



AGENDA

CANBY CITY COUNCIL MEETING

April 6, 2016

7:30 PM

Council Chambers
155 NW 2nd Avenue

Mayor Brian Hodson

*Council President Tim Dale
Councilor Clint Coleman
Councilor Tracie Heidt*

*Councilor Traci Hensley
Councilor Greg Parker
Councilor Todd Rocha*

CITY COUNCIL MEETING

1. CALL TO ORDER

- A. Invocation
- B. Pledge of Allegiance
- C. National Library Week Proclamation Pg. 1
- D. Grange Month Proclamation Pg. 2
- E. Presentation on Clackamas County and the Regional Economy

2. COMMUNICATIONS

3. CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS

(This is an opportunity for visitors to address the City Council on items not on the agenda. It is also the time to address items that are on the agenda but not scheduled for a public hearing. Each citizen will be given 3 minutes to give testimony. Citizens are first required to fill out a testimony/comment card prior to speaking and hand it to the City Recorder. These forms are available by the sign-in podium. Staff and the City Council will make every effort to respond to questions raised during citizens input before tonight's meeting ends or as quickly as possible thereafter.)

4. MAYOR'S BUSINESS

5. COUNCILOR COMMENTS & LIAISON REPORTS

6. CONSENT AGENDA

(This section allows the City Council to consider routine items that require no discussion and can be approved in one comprehensive motion. An item may be discussed if it is pulled from the consent agenda to New Business.)

- A. Approval of Minutes of the March 16, 2016 City Council Regular Meeting
- B. Reappointment to City Budget Committee Pg. 3
- C. Reappointment to the Historic Review Board Pg. 4
- D. Reappointment to the Library Board Pg. 5
- E. Appointment to the Parks and Recreation Advisory Board Pg. 7
- F. Reappointments to the Parks and Recreation Advisory Board Pg. 11
- G. Reappointment to the Traffic Safety Commission Pg. 13

7. RESOLUTIONS & ORDINANCES

- A. Ord. 1436, Authorizing Contract w/Eagle-Elsner, Inc. in the amount of \$684,476.00 with Authorization to Expand the Scope to an Amount not to Exceed \$700,000.00 for Construction of the 2016 Street Maintenance Program; and Declaring an Emergency Pg. 14
- B. Ord. 1437, Amending CMC Chapter 2.20.070 Regarding the Public Library Pg. 26
- C. Ord. 1438, Authoring the City of Canby to Enter into a Purchase and Sale Agreement with Pioneer Property, LLC for the Purchase of Real Property Pg. 28

8. NEW BUSINESS

- A. Discussion Regarding Councilor Summer Vacation Schedules

9. CITY ADMINISTRATOR'S BUSINESS & STAFF REPORTS

10. CITIZEN INPUT

11. ACTION REVIEW

12. EXECUTIVE SESSION: ORS 192.660(2)(h) Litigation

13. ADJOURN

*The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Kim Scheafer at 503.266.0733. A copy of this Agenda can be found on the City's web page at www.ci.canby.or.us. City Council and Planning Commission Meetings are broadcast live and can be viewed on CTV Channel 5. For a schedule of the playback times, please call 503.263.6287.



Office of the Mayor

Proclamation

National Library Week

WHEREAS, libraries everywhere play a vital role in supporting the quality of life in their communities; and

WHEREAS, our nation's school, academic, public and special libraries make a difference in the lives of millions of Americans, today, more than ever; and

WHEREAS, librarians are trained professionals, helping people of all ages and backgrounds find and interpret the information they need to live, learn and work in a challenging economy; and

WHEREAS, libraries serve as crucial technology hubs for people in need of free Web access, computer training, and assistance finding job resources; and

WHEREAS, libraries are part of the American Dream - places for opportunity, education, self-help and lifelong learning; and

WHEREAS, libraries serve as community gathering spaces, encouraging civic engagement and discourse; and

WHEREAS, libraries promote early childhood education and literacy, helping parents and families prepare their children for success in school and life; and

WHEREAS, library use is up nationwide among all types of library users, continuing a decade-long trend; and

WHEREAS, libraries, librarians, library workers and supporters across America are celebrating National Library Week.

NOW, THEREFORE, I, Brian Hodson, by virtue of the authority vested in me as Mayor of the City of Canby, do hereby proclaim April 10-16, 2016 as National Library Week and call upon individuals, schools, churches, organizations and business establishments in the City of Canby to visit the library this week to take advantage of the wonderful library resources available at your library. You belong at your library.

Given unto my hand this 6th day of April 2016 in the City of Canby, Oregon.

Brian Hodson
Mayor





Office of the Mayor

Proclamation

Grange Month

WHEREAS, the National Grange of the Order of Patrons of Husbandry is celebrating 149 years of service to America and the Oregon State Grange will celebrate 143 years of service at their State Convention this June in Talent, Oregon; and

WHEREAS, Grange programs are family oriented, beginning with Junior Grange for children of ages four through 13 for the purpose of getting children involved with their community, with agriculture, and with good citizenship, and Grange membership includes full voting rights and the right to hold office at age 14; and

WHEREAS, the service through educational efforts of the Grange and its members have aided innumerable people, both in and out of the Order, to reach their full potential as leaders and people; and

WHEREAS, the service of non-partisan legislative advocacy of the Grange through the unified efforts of its membership have immeasurably benefited local communities and our nation as a whole; and

WHEREAS, the fellowship and family atmosphere of the Grange have served millions of Americans by strengthening the social connections through a multitude of activities; and

WHEREAS, Grangers are supportive of agriculture, rural America and American Values as these form the bedrock of American society; and

WHEREAS, the Grange continues to serve every American through their hometown roots.

NOW, THEREFORE, I, Brian Hodson, by the virtue of the authority vested in me as the Mayor of the City of Canby, hereby proclaim the month of April as:

Grange Month

in the City of Canby and do urge all those in the Canby area to support and promote this observance.

Given unto my hand this 6th day of April 2016.



Brian Hodson
Mayor

**CITY OF CANBY
APPLICATION
BOARD/COMMITTEES/COMMISSIONS/COUNCIL**

Date: March 11, 2016
Name: Robert Backstrom Occupation: Retired
Home Address: _____
Employer: _____ Position: _____
Daytime Phone: _____ Evening Phone: _____
E-Mail Address: _____
For which position are you applying? Budget committee

What are your community interests (committees, organizations, special activities)? extensive civic involvement including Neighborhood association, Street maintenance committee, Budget committee Traffic Safety

Experience and educational background: Teacher and public school administrator
MA Degree

Reason for your interest in this position: I want to be involved with my city

List any other City or County positions on which you serve or have served: _____

Information on any special membership requirements: _____

Referred by (if applicable): _____

Feel free to attach a copy of your resume and use additional sheets if necessary

THANK YOU FOR YOUR WILLINGNESS TO SERVE CANBY

Please return to: City of Canby

Attn: City Recorder

182 N Holly Street

PO Box 930

Canby, OR 97013

Phone: 503.266.0733 Fax: 503.266.7961 Email: Scheaferk@ci.canby.or.us

Note: Please be advised that this information may be made available to anyone upon a public records request and may be viewable on the City's web site. 1-4-13

RECEIVED

MAR 16 2016

City of Canby - City Recorder

**CITY OF CANBY
APPLICATION
BOARD/COMMITTEES/COMMISSIONS/COUNCIL**

RECEIVED

MAR 22 2016

CITY OF CANBY

Date: 3-22-16Name: John A. Serlet Occupation: Retired

Home Address: _____

Employer: N/A Position: _____Daytime Phone: _____ Evening Phone: Same

E-Mail Address: _____

For which position are you applying? HRB

What are your community interests (committees, organizations, special activities)? _____

Planning CommissionExperience and educational background: Benson H.S. Portland34 year USAF Federal Civil ServiceReason for your interest in this position: I Love History

List any other City or County positions on which you serve or have served: _____

HRB currently & PC currently

Information on any special membership requirements: _____

Referred by (if applicable): _____

Feel free to attach a copy of your resume and use additional sheets if necessary

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1-4-13

**CITY OF CANBY
APPLICATION
BOARD/COMMITTEES/COMMISSIONS/COUNCIL**

RECEIVED
MAR 04 2015
CITY OF CANBY

Date: ~~Roger Riff~~ 3-2-16

Name: Roger Riff Occupation: _____

retired attorney

Home Address: _____

Canby
Employer: _____ Position: _____

Daytime Phone: _____ Evening Phone: _____

E-Mail Address: _____

For which position are you applying?

library board

What are your community interests (committees, organizations, special activities)?

Canby Ed. Foundation, Rotary, Chairman of Board of Canby
Telephone, Library Bd. Member, History Book Club

Experience and educational background:

Dec 31, 2015 retired from 40 yrs of legal practice in Canby
Canby High grad 1966
Willamette Univ., BA-1972, JD 1975

Reason for your interest in this position:

currently on board and would like to see
completion of construction of library

List any other City or County positions on which you serve or have served:

City Planning Commission
Cl. Co. Landfill siting committee chairperson

Information on any special membership requirements:

Referred by (if applicable):

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**CITY OF CANBY
APPLICATION
BOARD/COMMITTEES/COMMISSIONS/COUNCIL**

Date: 2/10/2016

Name: Glenn Brooks

Occupation: Retired

Home Address:

Employer:

Position:

Daytime Phone:

Evening Phone: same

E-Mail Address:

For which position are you applying? Parks and Recreation Advisory Board

What are your community interests (committees, organizations, special activities)? Prior to moving to Canby in 1/15 I was involved with a number of community activities through my employer Pacific Power & Light. See Attached Resume.

Experience and educational background: See Attached Resume

Reason for your interest in this position: Support activities and special events, preserve and protect the environment, promote health and wellness and bring visitors to Canby

List any other City or County positions on which you serve or have served: None

Information on any special membership requirements:

Referred by (if applicable):

Feel free to attach a copy of your resume and use additional sheets if necessary

THANK YOU FOR YOUR WILLINGNESS TO SERVE CANBY

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**RECEIVED
FEB 10 2016**

City of Canby - City Recorder

Glenn Brooks

Canby, Or.

Summary

Credit and risk management with expertise in operations, training & development, asset management and credit & financial analysis. History of increasing efficiencies as well as development of operational policy & procedure. Known for creative approaches to problem solving, developing strong teams and establishing relationships with both internal and external customers.

