORE THE COUNCIL:

Whether or not to approve changes to the Adopted FY 2010–11 Budget.

### RECOMMENDATION:

Staff recommends adopting the attached Resolution.

### EXECUTIVE SUMMARY:

Occasionally, it becomes necessary after the budget is adopted to increase the total expenditures of a category within a fund. Oregon Revised Statutes (ORS) 294.450, allows for the transfer of existing appropriations within the same fund. A transfer of appropriation is a decrease of one existing appropriation and a corresponding increase of another existing appropriation. In this case, the net effect to the fund is zero. To transfer an appropriation, the governing body must pass a resolution authorizing the transfer. Transfers from Contingency in a fund is an appropriation transfer, as budgeted contingency is a budget appropriation.

The attached resolution includes three adjustments to the adopted 2010-2011 budget, two of which are capital project related. The first is for the Aquifer Storage and Recovery project in the Water Development Fund, due to limited licensing through the Oregon Department of Water Resources that was projected to occur after July 1, 2011. The State contacted the City and wanted it done sooner, so the work was completed in June. The second appropriation transfer is related to the Dakota Chieftain Water Quality Facility project in the Storm Drain Operating Fund and is simply moving consultant line budget to the capital project category to properly record these expenses to the project. The last proposed transfer is to increase the budget for the pass-through system development charges (SDC) expense in the Sewer Development Fund, as we received more SDC revenue than projected and we need to send Clean Water Services their share of the revenue.

All proposed changes to the adopted budget are included in Exhibit A, attached to the resolution that follows.

### OUTCOMES OF DECISION:

Failure to pass the resolution puts the City in danger of not complying with Local Budget Law.

### FINANCIAL IMPLICATIONS:



The net effect to the affected funds is zero, as it is simply a transfer of already approved appropriations.

---

**Attachments:**    A - Resolution Authorizing Changes to the Adopted 10-11 Budget

RESOLUTION NO. 5050-11

RESOLUTION AUTHORIZING CHANGES TO THE ADOPTED 2010 - 2011  
BUDGET

WHEREAS after the budget process for the 2010-2011 fiscal year was completed, an occurrence or condition arose that could not have been ascertained at the time of the budget preparation; and

WHEREAS in order to lawfully comply with the requirements of Local Budget Law, increases in budgeted resources and requirements are necessary; and

WHEREAS Oregon Revised Statutes (ORS) 294.480 allows for the preparation and adoption of a supplemental budget.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The City Council wishes to comply with Local Budget Law, and authorize spending of additional resources; and

Section 2. Increased resources and requirements should be made as detailed in Exhibit A to this Resolution.

INTRODUCED AND ADOPTED this 27th day of June, 2011.

CITY OF TUALATIN, OREGON

BY \_\_\_\_\_  
Mayor

ATTEST:

BY \_\_\_\_\_  
City Recorder

**Exhibit A-Resolution June 27**

**City of Tualatin  
Fiscal Year 2010 - 2011  
Budget Changes, June 2011**

<u>To</u>	<u>Amount</u>	<u>From</u>	<u>Amount</u>	<u>Notes</u>
Fund Projects	\$ 110,000	Consultants	\$ 110,000	DR1101 - Dakota Chieftain WQ
Fund Projects	\$ 17,450	Contingency - Water Development	\$ 17,450	WD0402 - ASR Project
System Development Charge-CWS	\$ 350,000	Contingency - Sewer Development	\$ 350,000	SDC Payments to CWS



# STAFF REPORT

## CITY OF TUALATIN

APPROVED BY TUALATIN CITY COUNCIL

Date 6-27-11

Recording Secretary [Signature]

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Don Hudson, Finance Director

**DATE:** 06/27/2011

**SUBJECT:** Resolution Adopting the City of Tualatin Budget for the Fiscal Year Commencing July 1, 2011, Making Appropriations, Levying Ad-Valorem Taxes, and Categorizing the Levies

---

### ISSUE BEFORE THE COUNCIL:

Adoption of the Fiscal Year 2011–2012 budget, after conducting a public hearing to consider public input on the Fiscal Year 2011–2012 Budget. The City of Tualatin Budget Advisory Committee approved the proposed budget on May 24, 2011. The total of the Fiscal Year 2011-2012 Budget is \$62,123,344 and includes changes proposed this evening.

The tax rate for general government would be approved at \$2.2665 per \$1,000 taxable assessed value, with \$992,500 to be levied for bonded debt. The bond levy is excluded from limitation for local government operations.

Oregon State law requires the City Council adopt a budget prior to July 1, 2011.

### RECOMMENDATION:

Staff recommends adoption of the attached resolution, which includes the Budget Committee Approved Fiscal Year 2011-12 Budget, with additional changes as outlined below.

### EXECUTIVE SUMMARY:

The City of Tualatin budget is made up of 22 funds, divided among five different categories: General Fund, Special Revenue Funds, Debt Service Funds, Capital Projects Funds and Enterprise Funds. Urban Renewal Funds are presented in the Tualatin Development Commission budget, which will be heard in a separate public hearing later this evening. The General Fund is the primary operating fund of the City and supports general government services. Special Revenue Funds account for the proceeds of specific revenue sources that are legally restricted to expenditure for specific purposes, including the Building Fund, Operations Fund, street funds, as well as miscellaneous funds such as Core Area Parking, Tualatin Science and Technology Scholarship and the 9-1-1 Emergency Communication Tax Fund. Debt Service Funds record revenues and expenditures for our general obligation and Bancroft bond debt. Capital Project Funds record capital projects that are funded from restricted funds, such as local improvement districts, park development funds, as well as the Infrastructure Reserve Fund. The Enterprise Funds include all funds related to the following systems: Water, Sewer, Storm Drain. These funds account for the infrastructure systems covering water, sewer and storm drain and their revenues are derived from sources that are specifically earmarked, or restricted for these specific purposes.

Despite continuing tough economic times facing the State of Oregon and our region, the City is once again presenting a fiscally responsible budget while continuing to provide the services our residents

again presenting a fiscally responsible budget, while continuing to provide the services our residents desire, at the levels they have come to expect from the City. Fiscal Year 2011-2012 brings some exciting opportunities for the City. As part of the City Council's goal setting process for the next two years, five priorities were identified. These five priorities (website redesign, eastside redevelopment, downtown visioning, community recreation and community engagement) were considered by the departments while developing their budgets. We continue to strive to provide the services that the community desires, address the City Council's priorities, and do so in a fiscally prudent way.

The overall City budget of \$62,123,344 is an increase of 1.59% and breaks down as follows:

- General Fund \$ 21,088,910
- Special Revenue Funds \$ 10,968,104
- Debt Service Funds \$ 1,503,040
- Capital Project Funds \$ 3,555,410
- Enterprise Funds \$ 25,007,880

Overall City revenues are remaining stable, although we are experiencing a decrease in state shared revenues for the City's share of state liquor taxes. This decreased revenue is offset by an increase in traffic fine revenue related to the newly installed intersection safety cameras. Again this year, the City has decided not to increase water utility rates, although the budget does include rate increases in both the sewer and storm drain utilities. The budgeted rate increases were approved on June 13th and will increase the average residential utility bill \$1.83 per month. These rate increases include the pass-through rate increase approved by Clean Water Services for the regional component of the rate, as well as an increase for the City of Tualatin local share of the rate. During Fiscal Year 2010-2011, we began seeing an increase in activity and revenue in the Building Fund. For 2011-2012, we are projecting a continuance of this trend.

Once again, this year, a significant percentage of the expenditure increases are related to items that are out of the City's control, primarily utility rate increases for gas and electricity, fuel price increases and contractual obligations that are increasing, such as the dispatch contract with Washington County Consolidated Communication Agency (WCCCA).

Overall, personal services costs are increasing, though most of that increase is due to the PERS contribution rate we are required to pay. The PERS Board sets rates for two year cycles, with the new rate taking effect in 2011-2012. The City of Tualatin saw an increase in our rates of approximately 4.1%. To offset this increase, we set aside a PERS reserve in Fiscal Year 2009-2010. This reserve was sufficient to offset the increase in our PERS contributions for this year.

The City applied for, and was awarded, a Community Development Block Grant for an addition and renovation of the Juanita Pohl Center. With the City's required matching funds, total project costs budgeted in 2011-2012 are \$457,215, with reimbursement from the Federal Government accounting for \$364,715.

