

Tonasket City Council Agenda

Tuesday, July 13, 2021

7:00 pm

VIRTUAL ZOOM MEETING ID #835 7547 0157

PHONE #1-253-215-8782

The Mayor, City Council and staff will be present in the Council Room. There will be a limit of 10 people besides the Mayor, Council and Staff that will be allowed in the Council Room. Please contact City Hall, 509-486-2132 prior to the meeting to see if you can get on the list. Otherwise, you may attend via ZOOM.

- 1) Call to Order
- 2) Pledge of Allegiance
- 3) Roll Call
- 4) Approval of Agenda
- 5) Public Comment
- 6) Ed Koonce—Subject “organized neighborhood watch group”
- 7) Kurt Danison Report
- 8) Unfinished Business
 - a) Approval of TranGo Franchise Agreement **Action Item**
- 9) Department Head Reports
- 10) Mayor/Council/Committee Reports
- 11) New Business
 - a) Authorize purchase of snowplow for pick up **Action Item**
 - b) Authorize Varela Engineering to proceed with TIB Application **Action Item**
 - c) Approve Budget Amendment Ordinance #825 **Action Item**
 - d) Approve Budget Amendment Ordinance #826 **Action Item**
 - e) Approve Budget Amendment Ordinance #827 **Action Item**
- 12) Miscellaneous and Correspondence
- 13) Consent Agenda: Minutes of the June 22nd regular City Council Meeting, the June 29th Retreat, the June Payroll and the July Bills. **Action Item**
- 14) Adjournment

Council Memo
Tuesday, July 13, 2021
7:00 pm

VIRTUAL ZOOM MEETING ID #835 7547 0157
PHONE #1-253-215-8782

TO: Mayor and City Councilmembers

FROM: City Clerk-Treasurer

Ed Koonce asked to be on the agenda to talk about a new neighborhood watch group that is being put together and they would like to see if the city would be interested in having a liaison to work with them.

Kurt Danison will be present to give his report.

TranGo has sent a Franchise Agreement to set up a bus stop in the city. This agreement will be sent to Attorney Howe for review. **Suggested Motion: I move to approve the Franchise Agreement with Okanogan Transit Authority.**

The Public Works Department would like to purchase a snow plow for the 2019 Ford pickup. These funds would come from the Equipment Fund. **Suggested Motion: I move to authorize Superintendent Johnson to purchase a snow plow for the 2019 Ford pickup.**

TIB applications are due in August. I do not have the details for the cost of the apps—hope to have that information for Council. At that time a motion will be needed if the Council wants to proceed. **Suggested Motion: I move to authorize Varela Engineering to proceed with the TIB applications for**
_____.

There are three budget amendment ordinances. Please review and let me know if you have questions. **Suggested Motion: I move to adopt Ordinance 825, 826, and 827, budget amendments.**

Minutes of the Tonasket City Council Retreat Tuesday, June 29th, 2021

Present: Mayor Kriner and Councilmembers Alexander, Levine, McMillan, and Weddle.

Staff: Johnson, Nielsen, Holfeltz and Attwood.

The meeting commenced at 5:00 pm.

Public Works Discussion:

- The 2019 Ford Pick-up was built for heavy duty purposes and they would like to purchase a snow plow to attach to the truck to plow snow on the Airport run way and Also to make plowing on the dead end streets easier. This will be placed on the next agenda for approval. There are funds available from the sale of the Road Grader.
 - Discussion on the installation of in ground sprinklers at the old cemetery property. To be placed on the 2022 Budget.
 - Enclose the pole building at the city shop site—2022 budget discussion.
 - Stated the public works department does not have time to connect the school portable unit to the water main. They would like the school contractor to do the hook up.
 - Need new water lines on First Street and Second Street.
 - Need sewer line on Winesap also in the alley between Third Street and Fourth Street. Set up meeting with Varela.
 - The lift station at the sewer plant needs to be upgraded.
 - 100 year flood plain discussion.
 - Councilmember Weddle asked if there is anything the Council can do for communication between the Council and Public Works.
 - The Public works Department would like a copy of the City Code.
 - The Mayor discussed the plaques at History Park that were underneath the trees and how she would like the project completed.
 - Alexander discussed organizing work parties and volunteerism.
 - Levine
 - Discussed the Perfect Passage
 - Discussed the pending Capital Budget request for 2022
 - Reported the need for additional work at the airport
 - The need to replace the trees at the Cemetery, also should we lease the cemetery property that isn't being used.
 - Reported there is irrigation water rights for sale.
 - People should write letters to the County regarding putting the Tonasket Airport Road on their Six Year Transportation Plan.
 - McMillan
 - Discussed Public Safety and radar signs
 - Parking at the Farmers Market—visibility is better.
 - Police Department --- discussion-a new department is not doable, not cost effective
- Further discussion on how to approach and communicate what the Council intends to do regarding a Police Department.
- Weddle
 - Last year Weddle started a finance report and has determined it is not a Council job.
 - Discussion on the Project Board—Levine likes the idea—it is for immediate Council projects.
 - Goals—communication

DRAFT

DRAFT

City Hall:

The clerk reported she continues to work on a new front door for City Hall and will need the dimensions of the old Police Department--Superintendent Johnson will get those numbers.

The Mayor would like to have a clean up day at the south end of town. It was the consensus of the Council to have the clean up on July 24th at 9:00 am.

The meeting was adjourned at 7:38 pm.