Community Service & Volunteer Activities

Board Member Activity

NACM-Oregon (National Assoc. of Credit Management) Portland, Or 2006-1999

NACM Oregon provides career development and credit services to its 1,300 member companies located in Or., ID., and SW Wa.

Board Member

Advise management and serve on various operational & strategic oversight committees.

ECHO PacifiCorp Employee Volunteer Board 2000-2003

ECHO administers company sponsored employee volunteer activities and interfaces with PacifiCorp Foundation and various charitable organizations.

Board Member & Committee Chair United Way Auction

Volunteer

Banking ON Our Future (BOF) 2007-2009

BOF is sponsored by Operation Hope & Wells Fargo Bank. Its mission is to teach financial literacy to children and young adults.

Junior Achievement 2000/01, 2008

SMART Start Making A Reader Today 1999-2001

Career Experience

PACIFICORP, Portland, OR

2006-1985

Manager, Corporate Credit Department

Over the last eight years responsible for building the non-energy credit group for six state service territory in the Western US. Over the prior twelve years managed credit operations for financial service subsidiaries PacifiCorp Financial Services and Paccom Leasing. Established credit operations including implementation of policy and procedure, training staff and process improvements.

- Established credit risk policy and procedure for the transmission, procurement, retail commercial customer business units and leasing subsidiary companies.
- Hired, trained and developed managers and staff
- Managed over \$1.5 billion in procurement activity and over \$1 billion in retail commercial customers.
- Reduced credit risk exposure by working with legal to revise procurement agreements, and mitigating risk exposure by negotiating security agreements with suppliers and vendors

SIDREAL CORP. Portland, OR

1985-1981

Credit Manager

Responsible for building credit and order services departments. Developed export licensing and international credit processes.

- Managed both credit and customer service departments. Guided development of international licensing and credit standards for export of product.
- Managed banking and insurance relationships.

FORD INDUSTRIES, Portland, OR

1981-1976

Credit Manager

Directed the corporate credit policy for both the US and International operations of the company. Established credit processes for US distributor organization. Hired, trained and developed a team of five members.

MACK FINANCIAL, Portland, OR

1976-1973

Regional Manager

Responsible for building the customer base in the Northwest and Alaska region. Establish credit guidelines and office operations. Approve financing transactions within my level of authority.

BENEFICIAL FINANCE, Portland, OR

1973-1971

Finance Manager

Managed office operations and staff.

Education

*B.S. in Education & Business Admin.
Oregon State University, Corvallis, OR*

Professional Development

*NACM Graduate School of Credit Management
Stanford University, Palo Alto, CA*

*Numerous NACM and D&B seminars in topics such as:
Credit & Financial Analysis, Bankruptcy Law, UCC Law, Insurance, Risk Management,*

**CITY OF CANBY
APPLICATION
BOARD/COMMITTEES/COMMISSIONS/COUNCIL**

Date: 03/07/2016

Name: Ryan Oliver Occupation: Insurance Agent

Home Address:

Employer: Oliver Insurance Position: Owner

Daytime Phone: Evening Phone:

E-Mail Address:

For which position are you applying? Park and Rec Board

What are your community interests (committees, organizations, special activities)? President of Canby Jr. Baseball, President of CTV5 (formally OCTS local access TV), President of the Wayne Oliver Foundation

Experience and educational background: Bachelors degree from UNLV. 15+ years of serving on the Canby Park & Rec Board

Reason for your interest in this position: To make sure Canby is doing the best that it can with what resources it has for parks and recreation in the community.

List any other City or County positions on which you serve or have served: 15+ years on Canby Parks & Rec board

Information on any special membership requirements: _____

Referred by (if applicable): _____

Feel free to attach a copy of your resume and use additional sheets if necessary

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MAR 07 2016

City of Canby - City Recorder

**CITY OF CANBY
APPLICATION
BOARD/COMMITTEES/COMMISSIONS/COUNCIL**

Date: 03/07/2016

Name: Matt Olsen

Occupation: Insurance

Home Address:

Employer: Self

Position: Agent

Daytime Phone:

Evening Phone: 503-266-7961

E-Mail Address:

For which position are you applying? Park & Rec advisory Board

What are your community interests (committees, organizations, special activities)? Canby Kiwanis member, Park & Rec Board for 8 years, new member of the CAT board

Experience and educational background: Graduated from OSU in 2003 and have been on the Park & Rec Board for 8 years

Reason for your interest in this position: I want to make sure that Canby is an inviting place for people to live in and relocate to. Having a good parks system is essential to the overall health of the community.

List any other City or County positions on which you serve or have served: Park & Rec Board and CAT Board

Information on any special membership requirements: _____

Referred by (if applicable): _____

Feel free to attach a copy of your resume and use additional sheets if necessary

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MAR 08 2016

City of Canby - City Recorder

**CITY OF CANBY
APPLICATION**

BOARD/COMMITTEES/COMMISSIONS/COUNCIL

Date: March 11, 2016
Name: Robert Backstrom Occupation: Retired
Home Address: _____
Employer: _____ Position: _____
Daytime Phone: _____ Evening Phone: _____
E-Mail Address: _____
For which position are you applying? Traffic Safety Commission

What are your community interests (committees, organizations, special activities)? extensive civic involvement including Neighborhood association, Street maintenance committee, Budget committee Traffic Safety

Experience and educational background: Teacher and public school administrator
MA Degree

Reason for your interest in this position: I want to be involved with my city

List any other City or County positions on which you serve or have served: _____

Information on any special membership requirements: _____

Referred by (if applicable): _____

Feel free to attach a copy of your resume and use additional sheets if necessary

THANK YOU FOR YOUR WILLINGNESS TO SERVE CANBY

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Attn: City Recorder

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**RECEIVED
MAR 16 2016**

City of Canby - City Recorder

March 23, 2016

CURRAN-McLEOD, INC.
CONSULTING ENGINEERS
6655 S.W. HAMPTON STREET, SUITE 210
PORTLAND, OREGON 97223

City of Canby
182 N Holly Street
Canby, OR 97013
Attn: Mr. Rick Robinson, City Administrator

RE: CITY OF CANBY
2016 STREET MAINTENANCE PROGRAM
BID TABULATION & RECOMMENDATION OF AWARD

Mr. Mayor and City Council Members:

On March 22nd, 2016, the City of Canby solicited and received six (6) bids for the 2016 Street Maintenance Program project. The summary of the pricing is shown on the attached tabulation, with the low bid received from Eagle-Elsner, Inc.

The summary of cost from each of the six (6) bidders is shown on the attached tabulation and listed below:

1.	Eagle-Elsner, Inc.	\$684,476.00
2.	Knife River Corporation Northwest	\$816,841.50
3.	Brix Paving Northwest, Inc.	\$817,713.09
4.	S-2 Contractors, Inc.	\$823,195.00
5.	North Santiam Paving Company	\$835,982.50
6.	Roy L. Houck Construction, LLC	\$892,699.00

BID REVIEW

Each bid was reviewed for compliance with the requirements listed in the contract documents. All bids were reviewed for mathematical entries, acknowledgement of addenda, bonding information, first tier disclosure information and execution of the bid. The 4th and 5th ranking bidders failed to submit the First Tier Subcontractor Disclosure Forms and the 6th ranking bidder didn't acknowledge receiving the published addendum and are deemed nonresponsive.

The low bidder, Eagle-Elsner, Inc. has a good record with the Construction Contractors Board and we are not aware of any concerns, is prequalified with the Oregon Department of Transportation and a familiar name. We have worked with Eagle-Elsner, Inc. on many successful projects of similar scope over the years in the City of Canby and communities throughout the metropolitan area.

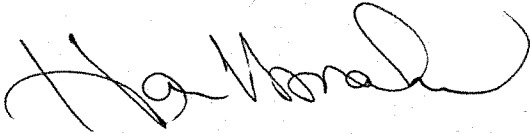
SUMMARY & RECOMMENDATION

After review of all bids received, we recommend the City of Canby award the 2016 Street Maintenance Program project to the low responsive bidder, Eagle-Elsner, Inc., in the amount of Six Hundred Eighty-Four Thousand Four Hundred Seventy-Six and 00/100 Dollars (\$684,476.00).

We have enclosed a staff report, an ordinance 1436, a bid tabulation and a proposed contract for the City to proceed with award of the contract. In anticipation of award, we will be issuing a Notice of Intent to Award today to all bidders.

Very truly yours,

CURRAN-McLEOD, INC.

A handwritten signature in black ink, appearing to read 'Hassan A. Ibrahim', written over a horizontal line.

Hassan A. Ibrahim, P.E.

Enclosures: 1436 Staff Report
1436 Ordinance
Bid Tabulation
Contract for Construction

CURRAN-McLEOD, INC.
CONSULTING ENGINEERS
6655 SW HAMPTON, SUITE 210
PORTLAND, OR 97223

TO: Honorable Mayor and City Council
CITY OF CANBY
ATTN: Mr. Rick Robinson, City Administrator

FROM: Hassan Ibrahim, P.E.
CURRAN-McLEOD, INC.

DATE: March 23, 2016

ISSUE: 2016 STREET MAINTENANCE PROGRAM
APPROVAL OF CONSTRUCTION CONTRACT ORDINANCE 1436

SYNOPSIS: On March 22nd, 2016, the City of Canby solicited and received six (6) bids for the 2016 Street Maintenance Program. This staff report is to request Council approval for award of the contract to the low responsive bidder.

RECOMMENDATION:

That the Council approve Ordinance 1436 authorizing the Mayor and City Administrator to execute a contract with Eagle-Elsner, Inc. in the amount of \$684,476.00 for the 2016 Street Maintenance Program; and declaring an emergency.

RATIONALE:

Competitive sealed bids were solicited in compliance with the City of Canby's Rules for Public Purchasing and the requirements of Oregon Revised Statutes. Of the six bids received, S-2 Contractors, Inc. and North Santiam Paving Company failed to submit the First Tier Subcontractor Disclosure Forms and Roy L. Houck Construction, LLC didn't acknowledge receiving the published addendum and are deemed nonresponsive. The lowest three bidders were deemed to be responsible and responsive, with Eagle-Elsner, Inc. submitting the low responsive and responsive bid.

The City has projected an available budget of \$700,000 to complete this work. The low responsive bid is approximately \$15,000 under the amount of available funds budgeted for the 2016-2017 fiscal year, which will allow the City to expand the work scope if necessary to other streets that are in immediate need of maintenance. City staff can provide a list of the additional streets to be included in the scope of work at the next scheduled Council meeting.

