



CANBY FIRE DISTRICT

221 S. Pine Street, Canby, OR 97013
Bus. 503-266-5851 / Fax 503-266-1320

April 1, 2020

HAND DELIVERED

Honorable Mayor Hodson and Members of the City Council
City of Canby
222 NE 2nd Avenue
Canby, OR 97013

**Re: Clackamas County Strategic Investment Zone Agreement between City of Canby and
COHO Distributing LLC, dba Columbia Distributing**

Dear Mayor Hodson and Members of the City Council:

Canby Rural Fire Protection District ("Canby Fire") again requests that Resolution No. 1330 approving the Columbia Distributing Warehouse ("Project") for tax abatement be tabled pending determination of whether the Project, or portions of the Project, are eligible under the terms and conditions of Strategic Investment Zones ("SIZs"). Canby Fire requests tabling of the Resolution because the Mayor and Council have been provided incorrect information in the City Council Staff Report dated April 1, 2020 and in prior meetings, there are no legal opinions from the state or otherwise justifying the position that the Project is eligible, and Canby Fire has requested a legal opinion from the Attorney General's office which is pending. In the alternative, Canby Fire requests that the Resolution be denied because the City is not required to approve the Project and the only legal opinion of record opines that the Project does not qualify under the SIZ criteria.

Before addressing the above points, Canby Fire must first comment on the lack of a substantive response from City staff to reasonable inquiries from our legal counsel and Fire Chief to share information supporting the eligibility of the Project. Canby Fire has not been provided any information, but has been directed to pursue the untimely and perhaps costly process of a formal public records request. The City Attorney has also declined to provide any analysis, even verbally, supporting the eligibility of the Project.

Regarding the staff report, it states that after much discussion between Business Oregon, Columbia Distributing, Clackamas County, and the City of Canby, Business Oregon has deemed the Project eligible. That is not correct. Our legal counsel talked with the lead person at Business Oregon, Arthur Fish, a Business Incentives Coordinator, and he advised that he talked only with the applicant and the general counsel for Oregon Business. The City

and County were not involved. Mr. Fish further advised that Oregon Business did not formally consider eligibility. He stated that he considered eligibility in his capacity, and after he determined that the Project was partially eligible, he discussed how much of the Project should be eligible with his Attorney General, Wendy Johnson. Our legal counsel talked with AG Johnson, and confirmed that she did not provide a written opinion regarding eligibility. Her participation assumed the Project was eligible, and the question was how much of the Project should be eligible given the work completed prior to the application. Our legal counsel asked her to address the issue of whether or not the Project was eligible at all, and she said "[I] can't say if the Project is eligible or not at this time," but that issue would be decided by the Oregon Business Commission, and she would probably be asked to provide a legal opinion supporting eligibility. AG Johnson opined that a project could proceed after application but before consideration and approval by the Business Oregon Commission. She also opined that a Project could have different phases that could be approved. Those circumstances do not apply to this Project.

Our legal counsel also observed the representation by the City Attorney to the Mayor and City Council that the City must approve the Project. The City Attorney has declined to provide any information supporting that legal conclusion, and our legal counsel cannot find any statute, administrative rule, or other legal justification for such a position. It is noted that the City Attorney has advised that he declines to respond based on the false assertion that our legal counsel is seeking his legal advice. That is incorrect, we are seeking the basis for his legal opinion.

Since the only legal opinion of record is that of Canby Fire's legal counsel opining that the Project is not eligible, and Business Oregon has not deemed it necessary or prudent to obtain a legal opinion, Canby Fire has initiated the process to obtain an Attorney General Opinion regarding the eligibility of the Project. We will be requesting the opinion as soon as possible.

For the record, if approved, significant additional burdens will be placed on Canby Fire, which in turn will affect the quality and timeliness of medical and emergency responses to all of the citizens in our district.

Sincerely,

Canby Rural Fire Protection District
Chair of the Board

A handwritten signature in black ink, appearing to read "Steve Thoroughman", written over a horizontal line.

Steve Thoroughman