



AGENDA

CANBY CITY COUNCIL MEETING

October 21, 2015

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

WORK SESSION

6:30 PM

City Hall Conference Room
182 N Holly

The City Council will be meeting in a Work Session to receive the first quarter financial status update.

CITY COUNCIL MEETING

1. CALL TO ORDER

- A. Invocation
- B. Pledge of Allegiance

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 October 7, 2015 City Council Work Sessions and Regular Meeting
- B. Appointment to Traffic Safety Commission

Pg. 1

7. RESOLUTIONS & ORDINANCES

- A. Ord. 1422, Adopting the N Redwood Development Concept Plan, and Amending Canby's Comprehensive Plan and Title 16 of the Canby Municipal Code (2nd Reading) Pg. 2
- B. Ord. 1424, Authorizing Contract with Power Chrysler Jeep Dodge of Newport, Oregon; Auto Additions of Salem, Oregon; Datec Inc. of Seattle, Washington; Motorola Solutions of America; MPH Industries of Owensboro, Kentucky; Hot Rod Dreamworks of Canby, Oregon and Ford Motor Credit Corp. for the Lease/Purchase of Two 2016 Dodge Chargers with Police Equipment Packages for the Canby Police Department; and Declaring an Emergency Pg. 8
- C. Ord. 1425, Granting a Non-Exclusive Franchise to Canby Telephone Association to Provide Telecommunication Services Within the City of Canby, Establishing an Effective Date; and Declaring an Emergency Pg. 12
- D. Ord. 1426, Amending CMC Chapter 2.64.020 Regarding the Bicycle and Pedestrian Advisory Committee Pg. 18
- E. Ord. 1427, Declaring a Ban on Marijuana Businesses and Other Sites; Referring Ordinance; and Declaring an Emergency Pg. 20
- F. Ord. 1428, Imposing a Three Percent Tax on the Sale of Marijuana Items By a Marijuana Retailer; Referring Ordinance Pg. 23

8. NEW BUSINESS

- A. Findings, Conclusion & Order CPA 15-02/TA 15-01 Pg. 25

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.

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

Date: 10/14/2015

Name: Jacqueline Jones Occupation: Portland State University Student

Home Address: _____

Employer: _____ Position: _____

Daytime Phone: _____ Evening Phone: _____

E-Mail Address: _____

For which position are you applying? Traffic Safety Committee

What are your community interests (committees, organizations, special activities)? I am a member of the East Portland Rotary. The focused areas I have been a part of are with foster kids, end human trafficking and meals on wheels. I have served as the SW Neighborhood Chairman and Vice Chairman from 2008-2010. I am on the Coffee Creek Prison Advisory Board and help the prison with any advisory issues or concerns.

Experience and educational background: I have experience being a Parks and Rec board member. I have experience as being the chairperson for the SW neighborhood association. I have been on the Transportation Systems Planning committee. I have also been on the safety committee for SW 13th Ave. I currently am a Portland State student majoring in Criminology and Justice.

Reason for your interest in this position: I live on a busy arterial street and realize the importance of traffic safety.

List any other City or County positions on which you serve or have served: I am currently on the Parks and Recreation Board. I have served on the Transportation System Planning committee. I have been a part of the safety planning committee for SW 13th Ave.

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.

RECEIVED

OCT 14 2015

City of Canby - City Recorder

1-4-13

ORDINANCE NO. 1422

AN ORDINANCE ADOPTING THE N REDWOOD DEVELOPMENT CONCEPT PLAN, AND AMENDING CANBY'S COMPREHENSIVE PLAN AND TITLE 16 OF THE CANBY MUNICIPAL CODE.

WHEREAS, the N Redwood Development Concept Plan (NRDCP) Technical and Stakeholder Advisory Committees recommended that the Planning Commission approve the NRDCP and approve certain amendments to the Comprehensive Plan and to the Land Development and Planning Ordinance; and

WHEREAS, the Canby Planning Commission, after providing appropriate public notice, conducted a public hearing on said plan and amendments, during which the citizens of Canby were given the opportunity to come forward to present testimony on these proposed changes; and

WHEREAS, the Planning Commission found that the standards and criteria of Section 16.88.160 and 16.88.180 of the Land Development and Planning Ordinance, concerning Text Amendments and Comprehensive Plan Amendments, were met, and recommended approval to the City Council on a 4-1 vote; and

WHEREAS, the City Council, after reviewing the record of the Canby Planning Commission regarding the subject amendments, concluded that the Planning Commission's findings of fact and the amendment itself are appropriate.