Alice J. Attwood, Clerk-Treasurer

Minutes of the Regular Tonasket City Council Meeting Tuesday, June 22, 2021

DRAFT

Present: Mayor Kriner and Councilmembers Alexander, Levine, McMillan, Ritter and Weddle. Ritter on zoom.

Staff: Danison and Attwood

The roll call was taken, all in attendance and the pledge of allegiance was given by all.

Motion to approve the agenda. M/Levine, S/Weddle. Carried 5:0.

Public Comment: None

This meeting has been advertised as a public hearing on the Six Year Transportation Program. Mayor Kriner opened the public hearing. Kurt Danison proceeded to explain the process and the need for a project to be on the plan for potential funding. The number of projects have been pared down. Kurt thanked Superintendent Johnson and Asst. Troy Nielsen for their input. They are the ones that know the streets and the projects to be done. There was brief discussion regarding the Perfect Passage Project and the Plan, then the Mayor closed the hearing portion of the meeting.

Motion to approve Resolution 2021-11 adopting the Six Year Transportation Plan for the Years 2022-2027 with the amendment of the Perfect Passage phases 1 and 2 consistent with all information. M/Weddle, S/Ritter. Motion carried 4:1. McMillan voted no.

Kurt Danison updated the Mayor and Council on a few items.

- Applications for the 2022 Okanogan County Economic Development and Public Infrastructure Prioritization Process is coming up.
- He continues to work on the Shoreline Master Program.
- The Park Plan needs to be completed. He hopes by the end of summer an in person meeting can happen.
- TIB Applications are due in August.

Unfinished Business: None

Mayor/Council/Committee Reports

Mayor

- Discussed fireworks for the 4th of July. Mayor will be talking to the Fire Chief and determine if fireworks will be allowed in Chief Tonasket Park or not.
- Distributed correspondence from Attorney Crandall for them to read.

Motion to have the retreat June 29th at 5 pm in Council Chambers. M/McMillan, S/Weddle. Carried 5:0.

Levine

- Reviewed the Six Year Street Program.
- The Fathers Day Fly In was awesome.
- Had a conversation with Lee Orr regarding additional work needed at the airport.
- IACC is virtual this year.
- Should consider acquiring better internet for city residents.
- TIB applications are due in August.

McMillan

- Met with the Mayor, Sheriff Hawley and Laura Wright, Chief Criminal Deputy, and discussed speeding and other items.
- Checked out the Farmers Market on Thursday, no traffic problems.

Ritter

- Stated microphones sound good, a 100% improvement. Thanks to Greg!
- Broad band needs improvement. Could help with recruiting new businesses.

Weddle

- Finance and Personnel Committees quiet.

- Attended Housing conference—survey data will be compiled.

Alexander

- No Report

Miscellaneous and Correspondence

- The Clerk asked the City Council to consider a new rate of \$3.00 for Senior Citizens at the swim pool.

Motion to charge \$3.00 for Senior Citizens 62 and over at the Swim Pool. M/McMillan, S/Weddle. Carried 5:0.

Review of Personnel Policy. There was brief discussion on the section regarding substance abuse and the importance of having an up to date legal document to protect the employees and the City. Ritter stated the US Forest Service utilizes EAP and the need to make sure resources are available to employees. The document will be sent to the appropriate people for review and compilation.

There being no further business the meeting was adjourned at 8:30 pm.

Alice J. Attwood, Clerk-Treasurer

DRAFT

Ordinance No. 827

AN ORDINANCE of the City of Tonasket, Washington, amending the 2021 Budget Ordinance #819, and Budget Amendments #823, #824 and #825 and #826.

WHEREAS, the City Council of the City of Tonasket adopted the 2021 Budget, Ordinance #819 and budget Amendments #823, 824 and #825 and #826 and;

WHEREAS, in order to bring Equipment Fund #312 up to date the beginning fund balance is being increased to reflect the actual beginning net cash and investments.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TONASKET, WASHINGTON, as follows:

		Revenues	
Section 1.	2021 Budget Equipment Fund		Amended
Beginning Fund Balance	1,800.75		18,703.58
Transfer In	2,000.00		2,000.00
Interest	<u>20.00</u>		<u>20.00</u>
Total	\$3,820.75		\$20,723.58

		Expenditures	
Capital Outlay	<u>\$3,820.75</u>		<u>\$20,723.58</u>
Total 2021 Budget (amended)			\$4,000,530.25
Budget Amendment Ordinance #827			<u>16,902.83</u>
Total Amended 2021 Budget			<u>\$4,017,433.08</u>

This ordinance shall become effective from and after its passage by the Council, approval by the Mayor and five days after publication as required by law.

PASSED BY THE CITY COUNCIL this _____ day of _____, 2021.

APPROVED:

Marylou Kriner, Mayor

ATTEST:

Alice J. Attwood, Clerk-Treasurer

APPROVED AS TO FORM:

Michael Howe, City Attorney

Ordinance No. 826

AN ORDINANCE of the City of Tonasket, Washington, amending the 2021 Budget Ordinance #819, and Budget Amendments #823, #824 and #825.

WHEREAS, the City Council of the City of Tonasket adopted the 2021 Budget, Ordinance #819 and budget Amendments #823, 824 and #825 and;

WHEREAS, it was not known at the time of the adoption of the budget the City would be receiving American Rescue Plan Act Funds.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TONASKET, WASHINGTON, as follows:

Section 1. A new fund #104 American Rescue Plan will be created to track the revenues and expenditures for the projects to be determined by the Tonasket Mayor and City Council.

Section 2.