Honorable Mayor & City Council
March 23, 2016
Page 2

BACKGROUND:

This project is part of the Street Maintenance Program funded through the street maintenance fee. It is a continuation of the annual street maintenance program based on the Pavement Condition Index survey. The funding source is limited to maintenance of the existing street network.

FISCAL IMPACT:

Attached are Ordinance 1436 and the proposed contract for execution. Our recommendation is to accept the low responsive bid from Eagle-Elsner, Inc. and execute a contract for construction in the bid amount of \$684,476.00. The low responsive bid of \$684,476.00 with authorization to expand the work scope to an amount not to exceed \$700,000.00, however, this contract is below the available budget of the 2016 - 2017 fiscal year and should not pose a funding problem.

ENCLOSURES:

- Ordinance Number 1436
- Construction Contract
- Bid Tabulation
- Recommendation of Award

cc: Mr. Rick Robinson, City Administrator
Ms. Kim Scheafer, City Recorder
Ms. Haley Fish, Finance Director
Mr. Mark Gunter, Public Works Director

ORDINANCE NO. 1436

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH EAGLE-ELSNER, INC. IN THE AMOUNT OF \$684,476.00 WITH AUTHORIZATION TO EXPAND THE WORK SCOPE TO AN AMOUNT NOT TO EXCEED \$700,000.00 FOR CONSTRUCTION OF THE 2016 STREET MAINTENANCE PROGRAM; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Canby has heretofore advertised and received six (6) bids for the 2016 Street Maintenance Program; and

WHEREAS, the notice of call for bids was duly and regularly published in the Oregon Daily Journal of Commerce on March 7, 2016; and

WHEREAS, bids were received and opened on March 22, 2016 at 2:00 pm in the City Hall Conference Room of the City of Canby and the bids were read aloud:

WHEREAS, the bidders are as listed below and a detailed tabulation of all items is attached herein and summarized as follows:

The summary of cost from each of the six (6) bidders is shown on the attached tabulation and listed below:

1.	Eagle-Elsner, Inc.	\$684,476.00
2.	Knife River Corporation Northwest	\$816,841.50
3.	Brix Paving Northwest, Inc.	\$817,713.09
4.	S-2 Contractors, Inc.	\$823,195.00
5.	North Santiam Paving Company	\$835,982.50
6.	Roy L. Houck Construction, LLC	\$892,699.00

WHEREAS, the Canby City Council, acting as the City's Contract Review Board, met on Wednesday, April 6, 2016, and considered the bids and reports and recommendations of the City staff, including the staff recommendation that the low responsive bid be selected; and

WHEREAS, the Canby City Council determined that the low responsive bid was that of Eagle-Elsner, Inc.; now therefore

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. The Mayor and/or City Administrator are hereby authorized and directed to make, execute, and declare in the name of the City of Canby and on its behalf, an appropriate contract with Eagle-Elsner, Inc. for the 2016 Street Maintenance Program in the amount of \$684,476.00 with authorization to expand the work scope to an amount not to exceed \$700,000.00 using the contract unit prices. A copy of the contract with Eagle-Elsner, Inc. is attached hereto and incorporated herein.

Section 2. Inasmuch as it is in the best interest of the citizens of Canby, Oregon, to complete this project as soon as possible, an emergency is hereby declared to exist and this ordinance shall therefore take effect immediately upon its enactment after final reading.

SUBMITTED to the Canby City Council and read the first time at a regular meeting therefore on Wednesday, April 6, 2016; ordered posted as required by the Canby City Charter and scheduled for second reading on Wednesday, April 20, 2016, after the hour of 7:30 PM at the Council Meeting Chambers located at 155 NW 2nd Avenue, Canby, Oregon.

Kimberly Scheafer, MMC
City Recorder

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 20th day of April 2016, by the following vote:

YEAS _____

NAYS _____

Brian Hodson, Mayor

ATTEST:

Kimberly Scheafer, MMC
City Recorder

CONTRACT FOR CONSTRUCTION

THIS AGREEMENT is dated as of the ____ day of _____ in the year 2016, by and between:

City of Canby

(hereinafter called OWNER) and

Eagle-Elsner, Inc.

(hereinafter called CONTRACTOR)

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 - WORK

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents:

City of Canby 2016 Street Maintenance Program

The scope of work consists of the following:

- \$ Approximately 7,500 tons of asphaltic concrete pavement at 1.5" and 2" thickness.
- \$ Approximately 24,000 lineal feet of 6-foot wide panel grinding.
- \$ Approximately 1,250 lineal feet of concrete curb and 550 square yards of sidewalks, retrofit 38 ADA ramps and reinstallation of 15 traffic signs posts with V-loc bases.
- \$ Restore approximately 37,000 lineal feet of 4" and 8" wide stripes, approximately 2,900 square feet of continental crosswalks and miscellaneous legends.

ARTICLE 2 - ENGINEER

The Project has been designed by CURRAN-McLEOD, INC., Consulting Engineers, who is hereinafter called ENGINEER and who will assume all duties and responsibilities and will have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE 3 - CONTRACT TIME

- 3.1 The Work will be substantially completed within 45 calendar days after the date when the Contract Time commences to run as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within 15 days after the date when the issuance of the Certificate of Substantial Completion including punch list items.
- 3.2 Liquidated Damages: OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not substantially complete within the time specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving in a legal proceeding the actual loss suffered by OWNER if the Work is not substantially complete on time.

Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER or the OWNER may withhold from amounts due the CONTRACTOR Four Hundred Dollars (\$400.00) for each day that expires after the time specified in paragraph 3.1. for Substantial Completion until the Work is substantially complete AND/OR for each day of delay beyond the deadline for Final Completion.

ARTICLE 4 - CONTRACT PRICE

- 4.1 OWNER shall pay CONTRACTOR for performance of the Work in accordance with the Contract Documents in current funds by check, an amount totaling

Six Hundred Eighty-Four Thousand Four Hundred Seventy-Six and 00/100 Dollars.

(\$684,476.00) as shown in the attached Bid Proposal.

ARTICLE 5 - PAYMENT PROCEDURES

CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

- 5.1 Progress Payments: OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR'S Applications for Payment as recommended by ENGINEER, on or about the 25th day of each month during construction as provided below. All progress payments will be on the basis of the progress of the Work measured by the schedule of values provided for in paragraph 2.03 of the General Conditions.

5.1.1 Prior to Substantial Completion progress payments will be in an amount equal to:

(a) 95 % of the Work completed; and

(b) 95 % of materials and equipment not incorporated in the Work but delivered and suitably stored, less in each case the aggregate of payments previously made.

5.1.2 Upon Substantial Completion, OWNER shall pay an amount sufficient to increase total payments to CONTRACTOR to 95% of the value of the Contract Work completed, less such amounts as ENGINEER shall determine in accordance with paragraph 15.01 of the General Conditions.

5.2 Final Payment: Upon final completion and acceptance of the Work in accordance with paragraph 15.06 of the General Conditions, OWNER shall pay the remainder of the value of the Contract Work completed, as recommended by ENGINEER as provided in said paragraph 15.06.

ARTICLE 6 - INTEREST

All monies not paid when due hereunder shall bear interest at the maximum rate allowed by law at the place of the Project, when requested in accordance with ORS 279C.570

ARTICLE 7 - CONTRACTOR'S REPRESENTATIONS

In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

7.1 CONTRACTOR has familiarized himself with the nature and extent of the Contract Documents, Work, locality, and with all local conditions and federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the Work.

7.2 CONTRACTOR has studied carefully all reports of investigations and tests of subsurface and latent physical conditions at the site or otherwise affecting cost, progress or performance of the Work which were relied upon by ENGINEER in the preparation of the Drawings and Specifications and which have been identified in the Supplementary Conditions.

7.3 CONTRACTOR has made or caused to be made examinations, investigations and tests and studies of such reports and related data in addition to those referred to in paragraph 7.2 as he deems necessary for the performance of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports or similar data are or will be required by CONTRACTOR for such purposes.

- 7.4 CONTRACTOR has correlated the results of all such observations, examinations, investigations, tests, reports and data with the terms and conditions of the Contract Documents.
- 7.5 CONTRACTOR has given ENGINEER written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

ARTICLE 8 - CONTRACT DOCUMENTS

- 8.1 This Agreement
- 8.2 Exhibits to this Agreement.
- 8.3 Performance and other Bonds
- 8.4 Notice of Award.
- 8.5 General Conditions of the Construction Contract
- 8.6 Supplementary Conditions
- 8.7 Technical Specifications as listed in the Table of Contents.
- 8.8 Drawings & Specifications bearing the following general title:
City of Canby
2016 Street Maintenance Program
- 8.9 Addenda numbers 1.
- 8.10 CONTRACTOR'S Bid
- 8.11 Any Modification, including Change Orders, duly delivered after execution of Agreement.

There are no Contract Documents other than those listed above in this ARTICLE 8. The Contract Documents may only be altered, amended or repealed by a Modification (as defined in Article 1 of the General Conditions).

ARTICLE 9 - MISCELLANEOUS

- 9.1 Terms used in this Agreement which are defined in Article 1 of the General Conditions shall have the meanings indicated in the General Conditions.

- 9.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically by without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.
- 9.3 OWNER and CONTRACTOR each binds himself, his partners, successors, assigns and legal representatives to the other party hereto, his partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.
- 9.4 In the event a suit, arbitration or other legal action is required by either the OWNER or the CONTRACTOR to enforce any provisions of this Agreement, the prevailing parties shall be entitled to all reasonable costs and reasonable attorney's fees upon trial or subsequent appeal.

IN WITNESS WHEREOF, the parties hereto have signed three counterparts of this Agreement.

This Agreement will be effective on _____, 2016.

OWNER:

**City of Canby
P.O. Box 930
Canby, OR 97013**

By:_____

Name/Title:_____

Name/Title:_____

CONTRACTOR:

**Eagle-Elsner, Inc.
P.O. Box 23294
Tigard, OR 97281**

By:_____

Name/Title:_____

Attest:_____

Address for giving notices:

CITY OF CANBY
2016 Street Maintenance Project
Bid Date: Tuesday, March 22, 2016 @ 2 P.M.