THE CANBY CITY COUNCIL ORDAINS AS FOLLOWS:

- (1) CPA 15-02/TA 15-01 is hereby approved, the N Redwood Development Concept Plan is adopted, and the Land Development and Planning Ordinance and Comprehensive Plan are hereby amended as detailed in Exhibit "A".

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, October 7, 2015, ordered posted in three (3) public and conspicuous places in the City for a period of five (5) days, as authorized by the Canby City Charter; and to come up for final reading and action by the City Council at a regular meeting thereof on October 21, 2015, commencing after the hour of 7:30 p.m. in the Council Meeting Chambers located at 155 NW 2nd Avenue in 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 October 21, 2015, by the following vote:

YEAS_____ NAYS_____

Brian Hodson
Mayor

ATTEST:

Kimberly Scheafer, MMC
City Recorder

Memorandum

Date: September 2, 2015
To: Matilda Deas, City of Canby
cc: Ken Pirie, Walker Macy
Seth Brumley, Oregon Department of Transportation
From: Matt Hastie and Serah Breakstone
Re: **Canby North Redwood Development Concept Plan – Comprehensive Plan and Zoning Code Amendments**

Overview

This memo presents recommended Comprehensive Plan and Zoning Code amendments intended to implement the Canby North Redwood Development Concept Plan (DCP). Where new language is suggested, it is presented in underline format. Where irrelevant language has been omitted, an ellipsis (...) is used.

Comprehensive Plan Amendments

LANDUSE ELEMENT

...

POLICY NO. 7: CANBY SHALL STRIVE TO ENSURE THE EFFICIENT AND EFFECTIVE PROVISION OF INFRASTRUCTURE TO SERVE NEWLY ANNEXED AREAS.

IMPLEMENTATION MEASURES:

- A) The City of Canby's annexation Development Map shall be used to identify properties required to adopt a Development Concept Plan (DCP) or Development Agreement (DA) prior to annexation

Code Amendments

New Plan District

The following presents a new North Redwood Plan District for adoption as Section 16.13 of the Canby Zoning Code. As this represents an entirely new section of code, the underline format is not used.

Chapter 16.13 PLAN DISTRICTS

Sections

16.13.010 North Redwood Plan District

16.13.020 Placeholder for future plan districts

16.13.010 North Redwood Plan District

A. Purpose

The North Redwood Plan District implements the North Redwood Development Concept Plan (NRDCP) and is intended to ensure that development within the North Redwood area is consistent with the land use pattern and transportation network established by the NRDCP. The North Redwood Plan District is also intended to provide some flexibility for new development in order to protect natural resources and emphasize the Willow Creek corridor as a community amenity.

B. Applicability

The standards and regulations in this chapter apply to all land within the North Redwood Plan District as shown on the City of Canby's North Redwood Plan District Map.

The provisions in this chapter apply in addition to standards and regulations established in the base zone and other applicable sections of the Canby Zoning Code. Where standards in this chapter conflict with standards in other sections of the Canby Zoning Code, this section will supersede.

C. Approval criteria

The following criteria must be satisfied prior to approval of any new subdivision or Planned Unit Development within the North Redwood Plan District as they apply to the area proposed for development.

1. Generally, new road alignments should be consistent with those identified on Figure 9 of the DCP. Changes to the identified road alignments may be approved to allow for topographic or other conditions.
2. There shall be a minimum of five connections to existing roads on the east side of North Redwood Street, built to the City's Local Street standard. To the extent possible, additional connections should not create offset intersections and should meet spacing standards in the Transportation System Plan.
3. A cul-de-sac shall only be allowed when environmental or topographical constraints, or compliance with other standards in this code preclude street extension and through circulation. The map in Figure 9 of the DCP identifies three locations where cul-de-sacs could be allowed.
4. One loop road shall be built through the North Redwood community, connecting NE 18th Place to NE 12th Avenue. The loop road shall be built to the City's Neighborhood Route standards. Where possible, the loop road should travel adjacent to Willow Creek and provide access to Willow Creek trailheads and open space.
5. Where possible, other local streets in North Redwood should intersect with the loop road identified in (3) above.
6. At least one additional local street shall traverse the study area from north to south, connecting the area zoned for low density residential with the area zoned for high density residential.