New Fund #104 American Rescue Plan Fund

Revenues	\$156,462.00
Expenditures	\$156,462.00

Total 2021 Budget (amended)	\$3,844,068.25
Budget Amendment Ordinance #826	<u>156,462.00</u>
Total Amended 2021 Budget	\$4,000,530.25

This ordinance shall become effective from and after its passage by the Council, approval by the Mayor and five days after publication as required by law.

PASSED BY THE CITY COUNCIL this _____ day of _____, 2021.

APPROVED:

Marylou Kriner, Mayor

ATTEST:

Alice J. Attwood, Clerk-Treasurer

APPROVED AS TO FORM:

Michael Howe, City Attorney

Ordinance No. 825

AN ORDINANCE of the City of Tonasket,
Washington, amending the 2021 Budget
Ordinance #819 and Budget Amendment #823
And Amendment #824

WHEREAS, the City Council of the City of Tonasket adopted the budget for the 2021,
Ordinance #819 and Budget Amendment #823 and #824; and

WHEREAS, the hourly wage rates have been determined for the Tonasket Community Swim
Pool; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
TONASKET, WASHINGTON**, as follows:

Section 1. The wages for the Tonasket Community Swim Pool will be as stated on the attached
amended wages form for 2021 and effective 5/01/2021.

This ordinance shall become effective from and after its passage by the Council, approval by the
Mayor and five days after publication as required by law.

PASSED BY THE CITY COUNCIL this _____ day of _____, 2021.

APPROVED:

Marylou Kriner, Mayor

ATTEST:

Alice J. Attwood, Clerk-Treasurer

APPROVED AS TO FORM:

Michael Howe, City Attorney

2021 Wages amended 7-13-2021

The following wages for employees of the City of Tonasket are hereby fixed as follows to commence January 1, 2021. (Does not include longevity)

Mayor	\$650.00 per month		Current Expense Fund
Councilmembers (current)	\$75 per regular meeting & \$75 per one extra council meeting per month		Current Expense Fund
Judge	\$170.56 per month		Current Expense Fund
Clerk-Treasurer		Amended Wages 27.71 per hour	30% Current Exp. Fund 35% Water Fund 35% Sewer Fund
Utility Clerk/Court Clerk		16.86 per hour	10% Judicial 16% Current Expense 37% Water Fund 37% Sewer Fund
Deputy Clerk-Treasurer		20.28 per hour	5% Judicial/Current Exp. 30% Current Expense 5% Cemetery Operating 30% Water Fund 30% Sewer Fund
City Superintendent		27.71 per hour	these per centages may change accord. to certs. and job descrip.
#2 Asst. Superintendent		25.10 per hour	15% City Street 50% Water Fund 35% Sewer Fund
#3 W/S/St Maintenance		21.47 per hour	15% City Street 42.5% Water Fund 42.5% Sewer Fund
#4 Position Maint.		19.18 per hour	15% City Street 35% Water Fund 50% Sewer Fund
		March - October	15% Park 15% Cemetery 20% Street 25% Water 25% Sewer
		Nov - Feb	30% City Street 35% Water Fund

		35% Sewer Fund
Seasonal position	\$15.50 per hour	75% Park 25% Cemetery
Swim Pool Manager	15.19 per hour	100% Pool Fund
Swim Pool Lifeguards	13.69 per hour	100% Pool Fund
Swim Pool Lifeguards fill in for manager	13.94 per hour	100% Pool fund

Extra labor, overtime, and time worked in the Parks & Cemetery by the Public Works Dept. min. wage up to \$27.71 per hour. Also, includes the City Street Fund, Water Fund & Sewer Fund.

The rates above do not include the longevity pay.

The Public Works Department, full time employees will receive \$25 per day for on call time on weekends and holidays. Then they will receive a minimum of 2 hours at time and one-half for inspection of the water and sewer systems on the weekends and holidays.

TO: Mayor Kriner
City Council Member
City Public Works Department
FROM: Kelly Scalf
DATE: July 9, 2021

