

AGENDA

CANBY CITY COUNCIL REGULAR MEETING

July 1, 2009

7:30 PM

Council Chambers

155 NW 2nd Avenue

Mayor Melody Thompson

Council President Walt Daniels

Councilor Robert Bitter

Councilor Tony Helbling

Councilor John Henri

Councilor Wayne Oliver

Councilor Jason Padden

CITY COUNCIL REGULAR MEETING

1. CALL TO ORDER

A. Pledge of Allegiance and Moment of Silence

B. Park Month in the City of Canby Proclamation

Pg. 1

C. Oregon National Guard Month Proclamation

Pg. 2

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 June 17, 2009 City Council Regular Meeting

B. Appointment to Library Board

Pg. 3

C. Reappointment to Parks & Recreation Advisory Board

Pg. 4

7. RESOLUTIONS & ORDINANCES

A. Res. 1033, Amending Resolution 787 and Adopting a New Fee for Library Cards for Out of District Patrons

Pg. 5

B. Res. 1034, Adopting Revisions to the Canby Municipal Charter of 1983 and Setting an Effective Date of July 1, 2009

Pg. 7

- C. Res. 1035, Adopting an Updated Document Entitled Policies and Operating Guidelines for the Canby City Council to Reference as it Conducts the Business of the City Pg. 24
 - D. Ord. 1310, Declaring City's Election to Receive State Revenue for Fiscal Year 2009-2010 (2nd Reading) Pg. 43
 - E. Ord. 1311, Authorizing Contract Extension with Cynthia Thompson of BCB Consulting Services for Professional Services for Management of Canby Area Transit Service (2nd Reading) Pg. 44
 - F. Ord. 1312, Establishing Nomination Procedures for Elective Office; Adding Chapter 2.10 to the Canby Municipal Code Pg. 46
 - G. Ord. 1313, Amending Canby Municipal Code Chapter 12.08 Regarding Street Excavations Pg. 49
- 8. NEW BUSINESS**
- A. Approval Process for Community Event Sign Plans Pg. 56
 - B. Approval of Personal Services Agreement with Prothman Pg. 59
- 9. CITY ADMINISTRATOR'S BUSINESS & STAFF REPORTS**
- 10. CITIZEN INPUT**
- 11. ACTION REVIEW**
- 12. EXECUTIVE SESSION: ORS 192.660(2)(h) Pending 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 503.266.4021 ext. 233. 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 OCTS Channel 5. For a schedule of the playback times, please call 503.263.6287.



Office of the Mayor

Proclamation

PARK MONTH IN THE CITY OF CANBY

WHEREAS, Public parks and recreation systems are dedicated to enhancing the quality of life for millions of residents in communities around the world through recreation programming, leisure activities and conservation efforts; and

WHEREAS, Parks, recreation activities and leisure experiences provide opportunities for young people to live, grow and develop into contributing members of society; create lifelines and continuous life experiences for older members of the community; generate opportunities for people to come together and experience a sense of community; and, pay dividends to communities by attracting business and jobs and increasing housing values; and

WHEREAS, The City of Canby offers several parks and trails for public enjoyment. Canby's newest park, Legacy Park located at 1200 SE 13th Avenue, is now completed and will be dedicated on Saturday July 18th at 10 AM. Citizens are invited to attend and visit all other Canby area parks; and

WHEREAS, As we observe Park Month during July, we recognize the vital contributions of employees and volunteers in parks and recreation facilities. These dedicated supporters keep public parks clean and safe for visitors, organize youth activities, provide educational programming on health, nutrition, first aid and gardening, advocate for more open space and better trails, and fundraise for local improvements. They ensure that parks and recreation facilities are safe and accessible places for all citizens to enjoy.

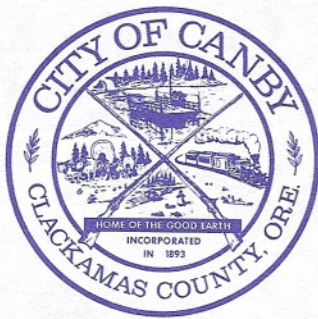
NOW THEREFORE, I, Melody Thompson, with the National Recreation and Park Association, by the virtue of the authority vested in me as the Mayor of the City of Canby, hereby proclaim the month of July as Park Month and call upon park and recreation supporters to join us in recognizing the importance of our parks and recreation facilities.

WE DO ALSO RESOLVE that during Park Month all citizens enjoy what their community has to offer by taking part in their favorite sports, visiting the outdoors, spending time with family and friends or just relaxing or taking a mini-vacation in their local parks.

Given unto my hand this 1st day of July, 2009.

Melody Thompson, Mayor





Office of the Mayor

Proclamation

“Oregon National Guard Month”

WHEREAS, The members of the Oregon National Guard play an essential role in safeguarding the rights and freedoms of American and unceasingly provide a vital public service to Oregon citizens; and

WHEREAS, The Oregon National Guard has consistently demonstrated its value to our state and our nation; and

WHEREAS, Our military personnel face urgent and perilous duties associated with their National Guard responsibilities; and

WHEREAS, The families and loved ones of our military personnel face unique and challenging obstacles throughout each deployment cycle; and

WHEREAS, 2,700 members of the 41st Infantry Brigade Combat Team of the Oregon National Guard will be deployed overseas for eleven months; and

WHEREAS, Oregon Air and Army National Guard troops have fulfilled over 10,000 individual mobilizations in support of ongoing military operations in Afghanistan, Iraq, and throughout the world.