7. Future local streets should be located to split parcel lines where feasible.
8. The land east of Willow Creek shall be accessed from an extension of North Teakwood Street and terminate in a cul-de-sac, hammerhead, or other appropriate turnaround.
9. Block size shall be consistent with the following:
 - i. Block widths should be approximately 280 feet whenever possible. Alternate block widths may be approved to allow for topographical variations
 - ii. Overall block length shall not exceed 600 feet
 - iii. A bicycle/pedestrian connection shall be provided at least every 330 feet, consistent with provisions in the Canby Transportation System Plan (TSP)
10. The park and open space corridor along Willow Creek, as identified in Figure 7 of the DCP, shall be provided through required land dedication for parks.
11. Applicants must demonstrate that future adjacent projects will be able to connect to proposed roads and other infrastructure in a way that will be consistent with the North Redwood DCP.

D. Lot area exceptions and lot size averaging.

The following exceptions to the City's lot size standards and lot size averaging provisions will be allowed for developments in the North Redwood Plan District.

1. The Planning Commission may allow public park land dedications to be included in the lot size averaging calculation in order to achieve community development goals and allow protection of natural resources.
2. The resulting average lot size shall not be less than 5,000 square feet in the R1 zone.
3. The resulting average lot size shall not be less than 4,000 square feet in the R1.5 zone.
4. Individual lot sizes may be less than prescribed in Sections 16.16.030 and 16.18.030 alternative lot layout option provided in Section 16.64.040 is used.

Lot Size Averaging

Section 16.16.030 Development Standards for the R-1 (low density) Zone

B. Lot area exceptions:

1. The Planning Commission may approve an exception to the minimum and maximum lot area standards in subsection 16.16.030.A as part of a subdivision or partition application when all of the following standards are met:

a. The average area of all lots created through the subject land division, excluding required public park land dedications, surface water management facilities and similar public use areas, shall be no less than seven thousand square feet and no greater than ten thousand square feet. Non-required significant natural resource areas shall be included in the average lot size calculation to enable a transfer of density onto buildable portions of the site. Required areas include identified parks, wetland areas, riparian corridors, and other areas in which building is not permitted

under local, state, or federal laws or regulations. For land in the North Redwood DCP area, the Planning Commission may allow public park land dedications to be included in the lot size averaging calculation in order to achieve community development goals and allow protection of natural resources; in this case, the resulting average lot size shall not be less than 5,000 square feet.

b. No lot shall be created that contains less than six thousand square feet, unless the alternative lot layout option provided in Section 16.64.040 is used;

Section 16.18.030 Development Standards for the R-1.5 (medium density) Zone

B. Lot area exceptions:

1. The Planning Commission may approve an exception to the minimum and maximum lot area standards in subsection 16.18.030.A as part of a subdivision or partition application when all of the following standards are met:

a. The average area of all lots and open space tracts created through the subject land division, excluding required public park land dedications, surface water management facilities and similar public use areas, shall be no less than five thousand square feet and no greater than six thousand five hundred square feet. Non-required significant natural resource areas shall be included in the average lot size calculation to enable a transfer of density onto buildable portions of the site. Required areas include identified parks, wetland areas, riparian corridors, and other areas in which building is not permitted under local, state, or federal laws or regulations. For land in the North Redwood DCP area, the Planning Commission may allow public park land dedications to be included in the lot size averaging calculation in order to achieve community development goals and allow protection of natural resources; in this case, the resulting average lot size shall not be less than 4,000 square feet;

b. No lot shall be created that contains less than four thousand square feet, unless the alternative lot layout option provided in Section 16.64.040 is used;

Annexation

Section 16.84.040 Standards and Criteria for Annexation

A. The following criteria shall apply to all annexation requests.

...

8. Statement indicating the type and nature of any comprehensive Plan text or map amendments or Zoning text or map amendments that may be required to complete the proposed development. Proposed zoning must be consistent with zoning identified in any applicable adopted Development Concept Plan.

M E M O R A N D U M

TO: *Honorable Mayor Hodson and City Council*

FROM: *Lt. Jorge Tro*

THROUGH: *Rick Robinson, City Administrator*

DATE: *October 8, 2015*

Issue: Purchase of two 2016 Dodge Charger Police vehicles.

Synopsis: Scheduled replacement of two patrol vehicles.

Recommendation: Staff recommends that the City Council approve Ordinance #1424 allowing the Mayor and City Administrator to execute the appropriate lease/purchase contract with Ford Municipal Finance Program (Bid #83586) to purchase the Dodge Chargers through Power Chrysler Dodge Jeep.

Rationale: The purchase of these vehicles is a continuation of our vehicle replacement plan. Both of these vehicles will be marked patrol units and will replace older police units.

Background: Our Fleet Services Supervisor, Joe Witt, obtained a quote of \$48,878.00 for both vehicles (\$24,439.00 each) from Power Chrysler Dodge Jeep of Newport as listed in the attached ordinance.