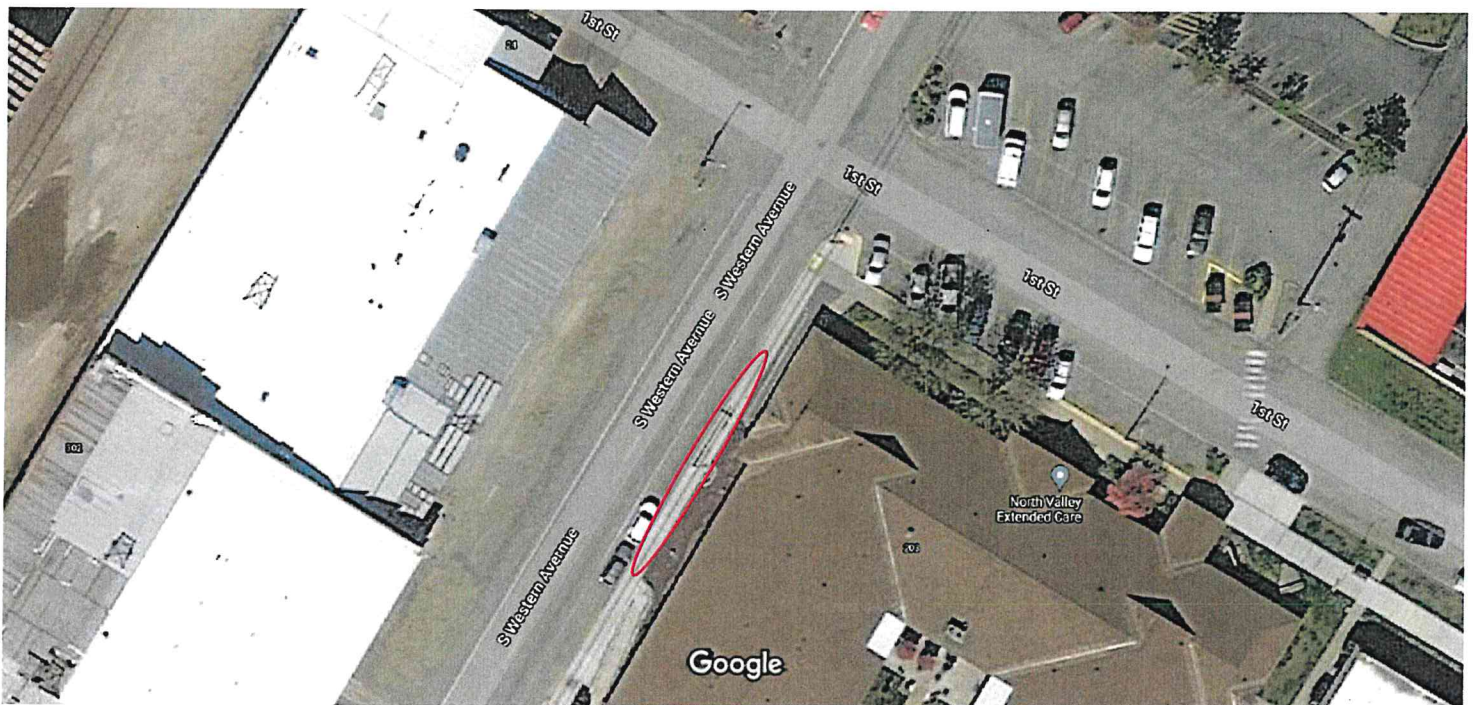
Okanogan County Transit Authority (TranGO) provides public transportation services throughout Okanogan County. In order to better accommodate riders and provide professional service, TranGO would like to install a bus stop sign for passenger convenience.

Within the City of Tonasket, TranGO would like permission to place a bus stop sign in the following location on the public right-of-way:

- **Sign** – S. Western Avenue and 1st Street adjacent to the North Valley Extended Care.

This location will serve as the transfer location for passengers riding the North Okanogan (Oroville to Tonasket) and Mid-Okanogan (Tonasket-Okanogan) routes. The buses will meet here for approximately 5 minutes at 9:55am, 11:55am, 2:55pm and 5:10pm Monday through Saturday.

**This proposal replaces the previously submitted proposal dated October 21, 2019, and May 26, 2020.*



FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT, hereinafter "Agreement," is made and entered into this ____ day of _____, 2020, by and between the **CITY OF TONASKET**, a Washington municipal corporation, hereinafter "City," and the **OKANOGAN COUNTY TRANSIT AUTHORITY**, a public transportation benefit area established under RCW 36.57A, hereinafter "OCTA," and collectively the "Parties."

RECITALS:

- A.** OCTA operates a public transportation system within Okanogan County that provides public transportation to the residents and guests of Okanogan County. OCTA utilizes permanent Shelters and signage to better accommodate and protect riders of OCTA's public transportation system; and
- B.** Utilization of such shelters and signage requires the installation, construction, operation and maintenance of permanent structures designed to shelter riders and/or signage designed to designate such Shelters, within the City rights-of-way and sidewalks, hereinafter "Shelters"; and
- C.** OCTA has requested that the City provide a non-exclusive franchise to construct, operate and maintain the Shelters at such location within the City described in Exhibit A attached hereto and incorporated herein as though fully set forth and as shown on **Exhibit B** attached hereto and incorporated herein as though fully set forth; and
- D.** Washington state statutes authorize the City to grant non-exclusive franchises for such purpose.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the Parties do hereby as follows:

1. Definitions. For the purposes of this Agreement, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined shall be given their common and ordinary meaning.

1.1 Construct or Construction shall mean adding, removing, replacing and repairing the Shelters and may include, but is not limited to, digging, boring and/or removal of concrete or asphalt for the purposes of adding, removing, replacing and repairing the Shelters.

1.2 Effective Date shall mean full execution by the Parties, and after passage, approval and five (5) days after legal publication of the ordinance authorizing this Agreement.

1.3 Shelters shall mean OCTA's permanent structures designed to shelter OCTA riders and/or signage designed to designate such Shelters, and any other facilities necessary for the purpose of maintaining the Shelters by OCTA, whether currently in place, or if later added, reconstructed or improved.

1.4 Agreement shall mean this Franchise Agreement and any amendments, exhibits or appendices to this Agreement.

1.5 Franchise Area means the area within the jurisdictional boundaries of the City described in **Exhibit A** attached hereto and as specifically shown on **Exhibit B** attached hereto.

1.6 Maintenance or Maintain shall mean examining, inspecting, repairing, maintaining, cleaning and replacing the Shelters or any part thereof as required and necessary for safe and clean operation.

1.7 Operate or Operations shall mean the use of the Shelters within and through the Franchise Area.

1.8 Rights-of-Way means the surface and the space above and below streets, roadways, highways, avenues, courts, lanes, alleys, sidewalks, easements, rights-of-way and similar public property and areas located within the Franchise Area.