In addition to the budget approved by the budget committee, the City Council has the ability to change the approved budget in each fund by no more than 10% of the total budget. Typical changes that the Council may make are related to unanticipated lags in completion of capital projects that necessitate adjustments to future year budget(s), especially for large construction projects. The majority of the adjustments included in the attached resolution fall into this category.

The carry-forwards for the capital projects are "self-funding" because the beginning fund balance for 2011-2012 is increased by the amount budgeted and not spent in the current fiscal year (2010-2011). This increases both the revenue and the expenditure appropriations in the affected fund.

Changes proposed this evening are in the General Fund, the Water Operating Fund, and the Sewer Operating Fund. None of the carry-forwards exceed 10% of the approved budget and are, therefore, allowed to be added by the City Council at the public hearing.

- In the General Fund – budgeted parks buildings door parts and Pohl Center tables and chairs will not arrive prior to June 30th and budgeted services for police records data conversion and the repainting of the Council Building will not be completed by this date. The total of these items are \$30,825.
- The following funds require appropriations to be carried over due to project delays:
  - o Water Operating Fund – Apache Drive Water Line, \$20,000
  - o Sewer Operating Fund – Saum Creek slide repair, \$10,000

For more detailed information, the City's Proposed 2011-2012 Budget can be found at [www.ci.tualatin.or.us/dwww.ci.tualatin.or.us/departments/administration/budget.cfm](http://www.ci.tualatin.or.us/dwww.ci.tualatin.or.us/departments/administration/budget.cfm) The final adopted budget document will be posted to the website in early July.

**OUTCOMES OF DECISION:**

By adopting the budget before July 1st, the City will be able to operate, expend money and incur liabilities for fiscal year 2011-2012.

---

**Attachments:**     A - Resolution Adopting City of Tualatin FY 11-12 Budget

RESOLUTION NO. 5051-11

A RESOLUTION ADOPTING THE CITY OF TUALATIN'S BUDGET FOR THE FISCAL YEAR COMMENCING JULY 1, 2011, MAKING APPROPRIATIONS, LEVYING AD VALOREM TAXES, AND CATEGORIZING THE LEVIES

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The City Council of the City of Tualatin hereby adopts the Budget as approved by the Budget Committee and adjusted by the Council. The total sum of the budget is \$62,123,344 (including \$1,385,322 unappropriated and \$9,740,339 reserves) and is now on file at the City Offices.

Section 2. The amounts for the fiscal year beginning July 1, 2011, and for the purposes shown below, are hereby appropriated as follows:

GENERAL FUND

City Council	\$	149,540	
Administration		821,461	
Finance		860,223	
Legal Services		198,414	
Municipal Court		183,146	
Community Development Planning		1,087,480	
Engineering		1,177,021	
Police		6,185,755	
Information Systems		469,087	
Fleet		457,369	
Building Maintenance		754,956	
Parks Maintenance		1,223,459	
Community Services – Admin		478,521	
Community Services – Library		1,845,006	
Community Services – Recreation		264,109	
Non-Departmental		642,898	
Contingency		2,515,143	
Total GENERAL FUND Appropriations .....			\$19,313,588
Reserves		390,000	
Unappropriated		<u>1,385,322</u>	
Total GENERAL FUND			\$21,088,910

BUILDING FUND

Personal Services	\$ 429,628	
Material & Services	93,765	
Transfers	94,674	
Contingency	92,710	
Total BUILDING FUND Appropriations .....		\$ 710,777
Reserved Funds	<u>1,065,670</u>	
Total BUILDING FUND		\$ 1,776,447

OPERATIONS FUND

Administration	\$ 469,492	
Water Division	751,204	
Sewer Division	331,414	
Street Division	530,651	
Non-Departmental	316,728	
Contingency	308,915	
Total OPERATIONS FUND Appropriations .....		\$ 2,708,404
Reserved Funds	<u>822,954</u>	
Total OPERATIONS FUND		\$ 3,531,358

WATER FUND

Material & Services	\$ 2,411,107	
Capital Outlay	636,000	
Transfers	2,416,663	
Contingency	1,207,161	
Total WATER FUND Appropriations .....		\$ 6,670,931
Reserved Funds	<u>3,534,017</u>	
Total WATER FUND		\$ 10,204,948

SEWER FUND

Material & Services	\$ 5,337,113	
Capital Outlay	520,000	
Transfers	990,829	
Contingency	216,006	
Total SEWER FUND Appropriations .....		\$ 7,063,948



STORM DRAIN FUND

Material & Services	\$ 693,880
Capital Outlay	110,000
Transfers	1,009,079
Contingency	63,323

Total STORM DRAIN FUND ..... \$ 1,876,282

ROAD UTILITY FEE FUND

Material & Services	\$ 939,607
Transfers	305,238

Total ROAD UTILITY FEE FUND Appropriations..... \$ 1,244,845  
Reserved Funds 963,689  
Total ROAD UTILITY FEE FUND \$ 2,208,534

ROAD GAS TAX FUND

Material & Services	\$ 832,456
Capital Outlay	100,000
Transfers	675,781
Contingency	495,892

Total ROAD GAS TAX FUND ..... \$ 2,104,129

CORE AREA PARKING DISTRICT

Material & Services	\$ 25,372
Transfers	64,027
Contingency	13,410

Total CORE AREA PARKING DISTRICT Appropriations ..... \$ 102,809  
Reserved Funds 183,891  
Total CORE AREA PARKING DISTRICT \$ 286,700

TUALATIN SCIENCE AND TECHNOLOGY SCHOLARSHIP FUND

Material & Services	\$	1,000	
Total TUALATIN SCHOLARSHIP FUND Appropriations .....	\$		1,000
Principal Reserves		<u>51,298</u>	
Total TUALATIN SCHOLARSHIP FUND	\$	52,298	

9-1-1 EMERGENCY COMMUNICATION TAX FUND

Material & Services	\$	130,000	
Total 9-1-1 EMERGENCY COMMUNICATION TAX FUND.....	\$		130,000

GENERAL OBLIGATION BOND FUND

Debt Service	\$	967,588	
Total GO BOND DEBT FUND Appropriations .....	\$		967,588
Reserves		<u>31,412</u>	
Total GO BOND DEBT FUND	\$	999,000	

BANCROFT BONDED DEBT FUND

Material & Services	\$	300	
Debt Service		189,140	
Total BANCROFT BONDED DEBT FUND Appropriations.....	\$		189,440
Reserved Funds		<u>314,600</u>	
Total BANCROFT BONDED DEBT FUND	\$	504,040	

ENTERPRISE BOND FUND

Material & Services	\$	300	
Debt Service		539,531	
Total ENTERPRISE BOND FUND Appropriations .....	\$		539,831
Reserved Funds		<u>437,800</u>	
Total ENTERPRISE BOND FUND	\$	977,631	

LOCAL IMPROVEMENT DISTRICT

Material & Services	\$ 52,500
Capital Outlay	100,000
Contingency	318,925
Total LOCAL IMPROVEMENT DISTRICT Appropriations .....	\$ 471,425

WATER DEVELOPMENT FUND

Capital Outlay	\$ 100,000
Transfers	1,564
Contingency	416,590
Total WATER DEVELOPMENT FUND Appropriations .....	\$ 518,154

SEWER DEVELOPMENT FUND

Material & Services	\$ 192,000
Transfers	2,748
Contingency	3,807,324
Total SEWER DEVELOPMENT FUND Appropriations .....	\$ 4,002,072

ROAD DEVELOPMENT FUND

Transfers	\$ 321
Contingency	435,060
Total ROAD DEVELOPMENT FUND Appropriations .....	\$ 435,381

STORM DRAIN DEVELOPMENT FUND

Contingency	\$ 364,845
Total STORM DRAIN DEVELOPMENT FUND Appropriations .....	\$ 364,845

**PARK DEVELOPMENT FUND**

Material & Services	\$	5,300	
Capital Outlay		866,760	
Transfers		16,917	
Total PARK DEVELOPMENT FUND Appropriations .....			\$ 888,977

**TRANSPORTATION DEVELOPMENT TAX FUND**

Contingency	\$	443,257	
Total TRANSPORTATION DEVELOP TAX FUND Appropriations.....			\$ 443,257

**INFRASTRUCTURE RESERVE FUND**

Transfers	\$	250,000	
Total INFRASTRUCTURE RESERVE FUND Appropriations .....			\$ 250,000
Reserve for Sewer		1,735,362	
Reserve for Road		115,953	
Reserve for Storm Drain		<u>93,693</u>	
Total INFRASTRUCTURE RESERVE FUND			\$ 2,195,008

TOTAL .....		\$ 50,997,683	
TOTAL RESERVES .....		<u>9,740,339</u>	
TOTAL APPROPRIATED ALL FUNDS .....		\$ 60,738,022	
TOTAL UNAPPROPRIATED ALL FUNDS .....			\$ <u>1,385,322</u>
TOTAL BUDGET .....		\$ <u>62,123,344</u>	


Section 3. The City Council of the City of Tualatin hereby imposes the taxes provided for in the adopted budget at the rate of \$2.2665 per \$1,000 assessed value for operations and in the amount of \$992,500 for bonds; and that these taxes are hereby imposed and categorized for tax year 2011-12 upon the assessed value of all taxable property within the district.