The necessary police equipment, computers, radars, cameras, radios and outfitting by Auto Additions of Salem will be an additional \$51,308.38, for a grand total of \$100,186.38 (including Ford Credit underwriting fee of \$545.00). This total cost will be financed through the Ford Motor Municipal Finance Program over a four-year period (\$27,258.01/Year) and funded from the Fleet Services and Police Vehicle Leasing line items as approved in the 2015/2016 adopted budget.

Chief Bret Smith and I recommend the approval of the attached City Ordinance #1424.

Recommended Motion:

I move to approve Ordinance 1424, an Ordinance Authorizing a Contract with Power Chrysler Jeep Dodge of Newport, Oregon; Auto Additions of Salem, Oregon; Datec Inc. of Seattle, Washington; Motorola Solutions of America; MPH Industries of Owensboro, Kentucky; Hot Rod Dreamworks of Canby, Oregon and Ford Motor Credit Corp. for the Lease/Purchase of Two 2016 Dodge Chargers with Police Equipment Packages for the Canby Police Department; and Declaring an Emergency to come up for second reading on November 4, 2015.

ORDINANCE NO. 1424

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH POWER CHRYSLER JEEP DODGE OF NEWPORT, OREGON; AUTO ADDITIONS OF SALEM, OREGON; DATEC INCORPORATED OF SEATTLE, WASHINGTON; MOTOROLA SOLUTIONS OF AMERICA; MPH INDUSTRIES OF OWENSBORO, KENTUCKY; HOT ROD DREAMWORKS OF CANBY, OREGON AND FORD MOTOR CREDIT CORPORATION FOR THE LEASE/PURCHASE OF TWO (2) 2016 DODGE CHARGERS WITH POLICE EQUIPMENT PACKAGES FOR THE CANBY POLICE DEPARTMENT; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Canby wishes to lease/purchase two (2) 2016 Dodge Chargers vehicles with police equipment packages for the Canby Police Department; and

WHEREAS, the cost of the vehicles and equipment will be paid by the Canby Police Department which has budgeted said lease/purchase for the fiscal years 2015-2016 through 2018-2019; and

WHEREAS, in accordance with ORS Chapter 279 and Canby Public Purchasing Rules as set forth in Ordinance No. 1170 and Resolution No. 897, Exhibit A, Section G (18), the City wishes to utilize an existing solicitation from another governmental agency; and

WHEREAS, Power Chrysler Jeep Dodge Newport is the lowest price quote of three sought price quotes regarding this purchase, and Power Chrysler Jeep Dodge is able to provide two (2) 2016 Dodge Chargers in the amount of \$48,878.00; and

WHEREAS, Auto Additions of Salem, Oregon, is able to provide two (2) police equipment packages and outfitting in the amount of \$24,665.04; and

WHEREAS, Datec Incorporated is able to provide two (2) police computer packages in the amount of \$10,068.00; and

WHEREAS, Motorola Solutions is able to provide two (2) police 800 Radio packages and two (2) UHF Radios packages in the amount of \$11,090.34; and

WHEREAS, MPH Industries is able to provide two (2) police Radar packages in the amount of \$2,190.00; and

WHEREAS, Hot Rod Dream Works is able to provide two (2) police Paint Scheme packages in the amount of \$2,750.00; and

WHEREAS, Power Chrysler Jeep Dodge of Newport, Auto Additions, Datec Incorporated, Motorola Solutions, MPH Industries and Hot Rod Dream Works are able to provide two (2) 2016 Dodge Charger vehicles, outfitted with police equipment packages to the

City of Canby's Police Department for the total sum of \$100,186.38, which includes the Ford Credit underwriting fee of \$545.00; and

WHEREAS, the City Council meeting and acting as the Contract Review Board for the City of Canby has reviewed this proposed sales price, reviewed the staff report and believes it to be in the best interest of the City to purchase these vehicles from Power Chrysler Jeep Dodge of Newport; and

WHEREAS, in order to fund the purchase of these vehicles, the City wishes to enter into a lease/purchase agreement with Ford Motor Credit Company under its Municipal Finance Program (Bid # 83586); now therefore

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. The Mayor and City Administrator are hereby authorized and direct to make, execute and declare in the name of the City of Canby and on its behalf, an appropriate contract with Power Chrysler Jeep Dodge of Newport, Oregon, Auto Additions of Salem, Oregon, Datec Industries of Seattle, Washington, Motorola Solutions of America, MPH Industries of Owensboro, Kentucky and Hot Rod Dream Works of Canby, Oregon, for the total purchase price of \$100,186.38, which includes the Ford Credit underwriting fee of \$545.00.