2. Grant of Authority.

2.1 The City hereby grants to OCTA, its successors and assigns (as provided in Section 4), the right, privilege, authority and franchise to construct, operate and maintain its Shelters within the Franchise Area.

2.2 This Agreement is non-exclusive. The City reserves all rights to its property, including, without limitation, the right to grant additional

franchises, easements, licenses and permits to others to use the rights-of-way and public properties, provided that the City shall not grant any other franchise, license, easement or permit that would unreasonably interfere with OCTA's permitted use under this Agreement. This Agreement shall in no manner prohibit the City or limit its power to perform work upon its rights-of-way, public properties or make all necessary changes, relocations, repairs, maintenance, establishment, improvement thereto, or from using any of the rights-of-way and public properties, or any part of them, as the City may deem fit from time to time, including the dedication, establishment, maintenance and improvement of all new rights-of-way and other public properties of every type and description.

2.3 This Agreement is conditioned upon the terms and conditions contained herein and OCTA's compliance with all applicable federal, state or other regulatory programs that currently exist or may hereafter be enacted by any regulatory agencies with jurisdiction over OCTA.

2.4 By granting this franchise, the City is not assuming any risks or liabilities therefrom, which shall be solely and separately borne by OCTA. OCTA agrees and consents to, at its sole cost and expense, take all necessary and prudent steps to protect, support, and keep safe from harm its Shelters or any part thereof, when necessary to protect the public health and safety. OCTA and City agree that such limitation of liability shall not extend to protect the City from risks or liabilities caused by actions taken by, or on behalf of, the City for which OCTA has no control.

2.5 This Agreement is only intended to convey a limited right and interest. It is not a warranty of title or interest in the City's rights-of-way or other public property. None of the rights granted herein shall affect the City's jurisdiction over its property, streets or rights-of-way.

2.6 The limited rights and privileges granted under this Agreement shall not convey any right to OCTA to install any additional Shelters without the express written consent of the City.

3. Term. Each of the provisions of this Agreement shall become effective upon the Effective Date as defined herein, and shall remain in effect for _____ years thereafter. Both Parties shall consent and agree to bargain in good faith to renew this Agreement subject to such changes as may be required to reflect changed conditions.

4. Assignment and Transfer of Franchise.

4.1 This Agreement shall not be leased, assigned or otherwise alienated without the express consent of the City, which approval shall not be unreasonably withheld.

4.2 Subject to the foregoing, County and any proposed assignee or transferee shall provide and certify the following to the City not less than one hundred twenty (120) days prior to the proposed date of transfer:

(a) Complete information setting forth the nature, terms and conditions of the proposed assignment or transfer;

(b) All information required by the City of the assignment or transfer; and,

(c) An application fee which shall be set by the City, plus any other costs actually and reasonably incurred by the City in processing and investigating the proposed assignment or transfer.

4.3 No transfer shall be approved unless the assignee or transferee has at least the legal, technical, financial, and other requisite qualifications to carry on the activities of OCTA.

4.4 Any transfer or assignment of this Agreement without the prior written consent of the City shall be void and result in revocation of the Agreement.

5. Compliance with Laws and Standards.

5.1 In carrying out any authorized activities under the privileges granted herein, OCTA shall meet accepted industry standards and comply with all applicable codes and regulations of the City and laws of any governmental entity with jurisdiction over the Shelters and their operation. This shall include all applicable codes, laws, rules and regulations existing at the Effective Date of this Agreement or that may be subsequently enacted by the City and/or any governmental entity with jurisdiction over OCTA and/or the Shelters.

5.2 In the case of any conflict between the terms of this Agreement and the terms of the City's ordinances, codes, regulations, standards and procedures, this Agreement shall govern.

6. Construction and Maintenance.

6.1 All Shelter additions, construction, maintenance or operation undertaken by OCTA or upon OCTA's behalf shall be professionally completed by employees of OCTA having the proper training and authority to complete such work or by a licensed contractor or entity in a workmanlike manner.

6.2 Except in the case of an emergency, prior to commencing any additions or construction work in the Franchise Area, OCTA will first file with the City such plans, specifications and profiles of the intended work as may be required by the City. The City may require such additional information, plans and/or specifications as are in the City's opinion necessary to protect the public health and safety during the construction and/or maintenance work and for the remaining term of this Agreement.

6.3 All construction and/or maintenance work shall be performed in conformity with the maps and specifications filed with the City, except in instances in which deviation may be allowed thereafter in writing pursuant to an application by OCTA.

6.4 All Shelters within the Franchise Area shall comply with applicable City, state and federal regulations, as from time to time amended.

6.5 Except in the event of an emergency, OCTA shall provide the City at least ten (10) calendar days' written notice prior to any addition or construction, or other substantial activity, other than routine inspections and maintenance, by OCTA, its agents, employees or contractors on OCTA's Shelters within the Franchise Area.

6.6 Work shall only commence upon the issuance of applicable approval by the City, which approval shall not be unreasonably withheld or delayed. However, in the event of an emergency requiring immediate action by OCTA for the protection of the Shelters, the City's property or other persons or property, OCTA may proceed without first obtaining the normally required approval. In such event, OCTA must (1) take all necessary and prudent steps to protect, support, and keep safe from harm its Shelters, or any part thereof; the City's property; or other persons or property, and to protect the public health and safety; and (2) as soon as possible thereafter, must obtain the required approval and comply with any mitigation requirements or other conditions in the after-the-fact approval.

