CLACKAMAS
COUNTY

BOARD OF COUNTY COMMISSIONERS
PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

March 8, 2016

Mr. Thomas Mersereau, Council President
Gladstone City Council
525 Portland Ave.
Gladstone, OR 97027

Dear Council President Mersereau and Councilors:

The Board of County Commissioners ("BCC") has received and reviewed the request dated February 22, 2016 (the "City Letter") from the Gladstone City Council on behalf of the City of Gladstone ("City") requesting disbursement of funds in support of a library construction plan. This letter was discussed at the BCC policy session held February 23, 2016 and subsequently, and remains a topic of significant concern. In particular, the BCC is receiving reports from unincorporated residents regarding a lack of engagement by the City and protesting the significantly changed plans of the City with respect to a library facility. To ensure that all parties are clear about expectations, below is a summary of the BCC's concerns regarding the current agreements and public process, followed by a prospective path forward.

*Current Agreements*

The City Letter presented several arguments for why the City is entitled to receive a minimum of $2.6 million from Clackamas County ("County"), mainly pursuant to the agreement between the City and the County dated April 2011 (the "Capital IGA") and partially pursuant to the Library District Master IGA entered into by the City in August 2009 (the "Master IGA"). The Master IGA's language is conditional on fulfillment by the City of its obligations as described in the Capital IGA, so for clarity we will focus on that document. In reviewing the current situation, it appears that the City has not fulfilled its obligations under the Capital IGA in several ways.

The demand for $1.5 million under the Capital IGA references Section 1.1, which provides for the distribution of such funds. However, Section 1.3 clearly states that the City must submit a "...capital plan identifying how the city will use the capital contribution." This plan is to be reviewed and approved by the County for sufficiency. The City Letter provided, as a purported capital plan, a ballot measure that was submitted to voters in November 2014 and a timeline. This does not provide sufficient clarity regarding the City's approach to the facility. Of particular concern would be a specific plan to address how costs would be split out between the library facility and the city hall, which are proposed to be co-located at the same location. The Capital IGA is designed to ensure the financial integrity of the use of the funds for only library purposes, and given the proposed mixed use as discussed by the City, it is our expectation that, at a minimum, the City would have an answer to that important issue.



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We also require more clearly articulated designs and plans regarding the level of service, amenities, and staff that would be provided at that facility, as promised in the 2014 ballot language. This is especially important given the unusual ratio of service population that could theoretically apply to the Gladstone library if the Oak Lodge library closes, where the unincorporated patrons would represent approximately seventy percent of those served. Therefore the BCC finds that Gladstone has not met its initial obligation to provide a sufficient capital plan as required under the IGA, and the County is not obligated to deliver funds at this time.

Second, the County Administrator has provided in an email to the City Manager, per the Capital IGA's Section 2.3, a request for an accounting of the $1,000,000 previously distributed to the City and reportedly spent on library purposes. The information provided in the City Letter does not speak to the availability of those funds or how they were used. It is difficult for this Board to distribute additional funds to the City until it has conducted a diligence review about whether or not prior funds distributed to the City per the Capital IGA were properly used. It the BCC's expectation that the City would appreciate this point and have responded promptly to this request. To date this accounting has not been sent, nor has the County received notice that the City is working on the request.

Third, Section 5.1 of the Capital IGA specifically references that the library being constructed by the City will be located on Webster Road. The BCC has tried to keep an open mind as the City has shifted plans several times, including in discussion of July 2014, since it was possible that the replacement proposal would be equal to or superior to the original concept. However, that does not seem to be the case. Our best understanding at this point is that the proposed library will be located on Portland Avenue further away from unincorporated customers, is now a combination facility with a new City Hall instead of a standalone structure, and be ~6,500 square feet smaller, or over one third less than originally anticipated. These changes were made without significant input of library patrons outside the City who will constitute more than a majority of those receiving service from the proposed library. Rather, it seems to have been driven by City votes in which unincorporated residents could not participate.

Another significant change is the withdrawal of any city funds to the construction of the city library. The original plan, upon which the Master IGA and Capital IGA were premised, assumed $2.5 million from the County pursuant to the Capital IGA and over $6 million from the City, as well as other funding sources for a total project effort of over $10 million for a facility of over 19,000 square feet. This would have placed it in the middle of Clackamas County libraries in terms of square footage per customer served. In subsequent disclosures from City staff, it appears that the City is reducing its contribution to the project by over six million dollars, and seeking to use only funds contributed by the County or the Library District of Clackamas County (either as reserves or debt service) for the facility that has been significantly reduced in scope and size. Indeed, it seems that at this point the funding plan as suggested by the City relies completely on outside revenues, calling into question whether the facility need be located within the City. The demand of the City to be the final maker of decisions regarding the library and its services seems inconsistent with its unwillingness to contribute funds to the effort. Together, these changes raise grave doubts in the BCC's mind that the library service levels envisioned at the time of execution of the Master IGA and Capital IGA upon which the closure of the Oak Lodge library was premised remains accurate.