Section 2. The Mayor and 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 Municipal Lease Purchase Contract (Bid # 83586) with Ford Motor Credit Company to finance the purchase of the vehicles.

Section 3. In so much as it is in the best interest of the citizens of the City of Canby, Oregon to provide the Police Department with these vehicles without further delay, and to better serve the citizens of Canby, 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 thereof on October 21, 2015 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 November 4, 2015, commencing at the hour of 7:30 PM in the City Council 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 November 4, 2015 by the following vote:

YEAS_____ NAYS_____

Brian Hodson
Mayor

ATTEST:

Kimberly Scheafer, MMC
City Recorder

ORDINANCE NO. 1425

AN ORDINANCE GRANTING A NONEXCLUSIVE FRANCHISE TO CANBY TELEPHONE ASSOCIATION TO PROVIDE TELECOMMUNICATION SERVICES WITHIN THE CITY OF CANBY, ESTABLISHING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

WHEREAS, Canby Telephone Association, an Oregon Cooperative Corporation, hereinafter referred to as "Grantee", currently provides telecommunications services, more specifically, telephone services within the City of Canby (City); and

WHEREAS, the franchise granted to Grantee by previous Ordinances No. 668, No. 845, No. 1040, No. 1053, and No. 1342 expired on June 7, 2015; and

WHEREAS, pursuant to Canby Municipal Code (CMC) Chapter 12.35, which governs the issuance of such franchises and provides general terms and conditions applicable thereto, the City desires to enter into a non-exclusive franchise with Grantee to provide telecommunication services to the citizens of Canby; and

WHEREAS, the City has evaluated the technical, legal and financial capability of the Grantee to continue to provide such service to its citizens, and believes it is in the best interests of the City to promote the offering of competitive telecommunications services, subject to the City's lawful authority to regulate the use of its rights-of-way; and

WHEREAS, the City and Grantee have negotiated an updated nonexclusive Franchise Agreement to provide telecommunication service to customers within the City of Canby, Oregon; and

WHEREAS, the City Council finds based on its assessment of community needs that the proposed nonexclusive Franchise Agreement, attached hereto as Exhibit "A", and by this reference incorporated herein, meets those community needs and that it should therefore grant the updated nonexclusive franchise agreement as requested, consistent with the terms and conditions of Exhibit "A"; now therefore

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. The City hereby grants to Canby Telephone Association of Canby, Oregon, a nonexclusive franchise on the terms and conditions in the attached Exhibit "A", for a five (5) year term from the effective date of June 7, 2015, to provide telecommunication services, specifically, telephone services, to its customers in the City of Canby.

Section 2. In order to avoid a break in the continuity of the telephone services currently provided by Canby Telephone Association, and to better promote the safety, health and welfare of the citizens of Canby, an emergency is hereby declared to exist and this ordinance shall retroactively take effect on June 7, 2015 as directed by the Canby City Council.

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, October 21, 2015 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 Wednesday, November 4, 2015, 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 second and final reading by the Canby City Council at a regular meeting thereof on November 4, 2015, by the following vote:

YEAS _____

NAYS _____

Brian Hodson
Mayor

ATTEST:

Kimberly Scheafer, MMC
City Recorder

FRANCHISE AGREEMENT BETWEEN
THE CITY OF CANBY, OREGON
AND
CANBY TELEPHONE ASSOCIATION,
AN OREGON COOPERATIVE CORPORATION

This Nonexclusive Franchise Agreement (Agreement) is by and between the City of Canby, Oregon (City) and Canby Telephone Association, an Oregon Cooperative Corporation, hereinafter referred to as “Grantee”, for the provision of telecommunication services to customers within the City of Canby, Oregon.

RECITALS

WHEREAS, Grantee, currently provides telecommunications services, including specifically, telephone services, within the City; and

WHEREAS, the franchise granted to Grantee by previous Ordinances No. 668, No. 845, No. 1040, No. 1053, and No. 1342 expired on June 7, 2015; and

WHEREAS, pursuant to Canby Municipal Code (CMC) Chapter 12.35, which governs the issuance of such franchises and provides general terms and conditions applicable thereto, the City desires to enter into a non-exclusive franchise agreement with Grantee to provide telecommunication services to the citizens of Canby; and

WHEREAS, the City believes it is in the best interests of the City to promote the offering of competitive telecommunications services, subject to the City’s lawful authority to regulate the use of its rights-of-way; and

WHEREAS, the City and Grantee desire to leave no doubts as to their respective roles and by entering into this Agreement, in consideration of the premises above stated and the terms, conditions and agreements contained herein, **the Parties do hereby agree as follows:**

Section 1: Grant of Franchise. The City hereby grants to Grantee, a nonexclusive franchise to use the public rights-of-way within the City to provide telecommunications services to customers within the City. Grantee agrees to comply with all applicable federal, state and local laws, ordinances, rules and regulations, including Canby Municipal Code (CMC) Chapter 12.36, as amended from time to time.