			1	2	3	4	5	6
BID TABULATION			Eagle-Elsner	Knife River	Brix Paving NW	S-2 Contractors	North Santiam Paving Co.	Roy Houck Construction
			Units	Unit / Total	Unit / Total	Unit / Total	Unit / Total	Unit / Total
Basic Bid Schedule								
1	MOBILIZATION, including all labor, equipment, material to complete the work as listed in the basic bid schedule and contract special requirements, miscellaneous start-up costs, equipment move-in, all associated costs for mobilization and demobilization, traffic control, public notifications, final site restoration, incidental grading & landscaping, clean up, all bonding and insurance costs.	1 LS	\$ 40,000.00	\$ 78,085.00	\$ 70,331.93	\$ 49,000.00	\$ 86,200.00	\$ 117,700.00
			\$ 40,000.00	\$ 78,085.00	\$ 70,331.93	\$ 49,000.00	\$ 86,200.00	\$ 117,700.00
2	½" ASPHALT CONCRETE PAVEMENT PRELEVEL, 300 tons, including all labor, equipment, material and installation.	300 Tons	\$ 67.00	\$ 98.00	\$ 70.09	\$ 100.00	\$ 84.00	\$ 91.00
			\$ 20,100.00	\$ 29,400.00	\$ 21,027.00	\$ 30,000.00	\$ 25,200.00	\$ 27,300.00
3	1.5" LIFT, ½" ASPHALT CONCRETE PAVEMENT OVERLAY, 550 tons, including all labor, equipment, material, tack coat, placement and sand seal joints.	550 Tons	\$ 64.00	\$ 70.35	\$ 72.52	\$ 75.00	\$ 67.00	\$ 66.00
			\$ 35,200.00	\$ 38,692.50	\$ 39,886.00	\$ 41,250.00	\$ 36,850.00	\$ 36,300.00
4	2" LIFT, ½" ASPHALT CONCRETE PAVEMENT OVERLAY, 6,600 tons, including all labor, equipment, material, tack coat, placement and sand seal joints.	6600 Tons	\$ 59.00	\$ 64.05	\$ 69.98	\$ 72.00	\$ 67.00	\$ 66.00
			\$ 389,400.00	\$ 422,730.00	\$ 461,868.00	\$ 475,200.00	\$ 442,200.00	\$ 435,600.00
5	GRIND EXISTING PAVEMENT (6" WIDE PANEL, 1.5"-2" MAX. DEPTH), AT THE MATCH POINTS AND AT GUTTER LINES AS DETERMINED IN THE FIELD, 20,000 lineal feet, including all labor, equipment, material and disposal of excess pavement material.	20,000 LF	\$ 1.70	\$ 2.30	\$ 2.00	\$ 1.60	\$ 2.00	\$ 2.48
			\$ 34,000.00	\$ 46,000.00	\$ 40,000.00	\$ 32,000.00	\$ 40,000.00	\$ 49,600.00
6	PAVEMENT RECONSTRUCTION, IF DETERMINED TO BE NECESSARY IN THE FIELD, 50 square yard, including all labor, equipment, material, AC sawcutting, excavation and disposal of existing pavement and unsuitable base material, placement of geotechnical fabric and 12 inches of compacted crushed rock, 2" thick of ½" Asphalt Concrete Pavement will be paid under bid item 4), sand seal joints.	50 SY	\$ 100.00	\$ 40.00	\$ 65.78	\$ 60.00	\$ 80.00	\$ 100.00
			\$ 5,000.00	\$ 2,000.00	\$ 3,289.00	\$ 3,000.00	\$ 4,000.00	\$ 5,000.00
7	TRUNCATED DOME DETECTABLE WARNING CAST-IN-PLACE MAT, 38 each, including all labor, equipment, material and installation.	38 Ea	\$ 240.00	\$ 250.00	\$ 266.22	\$ 300.00	\$ 250.00	\$ 260.00
			\$ 9,120.00	\$ 9,500.00	\$ 10,116.36	\$ 11,400.00	\$ 9,500.00	\$ 9,880.00
8	CONCRETE CURB TYPE "C", 1,250 lineal feet, including all labor, equipment, material, sawcut concrete, remove existing curb, dispose excess material off-site, grade and place 2" of ¾"-0" Crushed Rock, compact and pour new curb.	1,250 LF	\$ 43.00	\$ 41.00	\$ 37.36	\$ 40.00	\$ 42.00	\$ 44.00
			\$ 53,750.00	\$ 51,250.00	\$ 46,700.00	\$ 50,000.00	\$ 52,500.00	\$ 55,000.00
9	4" CONCRETE SIDEWALK, 550 square yard, including all labor, equipment, material, sawcut concrete, remove existing sidewalk, dispose excess material off-site, grade and place 2" of ¾"-0" Crushed Rock, compact and pour new sidewalk.	550 SY	\$ 65.00	\$ 140.00	\$ 91.24	\$ 100.00	\$ 140.00	\$ 150.00
			\$ 35,750.00	\$ 77,000.00	\$ 50,182.00	\$ 55,000.00	\$ 77,000.00	\$ 82,500.00
10	4" WIDE WHITE OR YELLOW THERMOPLASTIC STRIPE, 19,750 lineal feet, including all labor, material, equipment and installation. All material to be thermoplastic (installed complete including layout in the field).	19750 LF	\$ 0.90	\$ 0.84	\$ 0.89	\$ 0.90	\$ 0.85	\$ 0.80
			\$ 17,775.00	\$ 16,590.00	\$ 17,577.50	\$ 17,775.00	\$ 16,787.50	\$ 15,800.00
11	4" YELLOW BIDIRECTIONAL, TYPE 1 REFLECTORS, 330 each, including all labor, material, equipment and installation. All material to be thermoplastic (installed complete including layout in the field).	330 Ea	\$ 4.70	\$ 4.70	\$ 4.93	\$ 5.00	\$ 4.70	\$ 4.40
			\$ 1,551.00	\$ 1,551.00	\$ 1,626.90	\$ 1,650.00	\$ 1,551.00	\$ 1,452.00
12	8" WIDE WHITE THERMOPLASTIC STRIPE, 16,800 lineal feet, including all labor, material, equipment and installation. All material to be thermoplastic (installed complete including layout in the field).	16800 LF	\$ 1.50	\$ 1.40	\$ 1.48	\$ 1.80	\$ 1.40	\$ 1.50
			\$ 25,200.00	\$ 23,520.00	\$ 24,864.00	\$ 30,240.00	\$ 23,520.00	\$ 25,200.00
13	12" or 24" WIDE WHITE THERMOPLASTIC STOP AND CROSSWALK BARS, 2' WIDE x 9' LONG CONTINENTAL CROSSWALK, 2,900 square feet, including all labor, material, equipment and installation. All material to be thermoplastic (installed complete including layout in the field).	2,900 SF	\$ 4.00	\$ 3.85	\$ 4.11	\$ 4.50	\$ 3.80	\$ 4.25
			\$ 11,600.00	\$ 11,165.00	\$ 11,919.00	\$ 13,050.00	\$ 11,020.00	\$ 12,325.00
14	BIKE STENCILS LEGEND, 23 each, including all labor, material, equipment and installation. All material to be thermoplastic (installed complete including layout in the field).	23 Ea	\$ 100.00	\$ 98.00	\$ 104.15	\$ 110.00	\$ 98.00	\$ 250.00
			\$ 2,300.00	\$ 2,254.00	\$ 2,395.45	\$ 2,530.00	\$ 2,254.00	\$ 5,750.00
15	RAIL ROAD CROSSING LEGEND, 2 each, including all labor, material, equipment and installation. All material to be thermoplastic (installed complete including layout in the field).	2 Ea	\$ 580.00	\$ 560.00	\$ 603.00	\$ 700.00	\$ 560.00	\$ 1,025.00
			\$ 1,160.00	\$ 1,120.00	\$ 1,206.00	\$ 1,400.00	\$ 1,120.00	\$ 2,050.00
16	LEFT or RIGHT or RIGHT TURN STRAIGHT ARROWS, 8 each, including all labor, material, equipment and installation. All material to be thermoplastic (installed complete including layout in the field).	8 Ea	\$ 90.00	\$ 88.00	\$ 93.19	\$ 100.00	\$ 90.00	\$ 251.00
			\$ 720.00	\$ 704.00	\$ 745.52	\$ 800.00	\$ 720.00	\$ 2,008.00
17	STOP SYMBOLS, 2 each, including all labor, material, equipment and installation. All material to be thermoplastic (installed complete including layout in the field).	2 Ea	\$ 550.00	\$ 540.00	\$ 575.59	\$ 700.00	\$ 530.00	\$ 267.00
			\$ 1,100.00	\$ 1,080.00	\$ 1,151.18	\$ 1,400.00	\$ 1,060.00	\$ 534.00
18	SIGNS POST AND V-LOC BASES, 15 each, including all labor, material, equipment necessary to provide and plumb V-loc bases and posts, remove, salvage and reinstall existing signs on new posts to the size, kind and all associated accessories such as bolts, nuts, washers, etc... (installed complete).	15 Ea	\$ 50.00	\$ 280.00	\$ 855.15	\$ 500.00	\$ 300.00	\$ 580.00
			\$ 750.00	\$ 4,200.00	\$ 12,827.25	\$ 7,500.00	\$ 4,500.00	\$ 8,700.00
TOTAL BASIC BID			\$ 684,476.00	\$ 816,841.50	\$ 817,713.09	\$ 823,195.00	\$ 835,982.50	\$ 892,699.00

ORDINANCE NO. 1437

**AN ORDINANCE AMENDING CANBY MUNICIPAL CODE CHAPTER 2.20.070
REGARDING THE PUBLIC LIBRARY**

WHEREAS, Chapter 2.20 of the Canby Municipal Code established the Public Library for the City of Canby; and

WHEREAS, the Library Board and staff have proposed changes to Chapter 2.20 so it is current with library standards and current practices.

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. Chapter 2.20 of the Canby Municipal Code is amended to read as noted. All other sections, shall remain in full force and effect as they presently appear.

§ 2.20.070 Gifts and bequests.

The Board may solicit and receive gifts and bequests and real or personal property or funds (other than fees and fines) to benefit the library. Gifts are subject to Council Acceptance. All property or funds shall be held in the name of the city, and each donation shall be administered in accordance with its terms. Funds donated to the library shall be turned over to the City Treasurer immediately upon receipt, **and expended only in accordance with the terms and conditions of the bequest.**

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, April 6, 2016 and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and to come before the City Council for final reading and action at a regular meeting thereof on April 20, 2016 commencing at the hour of 7:30 PM in the Council Meeting Chambers located at 155 NW 2nd Avenue, Canby, Oregon.