General Government Limitation	Excluded from Limitation
General Fund...\$2.2665/\$1,000	Debt Service Fund...\$992,500

Section 4. The Finance Director shall certify to the County Assessors of Washington County and Clackamas County, Oregon, the tax levy made by this resolution; and file with the County Clerks a true copy of the Budget as finally adopted.

INTRODUCED AND ADOPTED this 27th day of June, 2011.

CITY OF TUALATIN, OREGON

BY   
\_\_\_\_\_  
Mayor

ATTEST:

BY   
\_\_\_\_\_  
City Recorder



# STAFF REPORT

## CITY OF TUALATIN

APPROVED BY TUALATIN CITY COUNCIL  
Date 6-27-11  
Recording Secretary M. Smith

**TO:** Honorable Mayor and Members of the City Council  
**FROM:** Michael McKillip, City Engineer  
**DATE:** 06/27/2011  
**SUBJECT:** Council Update on Transportation Activities in the Basalt Creek Area.

---

### ISSUE BEFORE THE COUNCIL:

This report and presentation will update the City Council and general public about transportation activities in the Basalt Creek Area.

### RECOMMENDATION:

Staff recommends that the Council accept this report and identify issues that may need more information or followup by staff in the future.

### EXECUTIVE SUMMARY:

The Basalt Creek Area is located south of Tualatin between Tualatin and Wilsonville. There are several projects underway in this area that will impact Tualatin. These projects are:

- Basalt Creek Planning
- 124th Avenue from Tonquin to I-5
- 124th Avenue from Tualatin-Sherwood Road to Tonquin Road
- Boones Ferry Road from Norwood Road to Day Road

#### **Basalt Creek Planning**

This project is just starting. It is a collaborative effort with Wilsonville, Washington County, and Metro. This project will identify a roadway and complete transportation system to serve this area. It will also address land use, utilities, and ultimate jurisdiction of the area.

#### **124th Avenue from Tonquin to I-5**

Washington County has committed to help decide on the best way to get 124th Avenue from Tonquin Road to I-5. Two options to be evaluated are:

- Use existing rights-of-way
- Develop a new right-of-way between Grahams Ferry Road and Boones Ferry Road

#### **124th Avenue from Tualatin-Sherwood Road to Tonquin Road**

Washington County is beginning work to determine the alignment of 124th Avenue between Tualatin-Sherwood Road and Tonquin Road. This project will result in an amendment to the Washington County Transportation System Plan next year to include 124th Avenue on the County Road System.

#### **Boones Ferry Road from Norwood Road to Day Road**

Washington County has assumed jurisdiction of this section of road from the Oregon Department of Transportation. Washington County is beginning the design work to identify improvements to this section of road. It is anticipated that construction could start in the summer of 2012.

---

**Attachments:**    Transportation Planning Update



# **SOUTH TUALATIN TRANSPORTATION PLANNING UPDATE**

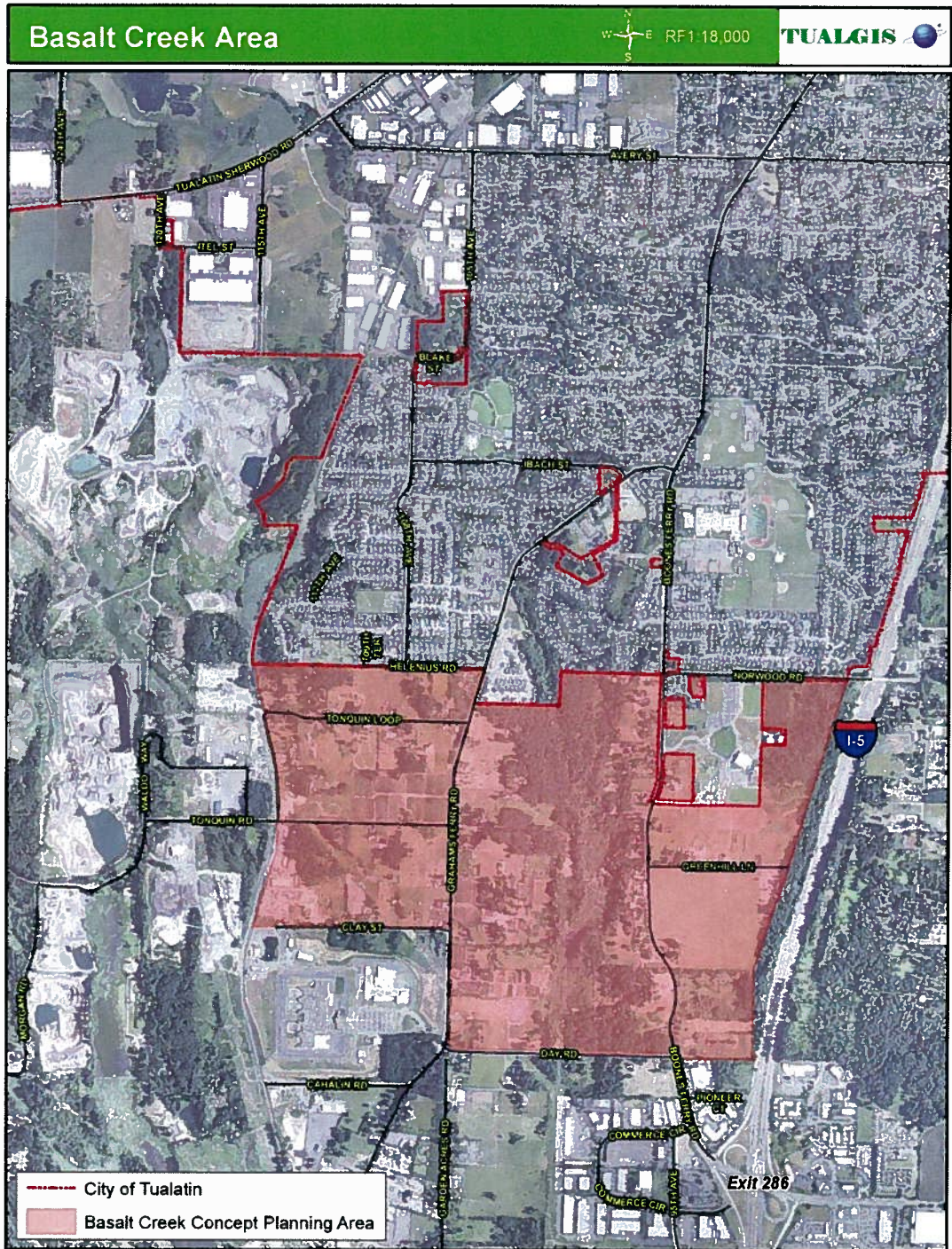


City of Tualatin Engineering & Building  
[www.ci.tualatin.or.us](http://www.ci.tualatin.or.us)