6.7 Unless such condition or regulation is in conflict with a local, state or federal requirement, the City may condition the granting of any approval that is required under this Agreement, in any manner reasonably necessary for the safe use and management of the public rights-of-way or the City's property including, by way of example and not limitation, maintaining proper distance from other utilities, protecting the continuity of pedestrian and vehicular traffic and protecting any rights-of-way improvements, private facilities and public safety.

6.8 Whenever necessary, after constructing or maintaining any of the Shelters within the Franchise Area, OCTA, without delay, and at OCTA's sole expense, remove all debris and restore the surface, or any area above surface, including any roadways, sidewalks or gutters, and including any surface, above surface or sub-surface improvements or utilities, to the same or prior condition as it was in before the work began. OCTA shall replace any property corner monuments, survey reference or hubs that were disturbed or destroyed during OCTA's work in the areas covered by this Agreement. Such restoration shall be done in a manner consistent with applicable codes and laws, under the supervision of the City and to the City's satisfaction and specifications.

6.9 Nothing in this Agreement shall be deemed to impose any duty or obligation upon the City to determine the adequacy or sufficiency of OCTA's plans and designs or to ascertain whether OCTA's proposed or actual construction, maintenance, repairs, replacement or removal is adequate or sufficient or in conformance with the plans and specifications reviewed by the City.

6.10 OCTA shall be solely and completely responsible for workplace safety and safe working practices on its job sites within the Franchise Area, including safety of all persons and property during the performance of any work.

7. Operations, Maintenance and Inspection. OCTA shall operate, maintain and inspect its Shelters in the Franchise Area in full compliance with the applicable provisions of all federal, state and local laws, regulations and standards, as now enacted or hereafter amended, and any other future laws or regulations that are applicable to the Shelters.

8. Relocation.

8.1 In the event that the City undertakes or approves the construction of or changes to the grade or location of any water, sewer or storm drainage line, street, sidewalk or other City improvement project and the City determines that the project might reasonably require the relocation of any of the Shelters, the City shall provide OCTA at least one hundred and twenty (120) calendar days prior written notice or such additional time as may reasonably be required, of such project requiring relocation of the Shelters.

8.2 OCTA may, after receipt of written notice requesting a relocation of any of its Shelters, submit to the City written alternatives to the relocations within forty-five (45) calendar days of receiving the plans and specifications. The City shall evaluate the alternatives and advise OCTA in writing within forty-five (45) days if one or more of the alternatives are suitable to accommodate the work that would otherwise necessitate relocation of the Shelters. If requested by the City, OCTA shall submit additional information to assist the City in making their evaluation. The City shall give each alternative proposed by OCTA full and fair consideration, but ultimately if none of the proposed alternatives provided by OCTA reasonably addresses the conflict requiring relocation, the City retains full discretion to decide for itself whether to utilize their original plan. In the event the City ultimately determines that there are no other reasonable alternatives and requires relocation of any of the Shelters, OCTA shall be responsible for all costs associated with the City's request for relocation of the Shelters.

8.3 The City shall work cooperatively with OCTA in determining a viable and practical area within which OCTA may relocate its Shelters, in order to minimize costs while meeting the City's project objectives.

8.4 OCTA shall complete relocation of its Shelters so as to accommodate the improvement project at least ten (10) calendar days prior to commencement of the improvement project or such other time as the Parties may agree in writing.

9. Removal, Abandonment in Place.

9.1 In the event of OCTA's permanent cessation of use of any of its Shelters within the Franchise Area, OCTA shall, within one hundred and eighty (180) days after the cessation of use, remove the Shelters or any portion thereof if required by the City in writing.

9.2 In the event of the removal of all or a portion of the Shelters, OCTA shall restore the Franchise Area to the same or prior condition as it was in before the work began.

9.3 Removal and restoration work shall be done at OCTA's sole cost and expense and to City's reasonable satisfaction.

9.4 If OCTA is required to remove any of its Shelters and fails to do so and/or fails to adequately restore the Franchise Area or other mutually agreed upon action(s), the City may, after reasonable notice to OCTA, remove any of the Shelters, restore the premises and/or take other action as is reasonably necessary at OCTA's expense. This remedy shall not be deemed to be exclusive and shall not prevent the City from seeking a judicial order directing that the Shelters be removed.

9.5 With the express written consent of the City, OCTA may abandon its Shelters in place. The City's consent to the abandonment of Shelters in place shall not relieve OCTA of the obligation and/or costs to remove or to alter such Shelters in the future in the event it is reasonably determined that removal or alterations is necessary or advisable for the health and safety of the public, in which case OCTA shall perform such work at no cost to the City.

9.6 The Parties expressly agree that Paragraph 9.5 shall survive the expiration, revocation or termination of this Agreement.

10. Violations, Remedies and Termination.

10.1 In addition to any rights set out elsewhere in this Agreement, or other rights it may possess at law or equity, the City reserves the right to apply any of the remedies in this Section 10, alone or in combination, in the event either party violates any material provision of this Agreement. The remedies provided for in this Agreement are cumulative and not exclusive; the exercise of one remedy shall not prevent the exercise of another or any rights of the Parties at law or equity. Provided, either party shall have the right to challenge and defend against any allegations of such material violations through any remedy afforded under this Agreement.

10.2 The City may also terminate this Agreement if OCTA materially breaches or otherwise fails to perform, comply with or otherwise observe any of the terms and conditions of this Agreement, or fails to maintain all required licenses and approvals from federal, state, and local jurisdictions,

and fails to cure such breach or default within thirty (30) calendar days of the City's providing OCTA written notice thereof, or, if not reasonably capable of being cured within thirty (30) calendar days, within such other reasonable period of time as the Parties may agree.