Kimberly Scheafer, MMC
City Recorder

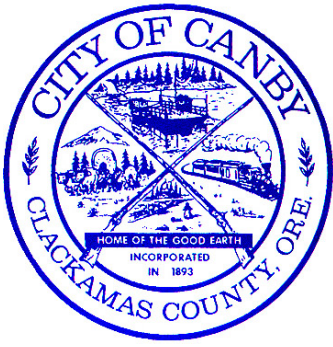
PASSED on the second and final reading by the Canby City Council at a regular meeting thereof on April 20, 2016 by the following vote:

YEAS_____ NAYS_____

Brian Hodson
Mayor

ATTEST:

Kimberly Scheafer, MMC
City Recorder



City of Canby

Office of the City Administrator

MEMORANDUM

DATE: APRIL 6, 2016
TO: CANBY CITY COUNCIL
FROM: RICK ROBINSON, CITY ADMINISTRATOR
RE: ORDINANCE NO. 1438: **AN ORDINANCE AUTHORIZING THE CITY OF CANBY TO ENTER INTO A PURCHASE AND SALE AGREEMENT WITH PIONEER PROPERTY, LLC FOR THE PURCHASE OF REAL PROPERTY.**

Issue: Whether or not to purchase real property we are currently leasing from Pioneer Property, LLC for use by Canby Area Transit (CAT) for bus parking and a future site for office facilities.

Summary: The City is currently leasing parking space from the seller (Pioneer Property, LLC) behind CAT's currently rented office space near Wilco on Hazel Dell Way. The lease agreement for the parking space involved improvements to the land by the City and has a purchase option as well. These current locations are both convenient and efficient for CAT.

In exercising the purchase option, the City can keep its investment in the improvements as well as add more land for the eventual building of office space for CAT. Without having land available to build on first, it is much harder to secure grant funding. Also, it is important to secure this purchase before the option goes away. Once this is in place, CAT can then start applying for grants to build the needed office space when their current lease expires.

Attachments: Purchase and Sale Agreement attached as Exhibit A

Recommendation: Authorize this Purchase and Sale Agreement.

Motion: "I move to approve Ordinance No. 1438: **AN ORDINANCE AUTHORIZING THE CITY OF CANBY TO ENTER INTO A PURCHASE AND SALE AGREEMENT WITH PIONEER PROPERTY, LLC FOR THE PURCHASE OF REAL PROPERTY** to come up for second reading on April 20, 2016."

ORDINANCE NO. 1438

AN ORDINANCE AUTHORIZING THE CITY OF CANBY TO ENTER INTO A PURCHASE AND SALE AGREEMENT WITH PIONEER PROPERTY, LLC FOR THE PURCHASE OF REAL PROPERTY.

WHEREAS, the City of Canby offers transit services known as Canby Area Transit; and

WHEREAS, Canby Area Transit is currently located on Hazel Dell Way in Canby, Oregon, under leasing agreements for both office space and parking; and

WHEREAS, the City of Canby would like to have a more permanent location for Canby Area Transit and its fleet of buses; and

WHEREAS, the City of Canby would like to exercise a purchase option available to it from Pioneer Property, LLC for property it is currently leasing, improvements therein, and additional property to be able to locate office facilities and parking;

THE CITY OF CANBY, OREGON, ORDAINS AS FOLLOWS:

Section 1. The City Administrator is hereby authorized on behalf of the City to enter into a Purchase and Sale Agreement for the purchase of real property from Pioneer Property, LLC. A copy of the Purchase and Sale Agreement is attached hereto as Exhibit "A."

SUBMITTED to the Canby City Council and read the first time at a regular meeting therefore on Wednesday, April 6, 2016, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and scheduled for second reading before the City Council for final reading and action at a regular meeting thereof on Wednesday, April 20, 2016, commencing at the hour of 7:30 pm at the Council Meeting Chambers located at 155 N.W. 2nd Avenue, Canby, Oregon.

Kimberly Scheafer, MMC
City Recorder

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 20th day of April 2016, by the following vote:

YEAS _____

NAYS _____

Brian Hodson
Mayor

ATTEST:

Kimberly Scheafer, MMC
City Recorder

PURCHASE AND SALE AGREEMENT

DATE: _____, 2016

SELLER: Pioneer Property, LLC
an Oregon limited liability company
1012 Island View
Kemah, TX 77565
ATTN: Manager
281-772-5249
281-957-9233 (fax)

BUYER: City of Canby
an incorporated Oregon municipality
PO Box 930
Canby, OR 97013
ATTN: City Administrator
503-266-0745
503-266-7961 (fax)

Recital

Seller desires to sell to Buyer and Buyer desires to purchase from Seller certain real property with all improvements located on Hazel Dell Way, Canby, Oregon, having the following legal description (the "Property"):

Lots 18
Burden No. 4 (a replat of Lots 15 and 16 of Burden No. 3)
Partition Plat _____
City of Canby,
County of Clackamas,
State of Oregon.

Buyer is the tenant under that certain Lease Agreement between the Buyer and the Seller dated October 15, 2014. Said lease shall be terminated upon the closing under this Agreement.

Agreement

Now, therefore, for valuable consideration, the parties agree as follows:

1. Sale and Purchase. Buyer agrees to purchase the Property from Seller and Seller agrees to sell the Property to Buyer for the sum of \$217,915 (the "Purchase Price"). The Purchase Price was determined by multiplying \$5.00/per sq. ft. by the total size of the Property (43,583 sq. ft.).

2. Option Payment. Seller hereby acknowledges receipt of the certain Purchase Option Payment in the sum of \$6,296.85 paid by Buyer. The earnest money will be applied to the Purchase Price on the Closing Date, as that term is defined below.

3. Payment of Purchase Price. The Purchase Price must be paid as follows:

3.1 At closing, the Option Payment will be credited to the Purchase Price.

3.2 Pursuant to the existing Lease Agreement between the Buyer and Seller for the Property dated October, 15, 2014, Seller hereby acknowledges receipt of rental payments for the months of October, 2015 through and including _____, 2016. Seller further acknowledges agreement made with the Buyer to credit those rental payments of \$1,500 each, for a total of \$_____ to be applied to the Purchase Price.

3.3 At closing, Buyer must pay the balance of the Purchase Price in cash.

4. Closing. Time is of the essence. Closing must take place on a mutually agreed on date, but in no event later than _____, 2016 (the "Closing Date"), at the offices of Reif & Hunsaker, P.C., 273 North Grant Street, Canby, OR 97013. The terms *closed*, *closing* or *closing date* mean when the deed or contract is recorded and funds are available to Seller. Each party must pay one-half of the escrow fee and one-half of any transfer taxes. Ticor Title of Oregon, 111 SW Columbia, Suite 1000, Portland, OR 97201 ("Escrow Agent") shall close this transaction and act as the escrow agent.

5. Preliminary Title Report. Within 10 days after full execution of this Agreement, Seller will furnish to Buyer a preliminary title report showing the condition of title to the Property, together with copies of all exceptions listed therein (the "Title Report"). Buyer will have 10 days from receipt of the Title Report to review the Title Report and to notify Seller, in writing, of Buyer's disapproval of any special exceptions shown in the Title Report. Those exceptions the Buyer does not object to are referred to below as the "Permitted Exceptions." Zoning ordinances, building restrictions, taxes that are not yet paid for the current tax year, and reservations in federal patents and state deeds will be deemed Permitted Exceptions. If Buyer notifies Seller in writing of disapproval of any exceptions, Seller will have 15 days after receiving the disapproval notice to either remove the exceptions or provide Buyer with reasonable assurances of the manner in which the exceptions will be removed before the transaction closes (the "Seller Assurance Period"). If Seller does not remove the exceptions or provide Buyer with such assurances, Buyer may terminate this Agreement by written notice to Seller given within 15 days after expiration of the Seller Assurance Period, in which event the earnest money will be refunded to Buyer and, when applicable, this Agreement will be of no further binding effect.

6. Conditions

6.1 Buyer's obligation to purchase the Property is contingent on satisfaction of each of the following conditions:

6.1.1 Buyer's approval of its physical inspection of the Property. Buyer will have until _____, 2016, to complete its physical inspection of the Property. However, if Buyer wishes to conduct any invasive testing on any portion of the Property, or any sampling of soils or other elements of the Property for any purposes, advance consent from the Seller will first be sought.

6.1.2 Buyer's approval of the Declaration of Access Easement drafted by Seller relating to the access easement for the Property.

6.1.3 Recording of the Partition Plat creating the separate parcel that is the Property being sold by this Agreement.

6.2 Buyer and its agents must have full access to the Property for the purpose of conducting Buyer's inspections. Buyer agrees to indemnify and hold Seller harmless from all loss, damage, or liability caused as a result of Buyer or Buyer's agents' access to the Property under this section. If Buyer is not satisfied, in its sole discretion, with the result of Buyer's inspections, Buyer may terminate this Agreement by written notice to Seller given at any time before the applicable date set forth above, in which event the earnest money must be refunded to Buyer. If Buyer fails to give any such notices of termination within the applicable time period, this condition will be deemed to have been waived.

7. Marketable Title; Deed. On the Closing Date, unless agreed otherwise herein, Seller will convey marketable title to the Property by statutory special warranty deed, free and clear of all liens of record, excepting property taxes that are not yet payable, zoning ordinances, building and use restrictions, reservations in federal patents, and the Permitted Exceptions.

8. Title Insurance. Within 15 days after closing, Seller must furnish Buyer with an American Land Title Association owner's policy of title insurance in the amount of the purchase price, insuring Buyer as the owner of the Property subject only to the usual printed exceptions and the Permitted Exceptions.

9. Taxes; Prorates. Real property taxes for the current tax year and other usual items must be prorated as of the Closing Date. At Closing, Buyer shall pay or reimburse Seller for all costs described in paragraphs 5.1 (real property taxes attributable to the Leased Premises – 25% of the total) and 17.(c)(iv) (commissions, transfer taxes, title expenses, partition, lot line adjustments, survey, related boundary mapping, and closing costs) of the Lease.

10. Possession. Buyer will be entitled to possession immediately on closing.

11. Property Included. All improvements constructed by Buyers on the Property.

12. Personal Property. N/A

13. Seller's Representations. Subject to Seller's written representations contained herein, and any statutory property disclosures given as part of this transaction, Buyer acknowledges that Buyer has accepted and executed this Agreement on the basis of Buyer's own examination and personal knowledge of the Property; that Seller and Seller's agents have made no representations, warranties, or other agreements concerning matters relating to the Property; that Seller and Seller's agents have made no agreement or promise to alter, repair, or improve the Property; and that Buyer takes the Property in its present condition "AS IS."