06/16/2011



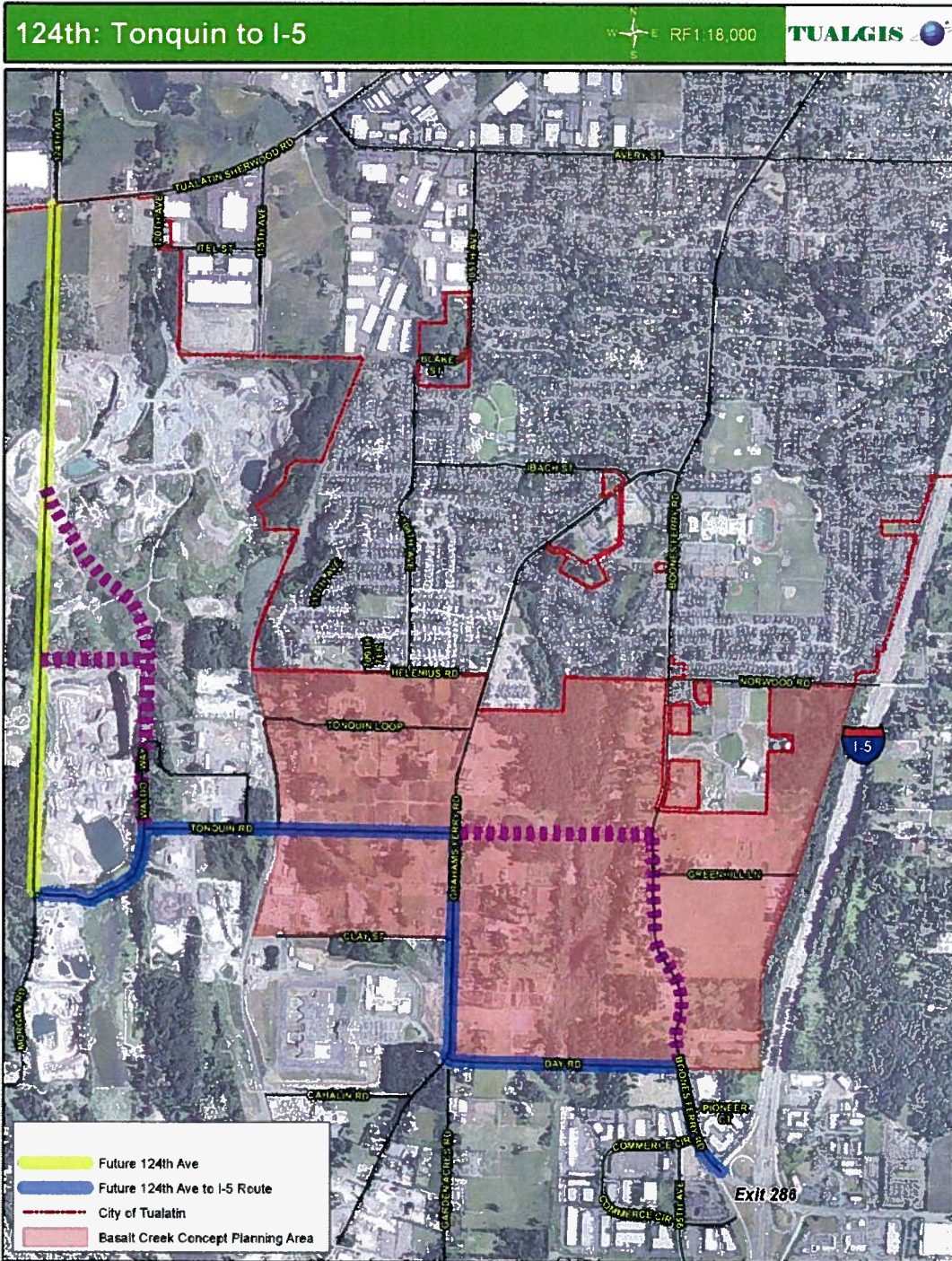
# BASALT CREEK AREA





# BASALT CREEK AREA

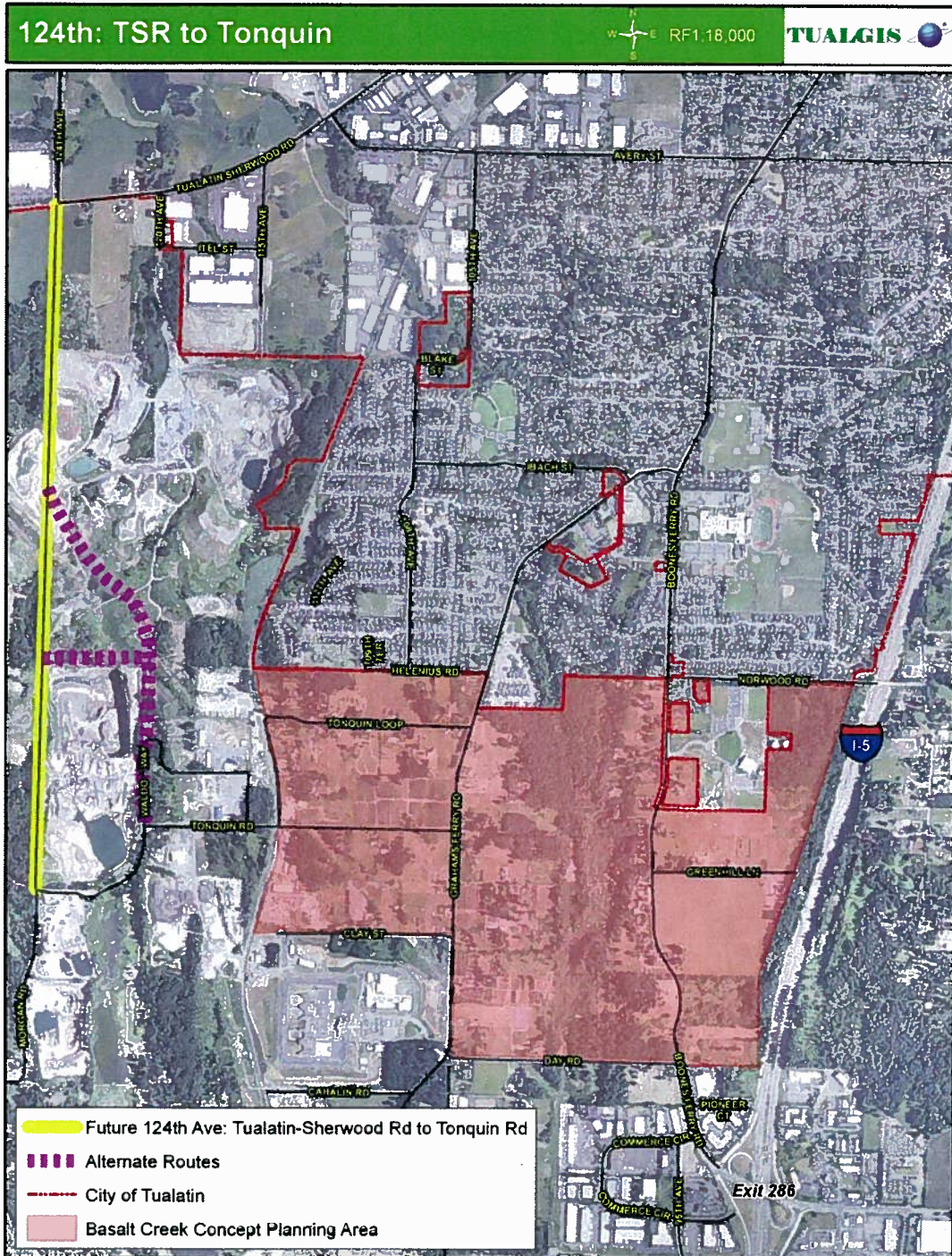
## 124<sup>TH</sup>: TONQUIN TO I5





# BASALT CREEK AREA

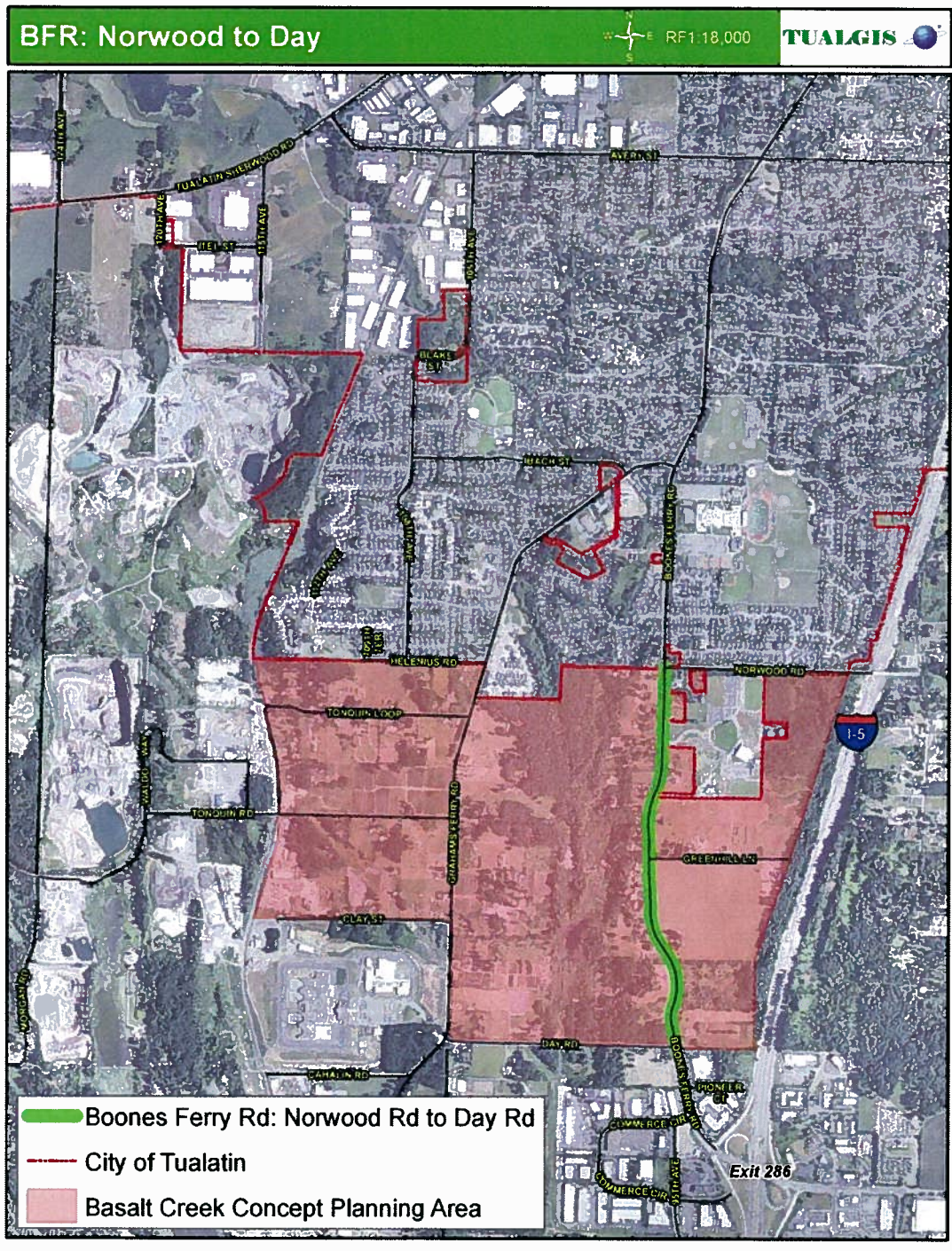
## 124<sup>TH</sup>: TSR TO TONQUIN





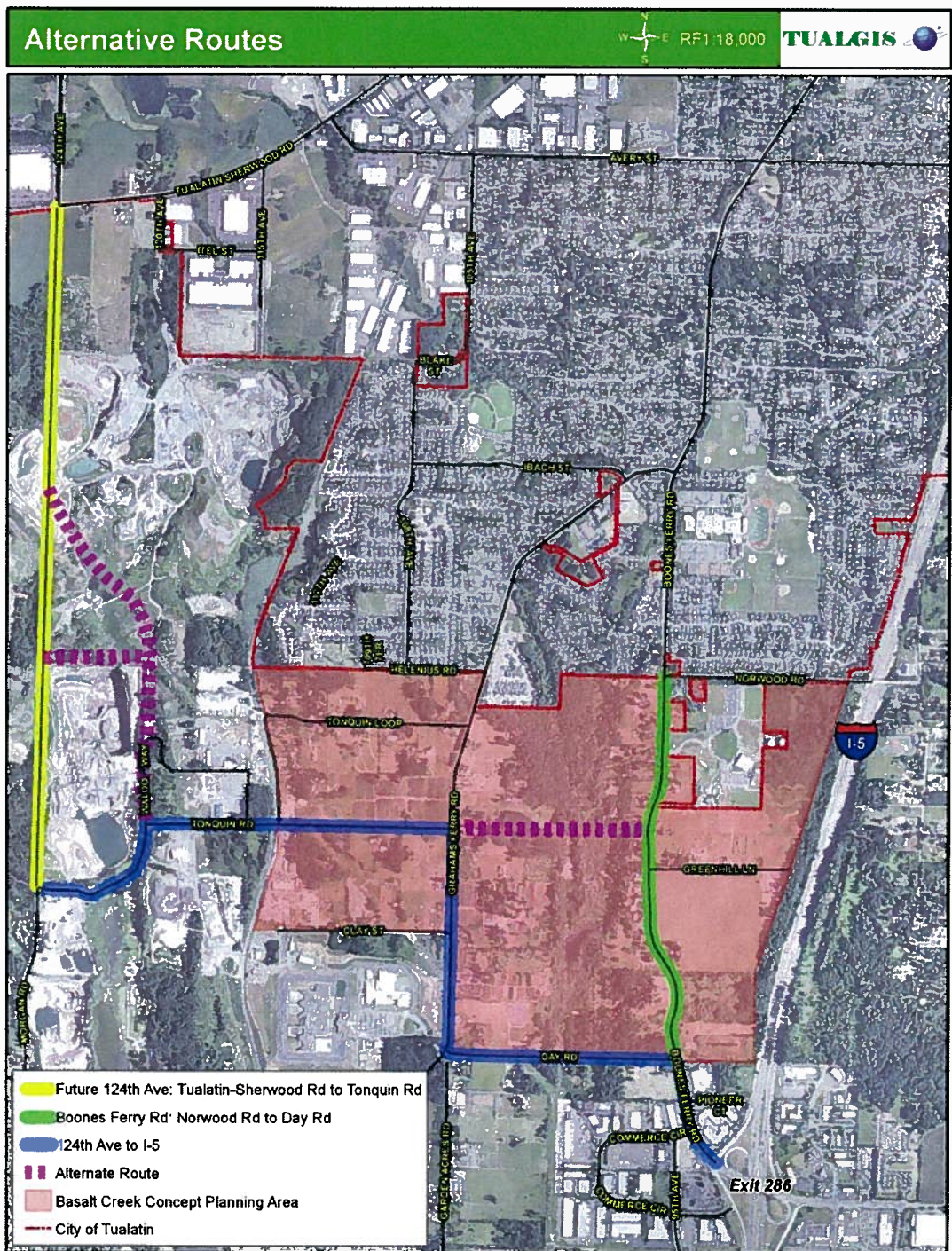
# BASALT CREEK AREA

## BFR: NORWOOD TO DAY





# BASALT CREEK AREA ALTERNATE ROUTES







# STAFF REPORT

## CITY OF TUALATIN

APPROVED BY TUALATIN CITY COUNCIL  
Date 6-27-11  
Recording Secretary [Signature]

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Alice Rouyer, Community Development Director

**FROM:** Eric Underwood, Development Manager

**DATE:** 06/27/2011

**SUBJECT:** Ordinance Adopting the Core Area Parking District Tax Rate and Credit For Fiscal Year 2011-2012

---

### ISSUE BEFORE THE COUNCIL:

Whether the City Council should adopt an ordinance establishing a Core Area Parking District (CAPD) tax rate of \$155.34 for fiscal year 2011-2012.

### RECOMMENDATION:

- The Core Area Parking District Board (CAPDB) met on February 16, 2011 to discuss the tax rate increase proposal and voted (4 to 0) recommending that the City Council adopt an ordinance keeping the tax rate at \$155.34. Additionally, there is no proposed modification to the credit formula for fiscal year 2011-2012.
- Staff recommends that the City Council pass the attached ordinance (Attachment A).

### EXECUTIVE SUMMARY:

The Tualatin Municipal Code (TMC) 11-3-060 requires the Core Area Parking District Board, prior to the beginning of the tax year, to make a recommendation to the City Council on tax rates for the upcoming fiscal year. This is an annual review of the Core Area Parking District annual tax rate and credit and a legislative hearing request concerning the Core Area Parking District tax rate for fiscal year 2011-2012.