Section 2: Term. The term of this franchise shall be five (5) years, commencing

with the effective date set forth in Section 8. Notwithstanding the foregoing, the Grantee may terminate this franchise after providing six months' written notice to the City upon Grantee's conversion to providing telecommunication services using voice over internet protocol, provided that the Grantee has other lawful authority to maintain the facilities permitted by this franchise in the City's rights-of-way and termination is consistent with the Canby Municipal Code.

Section 3: Franchise Area. The Grantee is authorized by this franchise to use public rights-of-way throughout the City as the City limits may exist now or in the future.

Section 4: Franchise Fee.

- A. As consideration for the use of the City's rights-of-way, Grantee shall remit to the City seven percent (7%) of its "gross revenues" earned from the provision of telecommunications services (as defined in CMC 12.36.030) within the City. "Gross revenues" shall mean "any and all revenue, of any kind, nature or form, without deduction for expense, less net uncollectibles, subject to all applicable limitation imposed by federal or state law".
- B. Franchise fee payments shall be made quarterly on or before 45 days after the end of the preceding quarter, continuing through the term of this franchise. Payments not received by the 45th day of each quarter shall be assessed interest at the rate of one and one half percent per month until paid.
- C. The City shall have the right to conduct or cause to be conducted an audit of gross revenues as defined in Section 4A above for the purpose of ascertaining whether Grantee's franchise fee payments have met the requirements of the franchise. Any difference of payment due either the City or Grantee following audit shall be payable within thirty (30) days after written notice to the affected party.

Section 5: Franchise Acceptance, Proof of Insurance. Within thirty (30) days of the passage of this Ordinance by the City Council, the Grantee shall file with the City Administrator (1) a written statement accepting the terms and conditions of this franchise grant substantially in the form set forth in Exhibit A, and (2) proof of the insurance required by CMC 12.36.080H. Timely filing of such acceptance and proof of insurance shall be a condition of this franchise becoming effective.

Section 6: Franchise Nonexclusive. The franchise hereby granted is not exclusive, and shall not be construed as any limitation on the right of the City to grant rights, privileges and authority to other persons or corporations or to itself to make any lawful use of the City's rights-of-way.

Section 7: Changes in Law. This franchise authorizes only the provision of "telecommunications services" as that term is defined in CMC 12.36.030. The provision

of other services by Grantee requires separate authority from the City. In the event of changes in applicable laws during the term of this franchise, such that additional services are deemed to be "telecommunications services" and/or additional revenues are eligible for calculation of franchise fees, this Agreement will operate to authorize Grantee's use of the City's rights-of-way for provision of the additional services, provided a corresponding change in the calculation of the franchise fee payable to the City is made.

Section 8: Effective date. This Agreement will become effective as of June 7, 2015.

IN WITNESS WHEREOF, City and Company have executed this Agreement as of the day and year first written above.

CITY OF CANBY, OREGON,

A Municipal Corporation

By: _____
Name: Brian Hodson
Title: Mayor

APPROVED AS TO FORM:

Joseph Lindsay
City Attorney

EXHIBIT A

ACCEPTANCE

City Administrator
City of Canby
PO Box 930
Canby, OR 97013

This is to advise the City of Canby, Oregon that Canby Telephone Association (the "Grantee") hereby accepts the terms and provisions of Ordinance No. 1425 passed by the City Council on November 4, 2015 (the "Franchise") granting a Franchise for five (5) years to Canby Telephone Association. The Grantee agrees to abide by each and every term of the Franchise.

CANBY TELEPHONE ASSOCIATION

BY: _____
TITLE: _____
DATE: _____

ORDINANCE NO. 1426

**AN ORDINANCE AMENDING CANBY MUNICIPAL CODE CHAPTER 2.64.020
REGARDING THE BICYCLE AND PEDESTRIAN ADVISORY
COMMITTEE FOR THE CITY OF CANBY**

WHEREAS, Chapter 2.64 of the Canby Municipal Code created a Bicycle and Pedestrian Advisory Committee to advise the City Council about matters associated with bicycle and pedestrian safety issues within the City of Canby, and

WHEREAS, the Bicycle and Pedestrian Committee proposed increasing their membership size from five to seven members to better serve the community.

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. Chapter 2.64.020 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.