14. Binding Effect/Assignment Restricted. This Agreement is binding on and will inure to the benefit of Seller, Buyer, and their respective heirs, legal representatives, successors, and assigns. Nevertheless, Buyer will not assign its rights under this Agreement without Seller's prior written consent, which may be withheld in Seller's sole discretion.

15. Remedies. TIME IS OF THE ESSENCE REGARDING THIS AGREEMENT. If the conditions described in Section 6 above are satisfied or waived by Buyer and the transaction does not thereafter close, through no fault of Seller, before the close of business on the Closing Date, Seller will have the right to retain all Option Payment as liquidated damages. If Seller fails to deliver the deed described in Section 7 above on the Closing Date or otherwise fails to consummate this transaction through no fault of Buyer, the Option Payment must be refunded to Buyer.

16. Attorney Fees. If an action is instituted to enforce or interpret any term of this Agreement, the prevailing party will recover from the losing party reasonable attorney fees incurred in the action as set by the trial court or arbitrators, as the case may be, and, in the event of appeal, as set by the appellate courts.

17. Notices. All notices and communications in connection with this Agreement must be given in writing and will be transmitted by certified or registered mail, return receipt requested, to the appropriate party at the address first set forth above. Any notice so transmitted will be deemed effective on the date it is placed in the United States mail, postage prepaid. Either party may, by written notice, designate a different address for purposes of this Agreement.

18. Entire Agreement. This Agreement sets forth the entire understanding of the parties with respect to the purchase and sale of the Property. This Agreement supersedes any and all prior negotiations, discussions, agreements, and understandings between the parties. This Agreement may not be modified or amended except by a written agreement executed by both parties.

19. Applicable Law. This Agreement will be construed, applied, and enforced in accordance with the laws of the state of Oregon.

20. No Brokers. Each Party warrants to the other Party that no broker or agent was consulted or engaged in connection with this transaction, and each Party will indemnify, defend, and hold harmless the other from and against all claims, losses, and liabilities made or imposed for any commission or finder's fee to any broker or agent and arising out of the actions of such party.

21. Acceptance. This Agreement will be null and void unless accepted by Seller, by Seller's execution of it, on or before _____, 2016.

22. Statutory Warning. THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007 AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

SELLER:
PIONEER PROPERTY, LLC
an Oregon limited liability company

BUYER:
CITY OF CANBY,
an incorporated Oregon municipality

Gerald E. Turner, Member
Dated: _____, 2016

Rick Robinson, City Administrator
Dated: _____, 2016

BURDEN NO. 4

A REPLAT OF LOTS 15 AND 16 OF "BURDEN NO. 3", LOCATED
IN THE N.W. 1/4 AND THE S.W. 1/4 OF SECTION 34, T.3S., R.1E., W.M.,
IN THE CITY OF CANBY, CLACKAMAS COUNTY, OREGON

PARTITION PLAT NO. _____

ZTec ENGINEERS INC.

3880 S.E. 8TH AVENUE, SUITE 280 PORTLAND, OREGON 97202
PH: (503) 235-8795 FAX: (503) 233-7889

JOB NO. Y3917-2 DATE SURVEYED:

LEGEND

- DENOTES MONUMENTS FOUND AS NOTED
- ⦿ DENOTES 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "ZTEC LS 1944", AND SET ON THE PLAT OF "BURDEN 2"
- DENOTES 5/8"x30" LONG IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "ZTEC ENGRS. LS 1944" AND SET ON
- I.R. DENOTES IRON ROD.
- FD. DENOTES FOUND.
- (M) DENOTES MEASURED.
- SQ. FT. DENOTES SQUARE FEET.
- AC. DENOTES ACRES
- SN DENOTES PRIVATE SURVEY CLACKAMAS COUNTY SURVEY RECORDS
- PUE DENOTES PUBLIC UTILITY EASEMENT
- P(1) DENOTES PLAT OF "BURDEN NO. 2", PLAT NO. 4004
- P(2) DENOTES PLAT OF "BURDEN NO. 3", PLAT NO. 4084
- P(3) DENOTES PLAT OF "ZIMMER COMMERCE CENTER" PLAT NO. 4270

NOTE:

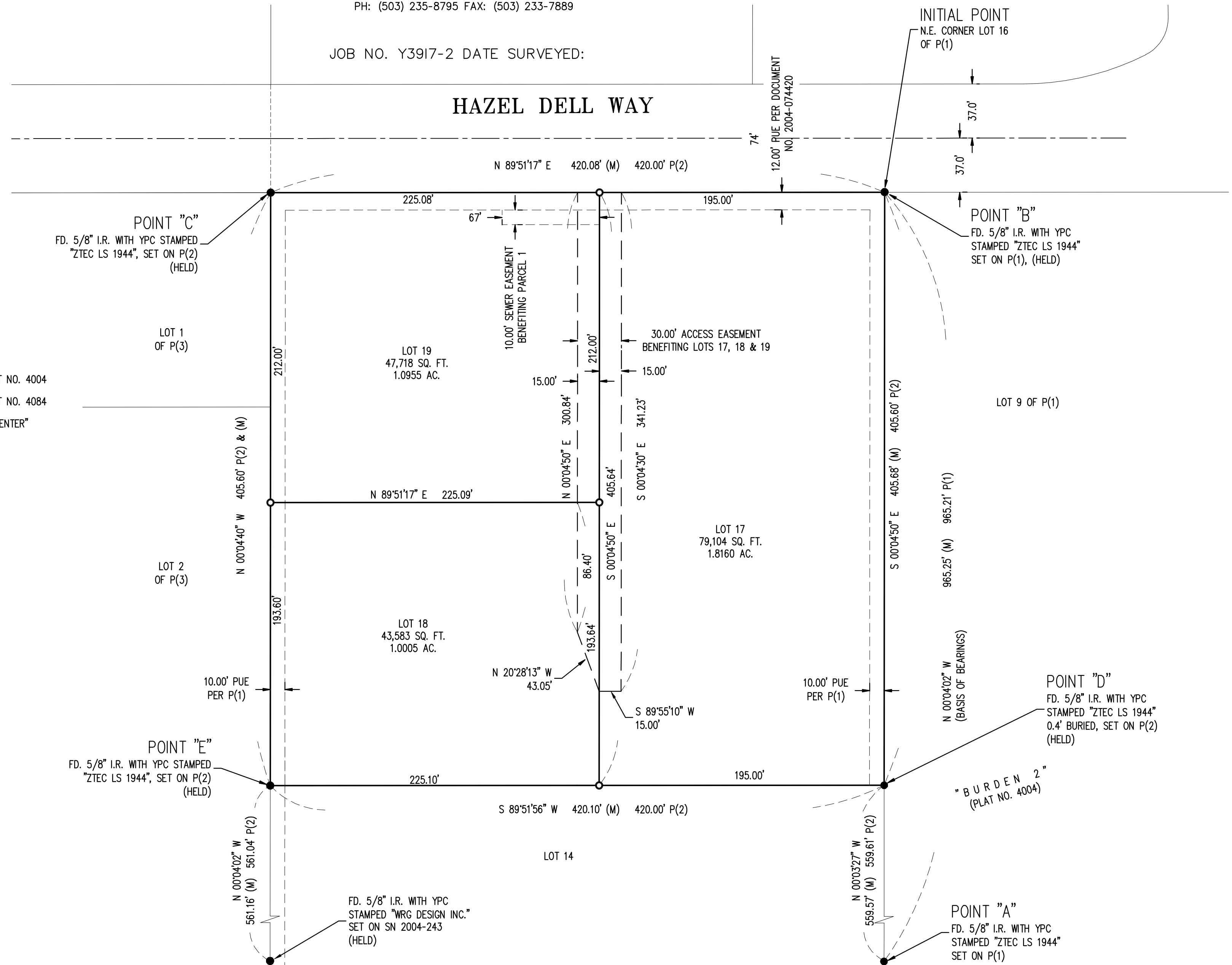
1. THIS PLAT IS SUBJECT TO CONDITIONS OF APPROVAL IMPOSED BY CITY OF CANBY PLANNING COMMISSION CASE FILE NO. MLP 15-04.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 17, 1981
CHRIS FISCHBORN
1944

RENEWAL DATE: 1/1/2018

GRAPHIC SCALE
0 25 50 100
(IN FEET)
1 INCH = 50 FEET



SHEET 1 OF 2

BURDEN NO. 4

PARTITION PLAT NO. _____

A REPLAT OF LOTS 15 AND 16 OF "BURDEN NO. 3", LOCATED
IN THE N.W. 1/4 AND THE S.W. 1/4 OF SECTION 34, T.3S., R.1E., W.M.,
IN THE CITY OF CANBY, CLACKAMAS COUNTY, OREGON

ZTec ENGINEERS INC.

3880 S.E. 8TH AVENUE, SUITE 280 PORTLAND, OREGON 97202
PH: (503) 235-8795 FAX: (503) 233-7889

JOB NO. Y3917-2 DATE SURVEYED:

SURVEYOR'S CERTIFICATE:

I, CHRIS FISCHBORN, HEREBY CERTIFY THAT I HAVE CORRECTLY SURVEYED AND MARKED WITH PROPER MONUMENTS, THE LAND REPRESENTED ON THE ATTACHED PLAT MAP, BEING ALL OF LOTS 15 AND 16 OF THE PLAT OF "BURDEN NO. 3" (PLAT NO. 4084) LOCATED IN THE N.W. ONE-QUARTER AND IN THE S.W. ONE-QUARTER OF SECTION 34, TOWNSHIP 3 SOUTH , RANGE 1 EAST, OF THE WILLAMETTE MERIDIAN, IN THE CITY OF CANBY, CLACKAMAS COUNTY, OREGON.