Finally, Section 2.4 of the Capital IGA obligates the City to provide for "fair" representation of library patrons, including specifically unincorporated residents. The City's current service area includes a substantial unincorporated population from the Jennings Lodge area, nearly one third of the City's current library patron base. We have heard reported that, and would like the City to speak to the truth of, the current City library board does not have any unincorporated residents serving. If this is true, it is inconsistent with the City's current obligations under the Capital IGA. It also appears that the City has not been sending even a member of this truncated board to the Library District Advisory Committee, but rather an elected official to press for the official City position. We understand that is now being corrected after it having been called to the City's attention. These actions are not supportive of citizen engagement and oversight over the expenditure of library funds. Further, it would represent, together with the above, a consistent pattern of the City not meeting its obligations under the agreements.

*Public Process*

The Master IGA and the Capital IGA are premised on the theory that a city desires to provide quality library services to both its own residents and nearby unincorporated citizens. The Master IGA provides operational funds, and the Capital IGA provides a one-time infusion of capital funds from the County, to support that effort. One of the key requirements for this effort, as enshrined in both IGAs, is the idea of unincorporated resident participation in library decisions. It is incumbent upon a Library City to involve its entire service population in the decision-making process. To date it does not appear that the City has had a robust engagement of the unincorporated area. At the February 23 policy session, the BCC requested that the City undertake an engagement effort in a fair manner with the unincorporated residents who would be served by the Gladstone library if the Oak Lodge library closes. This has not occurred to date. The BCC strongly recommends that the City take up this effort consistent with the purpose and vision of the Library District and the concept of a Library City. The City should further look to meet its basic obligations of involving unincorporated residents currently within its service area in the local library board. These are not new conditions, but rather normal expectations for community engagement for a public body facing decisions of this magnitude. We encourage the City to assume the leadership role that being a library city requires and involve all affected citizens in a process around the future of the Gladstone City Library.

*A Path Forward*

As shown by the above discussion, the current proposal from the City is materially different from that contemplated by the County when first entering into the Master IGA and the Capital IGA. Indeed, it would seem that the fundamental "basis of the bargain" that lies at the heart of the agreements pertaining to the Oak Lodge closure and Gladstone expansion are no longer true. We cast no blame on anyone for shifting priorities and needs that have been reflected by City votes. However, the County's interest was and remains ensuring that all citizens in Clackamas County receive at least a "threshold" level of library services through appropriate facilities, professional staff, quality collections and integrated systems. The City may choose to meet those interests for its residents as it sees fit. It is the County's obligation to ensure they are equally met for unincorporated residents who do not have a vote in City affairs. The closure of the Oak Lodge library was premised on the city's facility being able to meet those obligations. That premise is now in significant doubt.

The failure of the basis of the bargain seems to have given rise to great concerns from both City and unincorporated voices about a path forward. All sides are clamoring for changes to the Capital IGA, with the City demanding a distribution greater than $1.5 million, and unincorporated residents opposing giving the City any money for their library project. To date the City as the library city for the potential service area has not led a conversation about reconciling the different viewpoints about the issue. To motivate all parties to engage in a constructive dialogue, the BCC feels that it is important to change the current status quo. Therefore, for that reason, the reasons regarding the City's performance above, and for other good and sufficient reasons, the County hereby gives the City official notice pursuant to Section 3.2 of the Capital IGA that the County is exercising its unilateral right to terminate that agreement. According to the terms thereof, the agreement will officially be terminated as of Sunday September 4, 2016, or 180 days from the date of this letter.

It is our hope that the ending of the Capital IGA will shift the focus away from claims for money to support a materially reduced library facility plan, to an engagement effort led by the City that fairly and proportionately involves the voices of unincorporated residents in the decision making process. We ask that the City lead that process to a successful conclusion, which includes (i) clarity on how capital funds would be used for library purposes exclusively; (ii) meaningful involvement and outreach in a fair and proportional form to involve multiple perspectives and addressing concerns from all affected citizens, city or unincorporated; and (iii) some level of agreement between City and unincorporated residents regarding the final size, location and service levels of the Gladstone library. Once the City has reached those agreements, we encourage it to then provide a full report back to the BCC. If the BCC concurs in the proposed solution, it would be pleased to have staff prepare a new agreement that would reflect the changed understanding of the new basis of the bargain. We look forward to a positive report and the City's leadership in ensuring that quality library services are being provided to all affected residents of Clackamas County.

Sincerely,

**CLACKAMAS COUNTY BOARD OF COMMISSIONERS**

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