§2.64.020 Bicycle and Pedestrian Committee.

The Bicycle and Pedestrian Committee shall consist of ~~seven~~ 5 members appointed by the City Council upon recommendation of the Committee Chairperson and the City Council liaison to the Committee. The Mayor may vote only to break a tie, if necessary. No member of the Committee shall receive a salary or any payment for any services rendered by the Committee. Committee members may be reimbursed by the city for expenses incurred and pre-approved in the performance of their duties. (Am. Ord. 1136, passed 4-21-2004)

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, October 21, 2015 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 November 4, 2015 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 November 4, 2015 by the following vote:

YEAS_____ NAYS_____

Brian Hodson
Mayor

ATTEST:

Kimberly Scheafer, MMC
City Recorder

ORDINANCE NO. 1427

AN ORDINANCE OF THE CITY OF CANBY, CLACKAMAS, OREGON, DECLARING A BAN ON MARIJUANA BUSINESSES AND OTHER SITES; REFERRING ORDINANCE; AND DECLARING AN EMERGENCY

WHEREAS, the Oregon Medical Marijuana Act, as amended by House Bill 3400 (2015) provides that the Oregon Health Authority will register medical marijuana processing sites and medical marijuana dispensaries; and

WHEREAS, Measure 91, which the voters of Oregon adopted in November 2014, directs the Oregon Liquor Control Commission to license the production, processing, wholesale, and retail sale of recreational marijuana; and

WHEREAS, section 134 of HB 3400 provides that a city council may adopt an ordinance to be referred to the electors of the city prohibiting the establishment of certain state-registered and state-licensed marijuana businesses in the area subject to the jurisdiction of the city; and

WHEREAS, the Canby City Council desires to refer the question of whether to prohibit marijuana businesses and sites to the voters of Canby; now therefore

THE CITY OF CANBY, OREGON, ORDAINS AS FOLLOWS:

DEFINITIONS.

Marijuana means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae, and the seeds of the plant Cannabis family Cannabaceae.

Marijuana processing site means any entity registered with the Oregon Health Authority to process marijuana.

Marijuana processor means any entity licensed by the Oregon Liquor Control Commission to process the marijuana.

Marijuana producer means any entity licensed by the Oregon Liquor Control Commission to manufacture, plant, cultivate, grow, or harvest marijuana.

Marijuana retailer means any entity licensed by the Oregon Liquor Control Commission to sell marijuana items to a consumer in this state.

Marijuana wholesaler means any entity licensed by the Oregon Liquor Control Commission to purchase marijuana items in this state for resale to a person other than a consumer.

Medical marijuana dispensary means any entity registered with the Oregon Health Authority to transfer marijuana.

BAN DECLARED. As described in section 134 of House Bill 3400 (2015), the City of Canby, Clackamas, Oregon, hereby prohibits the establishment and operation of the following in the area subject to the jurisdiction of the city:

- (a) Marijuana processing sites;
- (b) Medical marijuana dispensaries;
- (c) Marijuana producers;
- (d) Marijuana processors;
- (e) Marijuana wholesalers;
- (f) Marijuana retailers.

EXCEPTION. The prohibition set out in this ordinance does not apply to a marijuana processing site or medical marijuana dispensary that meets the conditions set out in subsections 6 or 7 of section 134, section 136, or section 137 of House Bill 3400 (2015).

REFERRAL. This ordinance shall be referred to the electors of the City of Canby, Clackamas, Oregon at the next statewide general election on Tuesday, November 8, 2016.

EMERGENCY. This ordinance being necessary for the immediate preservation of the public peace, health, and safety, an emergency is declared to exist, and this ordinance shall be in full force and effect upon passage.

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, October 21, 2015 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 Wednesday, November 4, 2015, 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 second and final reading by the Canby City Council at a regular meeting thereof on the 4th day of November 2015, by the following vote:

YEAS _____

NAYS _____

Brian Hodson
Mayor

ATTEST:

Kimberly Scheafer, MMC
City Recorder

ORDINANCE NO. 1428

AN ORDINANCE OF THE CITY OF CANBY, CLACKAMAS, OREGON, IMPOSING A THREE PERCENT TAX ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER; REFERRING ORDINANCE

WHEREAS, section 34a of HB 3400 (2015) provides that a city council may adopt an ordinance to be referred to the voters that imposes a three percent tax on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city; and

WHEREAS, the Canby City Council desires to impose a tax on the sale of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city;

NOW THEREFORE THE CITY OF CANBY, OREGON, ORDAINS AS FOLLOWS:

DEFINITIONS.