THAT AT THE INITIAL POINT I FOUND A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "ZTEC LS 1944", SAID IRON ROD BEING AT THE NORTHEAST CORNER OF SAID LOT 16 OF SAID "BURDEN NO. 3", SAID POINT ALSO BEING ON THE SOUTH RIGHT OF WAY LINE OF HAZEL DELL WAY; THENCE FROM SAID INITIAL POINT, SOUTH 00°04'50" EAST, ALONG THE EAST LINE OF SAID LOT 16, A DISTANCE OF 405.68 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "ZTEC LS 1944" AT THE SOUTHEAST CORNER OF SAID LOT 16; THENCE SOUTH 89°51'56" WEST, ALONG THE SOUTH LINE OF SAID LOT 16 AND ALONG THE SOUTH LINE OF SAID LOT 15 OF SAID "BURDEN NO. 3", A DISTANCE OF 420.10 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "ZTEC LS 1944" AT THE SOUTHWEST CORNER OF SAID LOT 15; THENCE NORTH 00°04'40" WEST, ALONG THE WEST LINE OF SAID LOT 15, A DISTANCE OF 405.60 FEET TO A 5/8 INCH IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "ZTEC LS 1944" AT THE NORTHWEST CORNER OF LOT 15, SAID POINT ALSO ON SAID SOUTH RIGHT OF WAY OF SAID HAZEL DELL WAY; THENCE NORTH 89°51'17" EAST, ALONG SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 420.08 FEET TO THE INITIAL POINT.

SAID PARCEL OF LAND CONTAINS AN AREA OF 3.9120 ACRES MORE OR LESS.

NARRATIVE:

BASIS OF BEARINGS: NORTH 00°04'02" WEST BETWEEN THE 5/8 INCH IRON RODS FOUND AT POINTS "A" AND "B", AS PER THE PLATS OF "BURDEN NO. 2" AND "BURDEN NO. 3".

PURPOSE OF SURVEY: TO REPLAT LOTS 15 AND 16 OF "BURDEN NO. 2" (PLAT NO. 4004) INTO 3 LOTS AS SHOWN.

HAZEL DELL WAY: HELD THE 5/8 INCH IRON RODS FOUND AT POINTS "B" & "C" FOR THE SOUTH RIGHT OF WAY LINE OF THE STREET.

EAST PROPERTY LINE: HELD THE IRON RODS FOUND AT POINTS "B" AND "D" FOR THE EAST PROPRETY LINE OF LOT 16 OF "BURDEN NO. 3".

SOUTH PROPERTY LINE: HELD THE 5/8 INCH IRON RODS FOUND AT POINTS "D" & "E" FOR THE SOUTH LINE OF LOTS 15 & 16 OF "BURDEN NO. 3".

WEST PROPERYY LINE: HELD THE IRON RODS FOUND AT POINTS "C" AND "E" FOR THE WEST LINE OF LOT 15 OF "BURDEN NO. 3".

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 17, 1981
CHRIS FISCHBORN
1944

RENEWAL DATE: 1/1/2018

DECLARATION:

KNOW ALL MEN BY THESE PRESENTS THAT, PIONEER PROPERTY, LLC, OWNER OF THE LAND REPRESENTED ON THE ATTACHED MAP, DOES HEREBY MAKE, ESTABLISH AND DECLARE THE ANNEXED MAP OF BURDEN NO. 4 AS DESCRIBED IN THE ACCOMPANYING SURVEYOR'S CERTIFICATE, TO BE A TRUE AND CORRECT MAP AND PLAT THEREOF, ALL LOTS BEING OF THE DIMENSIONS SHOWN AND DOES HEREBY GRANT ALL EASEMENTS AS SHOWN OR NOTED ON SAID MAP UNDER THE PROVISIONS OF CHAPTER 92 OF THE OREGON REVISED STATUTES AND DOES FURTHER STATE THAT THIS PLAT IS SUBJECT TO THE RESTRICTIONS SHOWN OR NOTED HEREON.

GERALD E. TURNER
MEMBER OF PIONEER PROPERTY, LLC

ACKNOWLEDGMENT:

STATE OF OREGON

COUNTY OF CLACKAMAS

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON _____ BY _____

NOTARY PUBLIC - OREGON

COMMISSION NO. _____

MY COMMISSION EXPIRES _____

APPROVALS:

APPROVED THIS _____ DAY OF _____, 20__

BY: _____
CITY OF CANBY

* * * * *

APPROVED THIS _____ DAY OF _____, 20__

CLACKAMAS COUNTY SURVEYOR; AND
CLACKAMAS COUNTY BOARD OF COMMISSIONERS
DELEGATE PER COUNTY CODE CHAPTER 11.02

ALL TAXES, FEES, ASSESSMENTS OR OTHER CHARGES
AS PROVIDED BY ORS 92.095 HAVE BEEN PAID THROUGH
JUNE 30, 20__.

APPROVED THIS _____ DAY OF _____, 20__

RAY ERLAND, CLACKAMAS COUNTY ASSESSOR & TAX COLLECTOR

BY: _____
DEPUTY

* * * * *

STATE OF OREGON
S.S.
COUNTY OF CLACKAMAS

I DO HEREBY CERTIFY THAT THE ATTACHED PLAT
WAS RECEIVED FOR RECORD ON THE _____ DAY
OF _____, 20__, AT
_____ O'CLOCK _____.M.

SHERRY HALL, CLACKAMAS COUNTY CLERK

BY: _____
DEPUTY

SHEET 2 OF 2

After Recording Mail To:

Reif & Hunsaker, PC
Attn: James M. Hunsaker
273 North Grant Street
Canby, OR 97013

DECLARATION REGARDING ACCESS EASEMENT

THIS DECLARATION REGARDING ACCESS EASEMENT ("Declaration") is made and effective _____, 2016, by PIONEER PROPERTY, LLC, an Oregon limited liability company ("Declarant") with regard to real property located on Hazel Dell Way, City of Canby, Clackamas County, Oregon and more particularly described as follows:

Lots 17, 18, and 19
Burden No. 4 (a replat of Lots 15 and 16 of Burden No. 3)
Partition Plat _____ Will need to be clarified upon recording
City of Canby,
County of Clackamas,
State of Oregon.

(the "Property"), and shown on **Exhibit A**, which is attached hereto and incorporated herein. Each Lot within the Property may sometimes referred to individually as a "Lot" and collectively as the "Lots."

RECITALS

WHEREAS, the Declarant owns the Property;

WHEREAS, the Plat described above ("Plat") created a thirty (30) foot access easement ("Easement") benefiting all of the Lots within the Property;

WHEREAS, a roadway has been or will be constructed by the Declarant within the Easement (the "Roadway");

WHEREAS, the Declarant desires to clarify the use of the Easement, to create obligations on the Lots for the maintenance of the Roadway, and for the allocation of costs related thereto.

NOW, THEREFORE, Declarant declares that the Property will be held, transferred, sold, conveyed, and occupied subject to the following covenants,

conditions, restrictions, easements, charges, and liens, which will run with the land, which will be binding on all parties having or acquiring any right, title, or interest in the Property or any part thereof, and which will inure to the benefit of each owner thereof.

ARTICLE I ESTABLISHMENT OF COVENANTS

A. Declarant hereby declares that the Lots, and all of the Property, shall be held, sold and conveyed subject to the following covenants and conditions which are for the purpose of protecting the value and desirability of the Lots, and which shall run with the title to the Lots and be a burden binding on all parties having any right, title or interest in the Lots or any of them, their heirs, personal representatives, successors and assigns (an "Owner" or "Lot Owner"), and shall inure to the benefit of each Lot Owner, their heirs, personal representatives, successors and assigns.

B. Each provision of this Declaration and each agreement, promise, covenant or undertaking to comply with or to be bound by the provisions of this Declaration shall:

 a. be deemed incorporated in each deed or other instrument by which any right, title or interest in any Lot is granted, devised or conveyed, whether or not set forth or referred to in such deed or instrument; and

 b. by virtue of acceptance of any right, title or interest in any Lot by an Owner, such Owner shall be deemed to have accepted, ratified, adopted and declared said agreements, promises, covenants and undertakings as personal covenants of such Lot Owner and such Lot Owner's heirs, personal representatives, successors and assigns to, with and for the benefit of the other Lot Owners.

C. As used herein, "Owner" or "Lot Owner" shall mean any record owner (including Declarant and including a contract seller, but excluding a contract purchaser), whether one or more persons, of a fee simple interest in or to any Lot, but excluding any such person having an interest therein merely as a mortgagee or beneficiary under a deed of trust, unless such mortgagee or beneficiary under deed of trust has acquired fee simple title thereto pursuant to foreclosure or any conveyance in lieu thereof. A person ceases to be an Owner upon conveyance of its Lot by deed. Such cessation of ownership shall not extinguish or otherwise void any unsatisfied obligation of such Owner existing or arising at or prior to the time of recording in the Records, of the instrument evidencing such conveyance.

ARTICLE II EASEMENT USE

A. The Easement was created to provide access to the Lots.

B. The Easement shall be for the non-exclusive use and benefit of the Lot Owners, their heirs, successors and assigns. Each Lot Owner shall have the right to use the Easement for the purposes set forth herein so long as such uses are not

inconsistent with, and do not unreasonably interfere with, the use of the Easement by the other Lot Owners for the purposes set forth herein.

C. The Easement shall be appurtenant to fee simple title to each of the Lots and may not be conveyed, transferred or encumbered by any Lot Owner or any successor in interest separate from conveyance, transfer or encumbrance of fee simple title in and to the Lot Owner's Lot.

D. The right to use the Easement may be exercised only by Lot Owners and their guests, invitees, and licensees, ("Permitted Users"), and Lot Owners and their successors in interest shall not permit or suffer the use of the Easement by any person claiming by or through them, except for Permitted Users. The Lot Owners' use of the Easement shall be and hereby is limited to the following uses: ingress and egress to the Lots within the Property, maintenance, repair, and replacement of the Roadway, and for no other uses. Neither the Plat nor this Declaration shall be deemed to constitute a dedication for public use or to create rights in the general public in or to the Property, or any portion thereof.

E. The Lots Owners and the Permitted Users shall exercise the rights granted by the Plat and this Declaration in a safe and orderly manner and in compliance with all applicable laws, ordinances, governmental regulations, covenants, conditions, and restrictions, and without unreasonably interfering with the other Lot Owners' use of their Lots.

ARTICLE III EASEMENT MAINTENANCE

A. Should the Roadway be damaged or destroyed by the intentional act or the negligence of a Lot Owner (the "Responsible Lot Owner") or the Responsible Lot Owner's agent, contractor, employee, tenant, licensee, guest or invitee, such Responsible Lot Owner shall promptly repair or replace, as appropriate, the Roadway and shall compensate the Non-Responsible Lot Owner for any damages sustained to person or property as a result of such intentional or negligent act.

B. Should the Roadway be damaged or destroyed by causes other than the intentional act or negligence of a Lot Owner (or its agent, contractor, employee, tenant, licensee, guest or invitee), the damaged or destroyed Roadway shall be repaired or replaced at the joint expense of the Lot Owners as set forth below.