A recent fiscal health analysis has indicated that the District is operating with a deficit that will continue into the foreseeable future unless the mix of revenues and expenditures is changed. The Core Area Parking District Board and staff continue to explore ways of filling this gap between revenues and expenditures. This is an ongoing analysis as the Board works to identify a viable solution. The City Council will have a work session discussion on this topic in July 2011.

The Core Area Parking District Board has recommended that the tax rate not increase for FY 2011/12 and the gap between revenues and expenditures of \$27,200 be funded with available reserves. The Core Area Parking Fund has sufficient reserves to accommodate this recommendation while a system-wide review is completed. The Board is concerned that continuing to raise the tax rate will make the downtown Tualatin area less attractive to developers and tenants during the economic downturn. The tax rate will remain unchanged from the previous fiscal year at \$155.34 and there is no proposed change in the methodology used to calculate the tax.

**OUTCOMES OF DECISION:**

Approval of the CAPD tax rate will result in the following:

1. Retain current Core Area tax rate while maintaining current services.
2. Allow time for the Core Area Parking District Board to establish a long-term solution for funding the District to meet parking lot maintenance and service demand.

Denial of the CAPD tax rate will result in the following:

1. Require the Board to revisit an increase or decrease in the tax rate for fiscal year 2011-2012.
2. A tax rate will not be established by the beginning of the Fiscal Year.

**ALTERNATIVES TO RECOMMENDATION:**

Alternatives analyzed to establish the proposed tax rate and credit included:

1. Increase the tax rate. The rate can be increased enough to fill the gap between revenues and expenditures or increased by an amount that would require less use of reserves.
2. Decrease the tax rate. This option would require additional reserves to fill the gap between revenues and expenditures.

**FINANCIAL IMPLICATIONS:**

Tax revenues support operation and maintenance of the Core Area District. With the current tax rate, the total estimated tax revenue for the District is \$60,000. With the proposal of utilizing reserves to cover the gap between current revenues and expenditures, the operating reserve balance at the end of fiscal year 2011-2012 is projected to be approximately \$140,000.

---

**Attachments:**     FY 11/12 Tax Rate Ordinance

ORDINANCE NO. 1325-11

ORDINANCE ADOPTING CORE AREA PARKING DISTRICT  
TAX RATE AND CREDIT – FISCAL YEAR 2011/12

WHEREAS TMC 11-3-060 requires Council to establish a tax rate and credit for the annual Core Area Parking District tax, and

WHEREAS the Core Area Parking District Board recommends to Council that the tax rate be \$155.34 and that the credit remain unchanged; and

WHEREAS Council finds the tax rate and credit to be appropriate.

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. TMC Chapter 11-3 Schedule A is amended to read as follows:  
The annual Core Area Parking District tax rate for Fiscal-Year 2011/12 is established as \$155.34.

Number of on-site parking spaces provided  
Gross leasable area X space factor = "A"

If "A": is greater than or equal to 1.0, the credit is 50%

If "A": is less than 1.0, the credit is ("A" x 50%)

INTRODUCED AND ADOPTED this 27<sup>th</sup> day of June 2011.

CITY OF TUALATIN, Oregon

BY

  
Mayor

ATTEST:

BY

  
City Recorder





## STAFF REPORT CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Linda Odermott, Paralegal  
Brenda Braden, City Attorney

**DATE:** 06/27/2011

**SUBJECT:** Ordinance Granting a Non-Exclusive Telecommunications Franchise to Electric Lightwave LLC

---

### ISSUE BEFORE THE COUNCIL:

Council will consider whether to approve an Ordinance granting a non-exclusive telecommunications franchise to Electric Lightwave LLC.

### RECOMMENDATION:

Staff recommends that the City Council approve the Ordinance granting the franchise to Electric Lightwave LLC.

### EXECUTIVE SUMMARY:

Electric Lightwave, LLC, a regional fiber-based telecommunications carrier company, is seeking a non-exclusive telecommunications franchise from the City. It is now a wholly-owned subsidiary of Integra Telecom, Inc. that provides integrated communications services across 33 metropolitan areas in 11 western states. Integra owns and operates an all IP-backbone next generation network with over 2,800 route miles that currently access approximately 1,386 customer locations. Both Integra and Electric Lightwave are headquartered in Portland and employ over 2,100 people throughout the Northwest.

Electric Lightwave's lines are already located within Tualatin's rights-of-way; placed there by the previous owner of the company and in accordance with an earlier franchise.

The proposed franchise contains essentially the same terms as other current Tualatin telecom franchises. The key provisions are:

- The term is for 10 years.
- The franchise fee is \$2500 per year or 5% of gross revenues, whichever is greater.
- The company must comply with all the terms of TMC chapter 10-1, the City's telecom ordinance that controls construction, maintenance, and use of the rights-of-way.
- It addresses abandonment and removal of the equipment, termination, and legal remedies.
- It binds any successors in interest.

**OUTCOMES OF DECISION:**

If the City Council approves the franchise, the City will receive not less than \$2,500 per year in franchise fees and Electric Lightwave will be allowed to keep its fiber in the City's rights-of-way.

If Council does not approve the franchise, Electric Lightwave would not be able to continue to use its fiber and the City would not receive any franchise fees.

---

**Attachments:**     Franchise Ordinance with acceptance

ORDINANCE NO. 1326-11

AN ORDINANCE GRANTING A NON-EXCLUSIVE TELECOMMUNICATIONS FRANCHISE TO ELECTRIC LIGHTWAVE LLC.

WHEREAS Electric Lightwave, LLC, ("Franchisee") a wholly-owned subsidiary of Integra Telecom Holdings, Inc., wishes to enter into a franchise with the City of Tualatin ("the City") for purposes of offering telecommunications services; and

WHEREAS the City has jurisdiction and regulatory management over its public rights-of-way; and

WHEREAS the City is willing to exercise its authority and enter into a franchise agreement with Franchisee.

Now therefore,

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

**Section 1. Grant of authority.** The City grants the Franchisee a non-exclusive franchise to occupy City rights-of-way and appropriate utility easements for the construction, use, operation and maintenance of a telecommunications system for a period of ten years from the effective date of this agreement (the "term") except as set forth below.

**Section 2. Authority not exclusive.** The City reserves the right to grant rights to others to use its rights-of-way during the franchise term. The City may do any work on, over or under any street, alley, utility easement or other right-of-way. The Franchisee shall respect the rights and property of the City and other authorized users of easements and rights-of-way. This agreement does not confer any right, title, or interest in any public right-of-way on Franchisee beyond that expressly conferred in this agreement. Except as otherwise required by law, disputes between Franchisee and parties other than the City over use of the easements and rights-of-way under this agreement shall be submitted to the City for resolution. The City's decision may be appealed to any judicial or administrative body having appropriate jurisdiction. Both the City and the Franchisee expressly reserve all rights they may have under law to the maximum extent possible; neither the City nor the Franchisee shall be deemed to have waived any federal or state constitutional or statutory rights they may now have or may acquire in the future by entering into this agreement.

**Section 3. Performance.** During the term of this agreement, the Franchisee agrees to meet all the terms and conditions of Chapter 10-1 of the Tualatin

Municipal Code, which is incorporated into this agreement by this reference, except as follows:

(a) City agrees that it will not remove Franchisee's equipment under TMC 10-1.150 until the City and Franchisee negotiate a solution for relocation or retrofitting so long as Franchisee does not unreasonably delay entering negotiations for such solution.

(b) City acknowledges that as Franchisee is building its system and securing customers, it may have telecommunications equipment in the right-of-way that is not activated within one year but is not abandoned as contemplated by TMC 10-1.230 and 10-1.380. Therefore, City agrees that at such time as Franchisee intends to discontinue using or to remove any telecommunications network facility or facilities within the City, including actions pursuant to a City termination order, Franchisee shall submit a specific plan for such discontinuance or removal to the City Engineer for the City Engineer's approval. The City Engineer may allow Franchisee to abandon in place any facility, may require the Franchisee to remove or modify the facilities within the public rights-of-way or other public place or property, may cause the facilities to be removed at the Franchisee's expense, or may take any combination of these actions. Franchisee shall complete such removal or modifications in accordance with a schedule reasonably set by the City Engineer. Until such time that Franchisee's property is completely removed and all restorations to the public rights-of-way or other public places or property have been completed, Franchisee shall be responsible for all necessary repairs, relocations, and maintenance of the facilities in the same manner and degree as if the facilities were in active use, and Franchisee shall retain all liability for such facilities.