10.3 This Agreement shall not be terminated by the City except for cause and upon a majority vote of the full membership of the City Council, after reasonable notice to OCTA and an opportunity to be heard, provided that if exigent circumstances necessitate immediate termination, the hearing may be held as soon as possible after the termination.

10.4 In the event of termination under this Agreement, OCTA shall immediately discontinue use of the Shelters in the Franchise Area. Either party may in such case invoke the dispute resolution provisions. Alternatively, the City may elect to seek relief directly in Okanogan County Superior Court, in which case the dispute resolution requirements shall not be applicable in this limited situation. Once OCTA's rights to operate in the Franchise Area have terminated, OCTA shall comply with Section 9 herein.

10.5 The failure of either party to exercise a particular remedy at any time shall not waive either party's right to terminate, assess penalties, or assert that or any other remedy at law or equity for any future breach or default.

10.6 Termination of this Agreement shall not release OCTA from any liability or obligation with respect to any matter occurring prior to such termination, nor shall such termination release OCTA from any obligation to remove or secure the Shelters pursuant to this Agreement and to restore the Franchise Area.

10.7 The Parties acknowledge that the covenants set forth herein are essential to this Agreement, and, but for the mutual agreements of the Parties to comply with such covenants, the Parties would not have entered into this Agreement. The Parties further acknowledge that they may not have an adequate remedy at law if the other party violates such covenant. Therefore, the Parties shall have the right, in addition to any other rights they may have, to obtain in any court of competent jurisdiction injunctive relief to restrain any breach or threatened breach or otherwise to specifically enforce any of the covenants contained herein should the other party fail to perform them.

11. Dispute Resolution.

11.1 In the event of a dispute between the City and OCTA arising by reason of this Agreement, the dispute shall first be referred to the officers or representatives designated by the City and OCTA to have oversight over the administration of this Agreement. The officers or representatives shall meet within thirty (30) calendar days of either party's request for a meeting, whichever request is first, and the Parties shall make a good faith effort to achieve a resolution of the dispute.

11.2 If the Parties are unable to resolve the dispute under the procedure set forth in this Section, the Parties hereby agree that the matter shall be referred to mediation. The Parties shall mutually agree upon a mediator to assist them in resolving their differences. If the Parties are unable to agree upon a mediator, the Parties shall jointly obtain a list of five (5) mediators from a reputable dispute resolution organization and alternate striking mediators on that list until one remains. A coin toss shall determine who may strike the first name. If a party fails to notify the other party of which mediator it has stricken within two (2) business days, the other party shall have the option of selecting the mediator from those mediators remaining on the list. Any expenses incidental to mediation shall be borne equally by the Parties.

11.3 If the Parties fail to achieve a resolution of the dispute through mediation, either party may then pursue any available judicial remedies, provided that if the party seeking judicial redress does not substantially prevail in the judicial action, it shall pay the other party's reasonable legal fees and costs incurred in the judicial action.

12. Indemnification.

12.1 OCTA shall indemnify, defend and hold harmless the City from any and all liability, loss, damage, cost, expense, and claim of any kind, including reasonable attorney's and expert's fees incurred by the City in defense thereof, arising out of or related to, directly or indirectly, the installation, construction, operation, use, location, repair, maintenance, removal, or abandonment of the Shelters, or from the existence of the Shelters, and any liability for costs of investigation, abatement, correction, cleanup, fines, penalties, or other damages arising under any environmental laws. If any action or proceeding is brought against the City by reason of the Shelters, OCTA shall defend the City at OCTA's complete expense, provided that, for

uninsured actions or proceedings, defense attorneys shall be approved by the City, which approval shall not be unreasonably withheld.

12.2 The City shall likewise indemnify, defend and hold harmless the OCTA from any and all liability, loss, damage, cost, expense or claim of any kind, including reasonable attorney's and expert's fees incurred by OCTA in defense thereof, arising out of or related to, directly or indirectly, any actions implemented by, or on behalf of the City found to be negligent and which results in damages of any kind relating to the City's obligations under this Agreement.

12.3 The indemnity provisions contained herein shall survive the termination of this Agreement and shall continue for as long as the Shelters shall remain in or on the Franchise Area or until the Parties execute a new franchise agreement which modifies or terminates the indemnity provisions.

13. Insurance Requirements.

13.1 During this Agreement, OCTA shall provide and maintain, at its own cost, an insurance policy or coverage through an approved risk pool in the amount of ONE MILLION U.S. DOLLARS (\$1,000,000.00) for each occurrence, and TWO MILLION U.S. DOLLARS (\$2,000,000.00) general policy aggregate, with an insurance company or risk pool authorized to do business in the State of Washington, to cover any and all insurable liability, damage, claims and loss as set forth in Section 12 above. Coverage shall include, but is not limited to, all defense costs, at a minimum covering liability from sudden and accidental occurrences.

13.3 The insurance provisions contained herein shall survive the termination of this Agreement and shall continue for as long as the Shelters shall remain in or on the Franchise Area or until the Parties execute a new franchise agreement which modifies or terminates the insurance provisions.

14. Legal Relations.

14.1 Nothing contained in this Agreement shall be construed to create an association, trust, partnership, agency relationship, or joint venture or to impose a trust, partnership, or agency duty, obligation or liability on or with regard to either party. Each party shall be individually and severally liable for its own duties, obligations, and liabilities under this Agreement.