C. If any Lot Owner determines, using commercially reasonable judgment, that the Roadway is in need of maintenance, repair, or replacement, then the Lot Owners shall cooperate in good faith to perform such maintenance, repair, or replacement. In the event the Lot Owners cannot agree on the maintenance, repair, or replacement, the non-consenting Lot Owner(s) may exercise its rights to have the matter resolved by the Dispute Resolution procedure hereafter set forth in Article V.

D. The Lot Owners shall share all expenses incurred in connection with the maintenance, repair and replacement of the Roadway and any improvements associated therewith (collectively the "Costs"). The Costs shall be shared on the following basis:

Lot 17	46%
Lot 18	26%
Lot 19	28%

ARTICLE IV DURATION, AMENDMENT AND TERMINATION

The covenants, conditions and agreements contained in this Declaration shall run with the Property and be binding upon and inure to the benefit of all parties having any right, title, or interest in the Property or any portion thereof, their heirs, successors and assigns, forever. This Declaration may be amended or terminated upon the written consent of all Lot Owners and beneficiaries of first lien deeds of trust encumbering any of the Lots, in form acceptable for recordation in the Records, pursuant to law.

ARTICLE V DISPUTE RESOLUTION

A. Any dispute or controversy concerning the enforcement or interpretation of any of the provisions, covenants or restrictions of this Declaration shall first be submitted for resolution through mediation, arbitration or similar alternative dispute resolution technique before pursuing litigation, unless the action seeks relief for a problem which is reasonably considered to be of an emergency requiring immediate attention and resolution. The obligation first to pursue mediation or arbitration, unless otherwise agreed, shall terminate in the event the entire dispute is not resolved within sixty (60) days from the date written notice first requesting mediation or arbitration is sent by one Lot Owner to the other Lot Owners, whether or not mediation or arbitration is actually held before a mediator or arbitrator. If any party in good faith believes the dispute or controversy is not suitable for such alternative dispute resolution techniques or such techniques do not provide results satisfactory to any of the parties thereto, any party may then proceed with litigation. In the event the opinion/ruling rendered by either a mediator, arbitrator or officiating party in the alternative dispute resolution process is not satisfactory to any of the parties thereto, said opinion shall not be final and binding upon the parties, and any of the parties shall have the option of instituting litigation in order to resolve the disputed issues; provided, however, that the dissatisfied party(s) must give the other party(s) written notice of its intent not to abide by the opinion/ruling resulting from such alternative dispute resolution proceeding on or before the expiration of thirty (30) days after the date of such opinion/ruling as a prerequisite to proceeding with litigation (the "Litigation Notice"). The failure to give the Litigation Notice shall be a bar to the commencement of litigation with respect thereto, in which case, the opinion/ruling rendered as a result of such alternative dispute resolution proceeding

shall become binding and may thereafter be enforced through appropriate proceedings in the Circuit Court for Clackamas County, State of Oregon.

B. After making a good faith effort to resolve any dispute or controversy through alternative dispute resolution techniques as set forth in (A) above, and subject to the Litigation Notice requirement set forth above, either Lot Owner may maintain and prosecute any proceedings at law or in equity against any other Lot Owner or against any other persons violating or threatening to violate any of the provisions, covenants or restrictions contained in this Declaration, for injunctive relief, declaratory relief, specific performance, or for damages with respect thereto.

C. In the event of any litigation or arbitration concerning the enforcement or interpretation of any of the provisions, covenants or restrictions of this Declaration, including without limitation collection of monies owed, the prevailing party therein shall be entitled to recover its reasonable attorneys' fees, costs and expenses with respect thereto from the non-prevailing party, including reasonable attorneys' fees, costs and expenses with respect to the appeal and collection of any judgment as a result thereof.

ARTICLE VI MISCELLANEOUS

A. The provisions of this Declaration shall be in addition and supplemental to all other applicable provisions of law.

B. Except as otherwise specifically set forth herein, each Lot Owner will indemnify and hold the other Lot Owners harmless from any and all claims, liability, damages, and costs, including, without limiting the generality of the foregoing, court costs and reasonable attorney's fees, caused by, resulting from, or in any way arising out of the use of the Roadway or the Easement by the Lot Owner or any of its agents, employees, or any other person claiming by, through, or under the Lot Owner or any of its lessees, invitees, licensees, directors, officers, employees or agents,

C. Each Lot Owner shall maintain comprehensive general public liability and property damage insurance with respect to the Easement and Roadway against claims for personal injury (including death) and property damage in amount of \$2,000,000 joint combined limit from an insurance company licensed to do business in the State of Oregon. Such policies shall name the other Lot Owners as additional insureds. Any Lot Owner will furnish a requesting Lot Owner within ten (10) days of receipt of a written request for the same, which request may not be made more than twice in any one (1) calendar year, written verification from the insurance carrier for the Lot Owner that such coverage is in full force and effect.

D. Unless an Owner shall notify the other Owners of a different address, any notice required or permitted to be given under this Declaration to any Lot Owner or any other written communication to any Lot Owner shall be mailed to such Lot Owner, first

class U.S. Mail, certified, return receipt requested, or hand delivered, or sent by recognized overnight delivery service, prepaid, to the address of the Lot in question. If more than one person or entity owns a Lot, any notice or other written communication may be addressed to any one of such Owner and may be mailed in one envelope in accordance with the foregoing. Any notice or other written communication given hereunder shall be effective upon the earlier of: (i) three (3) days after deposit in the U.S. Mail as aforesaid; or (ii) upon delivery to the intended recipient.

E. This Declaration shall be binding upon and inure to the benefit of the Declarant and each Lot Owner and their respective heirs, personal representatives, successors and assigns.

F. The invalidity or unenforceability of any provision of this Declaration shall not affect the validity or enforceability of any other provision or any valid and enforceable part of a provision of this Declaration.

G. The captions and headings in this Declaration are for convenience only and shall not be considered in construing any provision of this Declaration.

H. Failure to enforce any provision of this Declaration shall not operate as a waiver of any such provision or waiver of any other provision in this Declaration.

I. Time is of the essence in the performance of the provisions, covenants and restrictions of this Declaration.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the date first above written.

DECLARANT:
PIONEER PROPERTY, LLC
An Oregon limited liability company

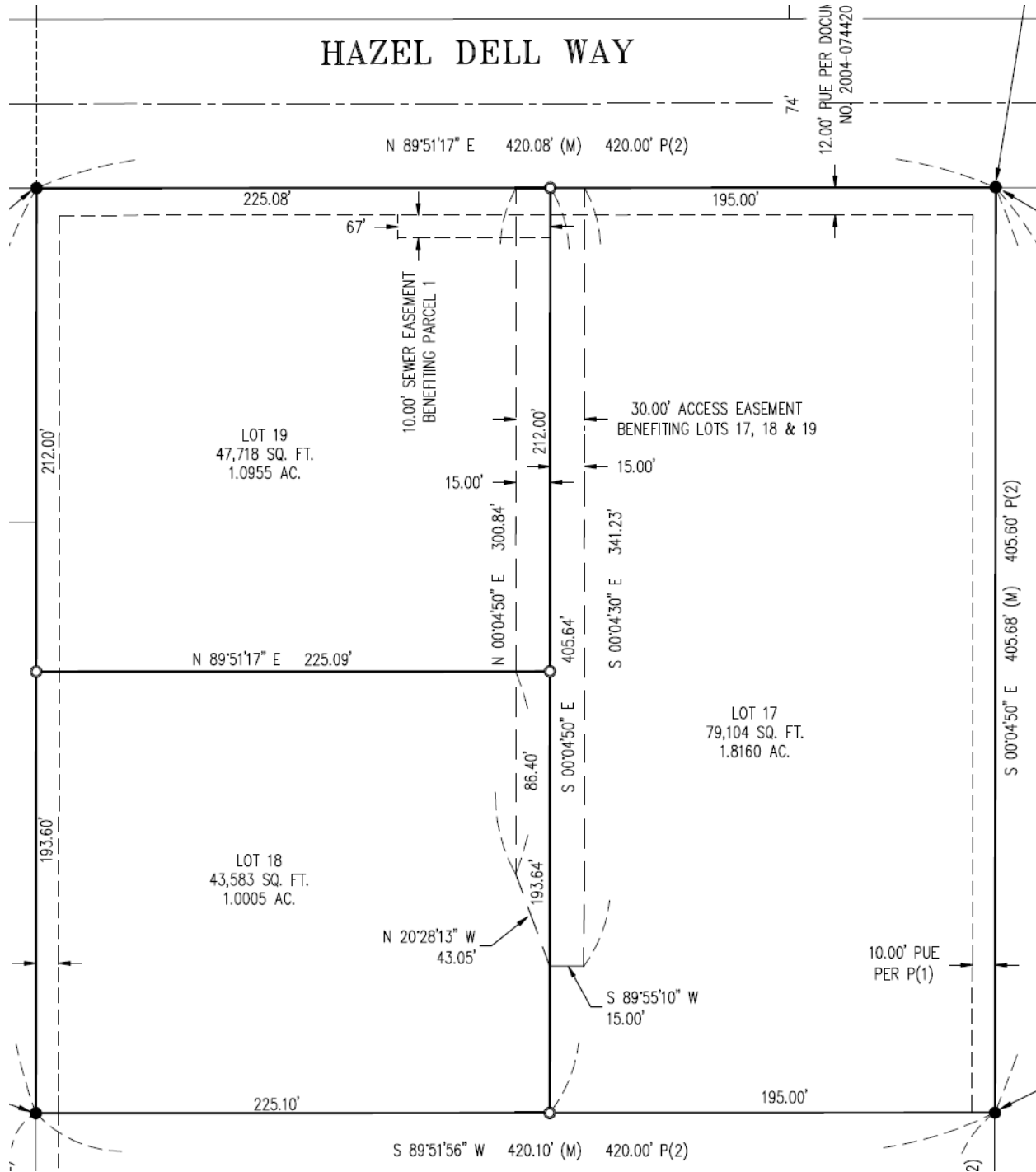
Gerald E. Turner, Member

STATE OF OREGON)
) ss.
COUNTY OF CLACKAMAS)

This instrument was acknowledged before me on _____, 2016, by Gerald E. Turner, as a member of Pioneer Property, LLC.

Notary Public – State of Oregon
My Commission Expires: _____

EXHIBIT A



DECLARATION REGARDING
ACCESS EASEMENT
Pioneer Property, LLC

EXHIBIT A
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