



**OFFICE OF COUNTY COUNSEL**

**PUBLIC SERVICES BUILDING**  
2051 KAEN ROAD | OREGON CITY, OR 97045

March 12, 2015

Board of County Commissioner  
Clackamas County

Members of the Board:

**Stephen L. Madkour**  
County Counsel

**Kimberley Ybarra**  
**Kathleen Rastetter**  
**Chris Storey**  
**Scott C. Ciecko**  
**Alexander Gordon**  
**Amanda Keller**  
**Nathan K. Boderman**  
**Christina Thacker**  
Assistants

Authorization to Initiate Litigation against Oregon City

<b>Purpose/Outcomes</b>	To authorize County Counsel to initiate litigation on behalf of Tri-City Service District against the City of Oregon City.
<b>Dollar Amount and Fiscal Impact</b>	No direct fiscal impact.
<b>Funding Source</b>	County General Fund
<b>Safety Impact</b>	Moratorium is in the best interest of the health, safety, and welfare of citizens of Clackamas County.
<b>Duration</b>	Effective from date of March 2014.
<b>Previous Board Action</b>	The Board met in numerous executive sessions to discuss the impacts of the City's right of way fees on the service district and the prospects of litigation.
<b>Contact Person</b>	Stephen L. Madkour, County Counsel

**BACKGROUND:**

In 2013, Oregon City adopted an ordinance that imposes right of way fees upon governmental entities, including the Tri-City Service District. The fee is 6% of gross revenues. In 2014, the service district paid approximately \$191,000 in fees to Oregon City.

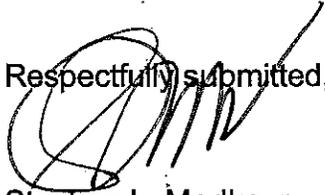
The Board of County Commissioners is the governing body of the service district, which is composed of the cities of West Linn, Gladstone and Oregon City. The Board, acting as the governing body of the service district, authorized county counsel to initiate litigation to declare the fee imposed by the city to be an impermissible tax upon another public entity. In 2014, the office of County Counsel filed a declaratory judgment action against Oregon City.

Oregon City has asserted a number of defenses to the action. On such defense was that the Board of Commissioners never formally authorized the litigation. The requested action will formally authorize and direct the Office of County Counsel to proceed with the litigation.

**RECOMMENDATION:**

Staff recommends the Board of County Commissioners authorize the Office of County Counsel to initiate and proceed with litigation against the City of Oregon City.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'S. Madkour', written over the text 'Respectfully submitted,'.

Stephen L. Madkour  
County Counsel