Marijuana item has the meaning given that term in Oregon Law 2015, chapter 614, section 1.

Marijuana retailer means any entity licensed by the Oregon Liquor Control Commission to sell marijuana items to a consumer in this state.

Retail sale price means the price paid for the marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

TAX IMPOSED. As described in section 34a of House Bill 3400 (2015), the City of Canby, Clackamas, Oregon, hereby imposes a tax of three percent on the retail sale price of marijuana items by a marijuana retailer in the area subject to the jurisdiction of the city.

COLLECTION. The tax shall be collected at the point of sale of the marijuana item by a marijuana retailer at the time at which the retail sale occurs and remitted by each marijuana retailer that engages in the retail sale of marijuana items.

REFERRAL. This ordinance shall be referred to the electors of the City of Canby, Clackamas, Oregon at the next statewide general election on Tuesday, November 8, 2016.

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, October 21, 2015 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 Wednesday, November 4, 2015, 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 second and final reading by the Canby City Council at a regular meeting thereof on the 4th day of November 2015, by the following vote:

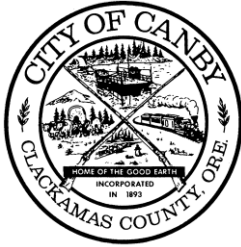
YEAS_____

NAYS_____

Brian Hodson
Mayor

ATTEST:

Kimberly Scheafer, MMC
City Recorder



**BEFORE THE CITY COUNCIL
OF THE CITY OF CANBY**

**A REQUEST FOR APPROVAL TO ADOPT)
THE NORTH REDWOOD DEVELOPMENT)
CONCEPT PLAN AND AMEND SECTIONS)
OF THE COMPREHENSIVE PLAN AND)
THE LAND DEVELOPMENT AND)
PLANNING ORDINANCE**

**FINDINGS, CONCLUSION & FINAL ORDER
CPA 15-02/TA 15-01
City of Canby**

NATURE OF THE APPLICATION

This is a legislative and quasi-judicial amendment to adopt the North Redwood Development Concept Plan, and amend sections of the Comprehensive Plan and Land Development and Planning Ordinance in order to implement the North Redwood Development Concept Plan.

HEARINGS

The Planning Commission considered applications CPA 15-02/TA 15-01 after the duly noticed hearing on September 28, 2015 during which the Planning Commission recommended by a 4-1 vote that the City Council approve CPA 15-02/TA 15-01 per the recommendation contained in the staff report.

The City Council considered applications CPA 15-02/TA 15-01 after the duly noticed hearing on October 7, 2015, during which the Council voted 6-0 to approve CPA 15-02/TA 15-01. These findings are entered to document the approval.

CRITERIA AND STANDARDS

In judging whether or to approve amendments to the Comprehensive Plan and the Land Development and Planning Ordinance, the City Council determines whether criteria from the *City of Canby Land Development and Planning Ordinance* are met, or can be met by observance of conditions. Applicable criteria and standards were reviewed in the Planning Commission staff report dated September 4, 2015 and presented at the October 7, 2015 meeting of the Canby City Council along with the Planning Commission's recommendation.

FINDINGS AND REASONS

The Staff Report was presented and written and oral testimony was received at the Council public hearing. The recommendation to approve the CPA 15-02/TA 15-01 applications by the Planning Commission was noted by staff. After hearing public testimony, and closing the public hearing, the City Council adopted the findings and conclusions contained in the September 4, 2015 staff report.

CONCLUSION

In summary, the City Council adopted the findings contained in the staff report, concluded that the CPA 15-02/TA 15-01 applications meet all applicable approval criteria, and North Redwood Development Concept Plan was suitable, and approved Files # CPA 15-02/TA 15-01 as stated below. The City Council's order is reflected below.

ORDER

Based on the application submitted and the facts, findings and conclusions of the staff report, and from the public hearing, the City Council of the City of Canby **APPROVES** the Comprehensive Plan Amendments and Amendments to the Text of Title applications **CPA 15-02/TA 15-01**.

I CERTIFY THAT THIS ORDER recommending **APPROVAL** of **CPA 15-02/TA 15-01** was presented to and **APPROVED** by the City Council of the City of Canby.

DATED this 21st day of October, 2015

Brian Hodson
Mayor

Matilda Deas, AICP
Senior Planner

ORAL DECISION – October 7, 2015

AYES: Rocha, Parker, Hensley, Dale, Heidt & Coleman

NOES: None.

ABSTAIN: None.

ABSENT: None.

WRITTEN FINDINGS – October 21, 2015

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Kimberly Scheafer, MMC
City Recorder