14.2 OCTA accepts any privileges granted by the City to the Franchise Area, public rights-of-way and other public property in an "as is" condition. OCTA agrees that the City has never made any representations, implied or express warranties or guarantees as to the suitability, security or safety of OCTA's location of the Shelters or the Shelters themselves in public property or rights-of-way or possible hazards or dangers arising from other uses of the public rights-of-way or other public property by the City or the general public. OCTA shall remain solely and separately liable for the function, testing, maintenance, replacement and/or repair of the Shelters or other activities permitted under this Agreement.

14.3 This Agreement shall be governed by, and construed in accordance with, the laws of the State of Washington and the Parties agree that in any action, except actions based on federal questions, venue shall lie exclusively in Okanogan County, Washington.

15. Miscellaneous.

15.1 In the event that a court or agency of competent jurisdiction declares a material provision of this Agreement to be invalid, illegal or unenforceable, the Parties shall negotiate in good faith and agree, to the maximum extent practicable in light of such determination, to such amendments or modifications as are appropriate actions so as to give effect to the intentions of the Parties as reflected herein. If severance from this Agreement of the particular provision(s) determined to be invalid, illegal or unenforceable will fundamentally impair the value of this Agreement, either party may apply to a court of competent jurisdiction to reform or reconstitute this Agreement so as to recapture the original intent of said particular provision(s). All other provisions of this Agreement shall remain in effect at all times during which negotiations or a judicial action remains pending.

15.2 Whenever this Agreement sets forth a time for any act to be performed, such time shall be deemed to be of the essence, and any failure to perform within the allotted time may be considered a material violation of this Agreement.

15.3 In the event that OCTA is prevented or delayed in the performance of any of its obligations under this Agreement by reason(s) beyond the reasonable control of OCTA, then OCTA's performance shall be excused during the force majeure occurrence. Upon removal or termination of the force majeure occurrence, OCTA shall promptly perform the affected obligations in an orderly and expedited manner under this Agreement or procure a substitute

for such obligation or performance that is satisfactory to City. OCTA shall not be excused by mere economic hardship nor by misfeasance or malfeasance of its directors, officers or employees.

15.4 The Section headings in this Agreement are for convenience only, and do not purport to and shall not be deemed to define, limit, or extend the scope or intent of the Section to which they pertain.

15.5 By entering into this Agreement, the Parties expressly do not intend to create any obligation or liability, or promise any performance to, any third party, nor have the Parties created for any third party any right to enforce this Agreement.

15.6 This Agreement and all of the terms and provisions shall be binding upon and inure to the benefit of the respective successors and assignees of the Parties.

15.7 Whenever this Agreement calls for notice to or notification by any party, the same (unless otherwise specifically provided) shall be in writing and directed to the recipient at the address set forth in this paragraph, unless written notice of change of address is provided to the other party. If the date for making any payment or performing any act is a legal holiday, payment may be made or the act performed on the next succeeding business day which is not a legal holiday.

Notices shall be directed to the Parties as follows:

To the City:

City of Tonasket
209 South Whitcomb Ave.
Tonasket, WA 98855
Attn: City Clerk

To OCTA:

Okanogan County Transportation
Authority
Box 507
Okanogan, WA 98840
Attn: General Manager

15.8 The Parties each represent and warrant that they have full authority to enter into and to perform this Agreement, that they are not in default or violation of any permit, license, or similar requirement necessary to carry out the terms hereof, and that no further approval, permit, license, certification, or action by a governmental authority is required to execute and perform this Agreement, except such as may be routinely required and obtained in the ordinary course of business.

15.9 This Agreement may be executed in any number of counterparts, each of which shall constitute an original as against any party

whose signature appears on them, all of which together shall constitute a single instrument. The Agreement shall become binding when one or more counterparts, individually or taken together, bear the signatures of all Parties.

15.10 This Agreement represents the entire understanding and agreement between the Parties with respect to the subject matter and it supersedes all prior oral negotiations between the Parties. This Agreement can be amended, supplemented, modified or changed only by an agreement in writing which makes specific reference to this Agreement and which is signed by the party against whom enforcement of any such amendment, supplement, modification or change is sought.

CITY OF TONASKET

By _____
Marylou Kriner, Mayor

ATTEST:

By _____
Alice Attwood, City Clerk-Treasurer

OCTA

By _____
Cindy Gagne', Chairperson,
Board of Directors

ATTEST:

Jackie Gleason, Clerk of the
Board of Directors

STATE OF WASHINGTON)
County of Okanogan)ss:

I certify that I know or have satisfactory evidence that Marylou Kriner and Alice Attwood are the persons who appeared before me, and said persons acknowledged that they signed this instrument, on oath stated that they are authorized to execute the instrument and acknowledged it as the Mayor and Clerk, respectively, of the City of Tonasket, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED _____, 2020.

seal

printed name _____
NOTARY PUBLIC in and for the State of
Washington, residing at _____.
My commission expires _____.

STATE OF WASHINGTON)
County of Okanogan)ss:

I certify that I know or have satisfactory evidence that Cindy Gagne' and Jackie Gleason are the persons who appeared before me, and said persons acknowledged that they signed this instrument, on oath stated that they are authorized to execute the instrument and acknowledged it as the Chairperson of the Board of Directors and Clerk of the Board of Directors, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED _____, 2020.

seal

printed name _____
NOTARY PUBLIC in and for the State of
Washington, residing at _____.
My commission expires _____.

EXHIBIT A

EXHIBIT B