(c) Franchisee does not require the City's consent to transfer, assign, lease, merge, or consolidate with any entity, firm or corporation which Franchisee controls, is controlled by or is under common control with or a third party except that such Affiliate or third party shall not succeed to Franchisee's rights hereunder unless that Affiliate or third party agrees to abide by the provisions of this franchise agreement.

(d) Franchisee reserves the right to challenge any of the terms and conditions of TMC Chapter 10-1 under present or future applicable federal and state law.

**Section 4. Change of law; amendment of franchise agreement.** This agreement may be amended from time to time to conform to any changes in the controlling federal or state law or other changes material to this agreement. Each party agrees to bargain in good faith with the other party concerning such proposed amendments. This agreement may be amended or terminated by the mutual consent of the parties and their successors in interest.

**Section 5. Franchise fees.** As compensation for the benefits and privileges under its franchise and in consideration of permission to use the right-of-way of the City, the Franchisee shall pay a semi-annual franchise fee to the City during the duration of its franchise as follows:

(a) Franchisee shall pay the greater of a minimum semi-annual franchise fee of two thousand five hundred dollars (\$2500) or a franchise fee equal 5% of the Franchisee's gross revenues derived from Franchisee's provision of telecommunications facilities to customers and on all other gross revenues derived from Franchisee's provision of telecommunications services and telecommunications facilities to wholesale customers, including other telecommunications carriers. "Gross revenues" means gross revenue derived by Electric Lightwave LLC for the provision of telecom services originating or terminating in Tualatin and charged to a circuit location in Tualatin, regardless of where the circuit is billed or paid. Unless the Internet Tax Freedom Act is amended, Gross Revenues shall not include revenues from the sale of Internet access services as presently defined in the Act.

(b) Payment shall be made by January 30 and July 30 for the previous six-month period.

(c) After the date this agreement becomes effective, if Oregon laws or regulations change the maximum franchise fee amount to be collected on telecommunications providers, the City may reopen Section 5 of this agreement only for the purposes of raising the franchise fee in accordance with the revised law and Franchisee may reopen Section 5(b) of this agreement only for the purposes of reducing the franchise fee in accordance with the revised law.

**Section 6. Reports.** Within thirty days of receipt, Franchisee shall submit copies of all decisions, correspondences, and actions by any federal, state and local courts, regulatory agencies and other government bodies substantially and materially affecting its telecommunications obligations under this agreement. Upon advance written notice of at least thirty days, Franchisee shall make available to City such other nonproprietary information or reports pertinent to enforcing the Franchise in reasonable form and at such reasonable times as the City may request.

**Section 7. Taxes.** Nothing contained in this Agreement shall be construed to exempt the Franchisee from any license, occupation, or excise tax or assessment that is or may be lawfully imposed on all entities in the same business as the Franchisee.

**Section 8. Insurance.** Franchisee attaches and incorporates the Certificate of insurance consistent with the requirements of TMC 10-1.500, modified as:

Unless otherwise provided in a franchise agreement, each grantee shall, as a condition of the grant, secure and maintain the following liability insurance policies insuring the Grantee and naming the City, and its elected and appointed officers, officials, agents and employees as additional insured:

(1) Commercial general liability insurance, including premises operations, explosion, collapse and underground hazards, completed products, with limits not less than

(a) \$6,000,000 combined single limit for bodily injury or death to each person and property damage.

(b) Limits required in this agreement may be satisfied through Grantee's primary and Umbrella Liability Policies.

(2) Automobile liability for owned, non-owned and hired vehicles with a limit of \$1,000,000 for each person and \$3,000,000 for each accident. Limits required in this franchise may be satisfied through Grantee's primary and Umbrella Liability Policies.

(3) Worker's compensation within statutory limits and employer's liability insurance with limits of not less than \$1,000,000.

(4) The Grantee shall maintain liability insurance policies required by this Section throughout the term of the telecommunications franchise, and such other period of time during which the Grantee is operating without a franchise, or is engaged in the removal of its telecommunications facilities.

The Certificate of insurance shall provide that the policies may not be canceled or not renewed unless 30 days written advance notice has been provided to the City, by registered mail, addressed to the Tualatin City Attorney of such intent to cancel or not to renew.

(5) Within 30 days after receipt by the City of such notice, and in no event later than 30 days prior to cancellation, the Grantee shall obtain and furnish evidence to the City that the Grantee meets the requirements of this Section.

(6) As an alternative to the insurance requirements listed above, Grantee may provide evidence of self-insurance subject to review and acceptance by the City.

(7) Grantees shall either provide insurance coverage as described above for their contractors and subcontractors or require that the contractors and subcontractors provide evidence of such insurance coverage as is required of contractors and subcontractors by Grantee before beginning work in the public rights of way.

**Section 9. Severability clause.** If any clause, sentence, or any other portion of this Agreement becomes illegal, null or void for any reason, the remaining portions will remain in full force and effect to the fullest extent permitted by law. If any material portion of the Agreement becomes illegal, null or void so that the intent of the Agreement is frustrated, the parties agree to negotiate replacement provisions to fulfill the intent of the Agreement consistent with applicable law.

**Section 10. Remedies.**

(a) If Franchisee fails to comply with a material provision of this Agreement or violates its terms, Franchisee will forfeit all rights and privileges granted by this Agreement. That forfeiture will not occur until after:

(A) City notifies Franchisee clearly and in detail, in writing, of the failure or violation; and

(B) Franchisee has ninety days after notice from City to comply with the provisions of this Agreement; or if the provision cannot be satisfied within the ninety-day period, to commence and diligently pursue compliance. If the failure or violation continues beyond the ninety-day period, or, if the cure cannot be made within ninety days, Franchisee fails to commence and diligently pursue compliance as required in this subparagraph, City, at its sole discretion, has the right to determine that the franchise is forfeited. Forfeiture of the franchise shall not relieve Franchisee from complying with the Tualatin Municipal Code on telecommunications.

(C) If Franchisee corrects the violation or commences and diligently pursues compliance within the ninety-day period, then no damages or other remedy shall be imposed.

(b) Notwithstanding the above, failure, default or violation by Franchisee shall not constitute grounds for the forfeiture of this franchise if due materially, substantially and reasonably to an act of God, fire, flood, storm or element or casualty, theft, war, disaster, strike, lock-out, boycott, prevailing war or war preparation, or bona fide legal proceedings beyond the control of Franchisee.

(c) All remedies and penalties under this Agreement, including termination of the franchise, are cumulative and not exclusive. The recovery or enforcement by one available remedy or imposition of a penalty is not a bar to recovery or enforcement by other remedy or imposition of other penalty. City reserves the right to avail itself of any and all remedies available at law or in equity. Failure to enforce shall not be construed as a waiver of a breach of any term, condition or obligation imposed upon Franchisee under this Agreement. A specific waiver of a particular breach of a term, condition or

obligation imposed on Franchisee under this Agreement shall not be a waiver of any other or subsequent breach of the same or other term, condition or obligation.

(d) City preserves the right to adopt such additional regulations as it finds necessary in the exercise of its police power, provided that such regulations or ordinances are reasonable and not in conflict with the rights granted in this Agreement. At all times during the term of this Agreement, Franchisee shall be subject to all lawful exercise of the police power by the City, and to such reasonable regulations that the City may subsequently provide by resolution or ordinance. With regard to this franchise, City reserves the right to exercise all authority now or hereafter granted to the City by state statute or City charter, except where such authority may be modified or superseded by the Constitutions of the United States or the State of Oregon. Franchisee reserves the right to challenge any of the terms and conditions of such additional regulations and ordinances under present or future applicable federal and state law.

(e) In the event of a suit, arbitration or other proceeding of any nature whatsoever, including without limitation, a proceeding under the U.S. Bankruptcy Code, is instituted to enforce any provision of this Agreement, the prevailing Party shall be entitled to recover from the losing Party, to the extent allowed by applicable law, its reasonable attorneys, paralegal, accountants and other expert fees, and all other fees, costs, and expenses actually incurred and reasonably necessary in connection with such proceedings, as determined by the judge or arbitrator at trial or arbitration, or on appeal or review, in addition to all other amounts provided by law. To the extent allowed by applicable law, this provision shall cover costs and attorneys' fees related to or with respect to proceedings in Federal Bankruptcy Courts, including those related to issues unique to bankruptcy law.

**Section 11. Assignment.** All rights and privileges granted and duties imposed by this Agreement upon Franchisee shall extend to and be binding upon Franchisee's successors, legal representatives and assigns. Franchisee shall notify City of any sale or transfer of its plant or system, or a majority control of its plant or system, within sixty days after such transfer occurs.

**Section 12. Notice.** Unless otherwise specifically provided, all notices shall be mailed by US certified mail, return receipt requested, postage prepaid, to the following address:

If to Franchisee: Dean Ryland  
VP Administration  
Integra Telecom Inc.  
1201 NE Lloyd Boulevard, Suite 500  
Portland, OR 97232



With a copy to: Theodore Gilliam  
Senior Corporate Counsel  
Integra Telecom Inc.  
1201 NE Lloyd Boulevard, Suite 500  
Portland OR 97232

If to City: City of Tualatin  
Attention: City Attorney  
18880 SW Martinazzi  
Tualatin, OR 97062

Section 13. **Governing Law.** The laws of the State of Oregon govern this Agreement and its interpretation, performance, and enforcement.

Section 14. **Effective Date.** This ordinance shall take effect 30 days after it is adopted and approved by the City Council and is effective for ten years.

INTRODUCED AND ADOPTED this 27th Day of June, 2011.

CITY OF TUALATIN, OREGON

BY \_\_\_\_\_

Mayor

ATTEST:

BY \_\_\_\_\_

City Recorder

**ACCEPTANCE OF FRANCHISE**

TO THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON

WHEREAS The City of Tualatin, Oregon, on June 27, 2011, passed Ordinance No. \_\_\_\_\_, entitled:

AN ORDINANCE GRANTING A NON-EXCLUSIVE TELECOMMUNICATIONS FRANCHISE TO ELECTRIC LIGHTWAVE, LLC.

NOW, THEREFORE, the undersigned, ELECTRIC LIGHTWAVE, LLC, the Franchisee named in the above referenced ordinance, accepts for itself and its successors and assigns the terms, conditions and provisions of Ordinance No. \_\_\_\_\_ and agrees to be bound by and comply with the ordinance.

IN WITNESS WHEREOF, ELECTRIC LIGHTWAVE LLC, by and through its duly authorized officers executes this instrument as below subscribed this \_\_\_\_ day of \_\_\_\_\_, 2011.

ELECTRIC LIGHTWAVE LLC

By: \_\_\_\_\_

Title: \_\_\_\_\_



# STAFF REPORT

## CITY OF TUALATIN

APPROVED BY TUALATIN CITY COUNCIL  
Date 6-27-11  
Recording Secretary [Signature]

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Linda Odermott, Paralegal  
Brenda Braden, City Attorney

**DATE:** 06/27/2011

**SUBJECT:** Ordinance Allowing Regional Public Facilities to Treat Private Development's Stormwater;  
and Amending TDC 74.650 (PTA-11-04)

---

### ISSUE BEFORE THE COUNCIL:

Council will decide whether to approve a Plan Text Amendment Ordinance allowing Public Facilities to treat private development stormwater.

### RECOMMENDATION:

Staff recommends that the City Council approve the Ordinance.

### EXECUTIVE SUMMARY:

On June 13, 2011, the City Council held a public hearing on PTA 11-04. At the conclusion of the public hearing, the City Council approved the Planned Text Amendment with a vote of 5-1; with Councilor Bubenik opposed and Councilor Barhyte absent. The City Council instructed staff to bring back an Ordinance at the June 27, 2011 meeting.

---

**Attachments:** PTA 11-04 Ordinance

ORDINANCE NO. 1327-11

AN ORDINANCE ALLOWING REGIONAL PUBLIC FACILITIES TO TREAT PRIVATE DEVELOPMENT'S STORMWATER; AND AMENDING TDC 74.650 (PTA-11-04)

WHEREAS upon the application of the Engineering Department, a public hearing was held before the City Council of the City of Tualatin on June 13, 2011, related to a Plan Text Amendment of the TDC; and amending TDC 74.650 (PTA-11-04); and

WHEREAS notice of public hearing was given as required under the Tualatin Development Code by publication on in The Times, a newspaper of general circulation within the City, which is evidenced by the Affidavit of Publication marked "Exhibit A," attached and incorporated by this reference; and by posting a copy of the notice in two public and conspicuous places within the City, which is evidenced by the Affidavit of Posting marked "Exhibit B," attached and incorporated by this reference; and

WHEREAS the Council conducted a public hearing on June 13, 2011, and heard and considered the testimony and evidence presented by the City staff and those appearing at the public hearing; and

WHEREAS after the conclusion of the public hearing, the Council vote resulted in approval of the application by a vote of [5-1]; with Councilor Bubenik opposed and Councilor Barhyte absent; and

WHEREAS based upon the evidence and testimony heard and considered by the Council and especially the City staff report dated June 13, 2011, the Council makes and adopts as its Findings of Fact the findings and analysis in the staff report attached as "Exhibit C," which are incorporated by this reference; and

WHEREAS based upon the foregoing Findings of Fact, the City Council finds that it is in the best interest of the residents and inhabitants of the City and the public; the public interest will be served by adopting the amendment at this time; and the amendment conforms with the Tualatin Community Plan; and therefore, the Tualatin Development Code should be amended.

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. TDC 74.650 is amended to read:

The applicant shall comply with the water quality, storm water detention and erosion control requirements in the Surface Water Management Ordinance. If required:

(1) On subdivision and partition development applications, prior to approval of the final plat, the applicant shall arrange to construct a permanent on-site water quality facility and storm water detention facility and submit a design and calculations indicating that the



requirements of the Surface Water Management Ordinance will be satisfied and obtain a Stormwater Connection Permit from ~~the Unified Sewerage Agency~~ Clean Water Services; or

(2) On all other development applications, prior to issuance of any building permit, the applicant shall arrange to construct a permanent on-site water quality facility and storm water detention facility and submit a design and calculations indicating that the requirements of the Surface Water Management Ordinance will be met and obtain a Stormwater Connection Permit from Clean Water Services ~~the Unified Sewerage Agency~~.

(3) For on-site private and regional non-residential public facilities, ~~the~~ applicant shall submit a stormwater facility agreement, which will include an operation and maintenance plan provided by the City, for the water quality facility for the City's review and approval. The applicant shall submit an erosion control plan prior to issuance of a Public Works Permit. No construction or disturbing of the site shall occur until the erosion control plan is approved by the City and the required measures are in place and approved by the City.

INTRODUCED AND ADOPTED this 27th Day of June, 2011.

CITY OF TUALATIN, OREGON

BY 

Mayor

ATTEST:

BY 

City Recorder

ITEMS REFERRED TO AS EXHIBITS IN THE FOREGOING ORDINANCE ARE ATTACHED TO THE ORIGINAL. THEY HAVE BEEN OMITTED FROM THE COUNCIL PACKET AS A CONSERVATION MEASURE. IF THESE EXHIBITS NEED TO BE EXAMINED, PLEASE CONTACT THE CITY RECORDER.



# STAFF REPORT

## CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Sherilyn Lombos, City Manager

**DATE:** 06/27/2011

**SUBJECT:** Recognition of Outgoing Council President Chris Barhyte

---

---



# STAFF REPORT

## CITY OF TUALATIN

APPROVED BY TUALATIN CITY COUNCIL  
Date 6-27-11  
Recording Secretary [Signature]

**TO:** Honorable Mayor and Members of the City Council  
**THROUGH:** Sherilyn Lombos, City Manager  
**FROM:** Maureen Smith, Executive Assistant  
**DATE:** 06/27/2011  
**SUBJECT:** Appointment of a Councilor to Fill the Vacant Position No. 5 Seat

---

**ISSUE BEFORE THE COUNCIL:**

Council will review the applicants and appoint a replacement for Council Position No. 5.

**RECOMMENDATION:**

Select a replacement for the vacant City Council position.

**EXECUTIVE SUMMARY:**

Council President Chris Barhyte announced his resignation from Council at the end of June 2011. The City's Charter specifies requirements when replacing a Council position due to vacancy. The Council determined a process to follow and applications were accepted from interested citizens in May. Seven candidates applied for the vacancy, and Council conducted interviews with the applicants on June 14, 2011 at a special work session.

---

**Attachments:**