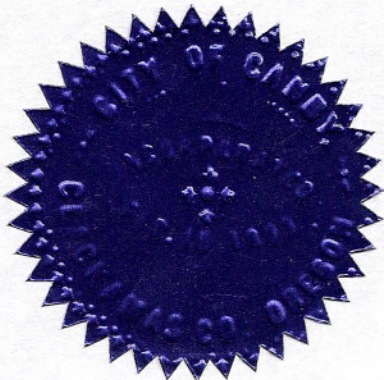
NOW, THEREFORE, I, Melody Thompson, by the virtue of the authority vested in me as the Mayor of the City of Canby, hereby proclaim July 2009 as:

Oregon National Guard Month

in Canby and encourage all citizens to join in this observance.

Given unto my hand this 1st day of July, 2009.

Melody Thompson
Mayor



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

Instructions: By using either your tab key or arrow keys, navigate to each field and type in your information. When complete, save the document to your computer and either mail, fax or email to the addresses listed below.

Date: 6/12/09

Name: Jennifer Searls

Occupation: teacher/homemaker

Home Address:

Employer: NA

Position: substitute teacher/Canby School District

Daytime Phone:

Evening Phone:

E-Mail Address:

For which position are you applying? Canby Library Board

What are your community interests (committees, organizations, special activities)? education-- elementary school volunteer

Experience and educational background: M.A.T. Elementary Education; taught several years in Canby Schools,

Reason for your interest in this position: A dynamic public library is imperative for a healthy, growing community. Access to information, history, ideas, story....critical elements to shape growth and understanding both individually and collectively. I would be glad to participate in the continued development of our library as it serves the Canby community.

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

Information on any special membership requirements: NA

Referred by (if applicable): library staff

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: 503.266.4021 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.

12-4-07

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

Date: 6/10/09
 Name: Rick Maier Occupation: RETIRED
 Home Address: CANBY, OR 97013
 Employer: N/A Position: N/A
 Daytime Phone: (503) 266-4021 Evening Phone:
 E-Mail Address:
 For which position are you applying? Parks & Rec Board

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

* Present Member - Canby P & R Board (over 10 yrs)
Co-Chair - "YES" Pool Committee (2002 + 2006)
Chair - Canby High Voter Reg. Drive (1996 - 2004)
Canby Swim Club - Board Member, Oregon Swimming Official (1994-2002)
 Experience and educational background:
30 yrs - Sales + Marketing (Business Insurance, Tourism, Hotel & Convention Sales, Security System, Telecom Sales)

Reason for your interest in this position:

Assist in the formulation, planning & implementation of stable and adequate funding for parks & rec services.
Advocate for P & R services for all Canby Area citizens.

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

N/A

Information on any special membership requirements: N/A

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

JUN 23 2009

CITY OF CANBY

12-4-07

DATE: June 17, 2009

MEMO TO: Honorable Mayor Thompson and City Councilors

FROM: Beth Saul, Special Projects Manager

Through: Mark Adcock, City Administrator

RE: Updating of out of district library card fee

Issue:

Voters approved the formation of a County Library Service District to be implemented July 1, 2009. The District has updated the old “out of county” library card fee to a new “out of district” library card fee and raised the price to \$95 per year, which reflects the approximate average cost per household to pay for library services. The City of Canby’s fee resolution regarding this charge needs to be updated also.

Recommendation:

Staff recommends approval of *RESOLUTION # 1033, A RESOLUTION AMENDING RESOLUTION #787 AND ADOPTING A NEW FEE FOR LIBRARY CARDS FOR OUT OF DISTRICT PATRONS.*

Background:

Resolution #787 originally outlined the fees for the library and several other City departments. This resolution updates the charge for the out of district card since that charge needs to become effective July 1st. However, staff from all departments are currently reviewing Resolution #787 and collecting information about all city fees and charges for a more comprehensive fee schedule to be presented sometime in the next several months.

Fiscal Impact:

This updated fee is not expected to significantly increase library revenues, as few out of district cards are normally sold, but it will keep the fee current with those of surrounding counties and the new District requirement.

RESOLUTION NO. 1033

**A RESOLUTION AMENDING RESOLUTION NO. 787 AND ADOPTING A NEW FEE FOR
LIBRARY CARDS FOR OUT OF DISTRICT PATRONS.**

WHEREAS, the citizens of Clackamas County, Oregon voted to form a County Library District to be implemented as of July 1, 2009 with the Canby Public Library to become part of the new District as of July 1, 2009; and

WHEREAS, the current fee for an “out of district” library card is delineated in Attachment A of current Resolution No. 787 approved by the Canby City Council on March 6, 2002 in the amount of \$75 per year shall be raised to \$95 per year in order to be contemporary with the cost of library service under the new District; now therefore

IT IS HEREBY RESOLVED by the City of Canby Council that current Resolution No 787 is hereby amended to raise the fee for library cards for “out of district” patrons from \$75 per year to \$95 per year.

This resolution is effective July 1, 2009.

ADOPTED by the Canby City Council on the 1st day of July, 2009.

Melody Thompson
Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder

RESOLUTION NO. 1034

A RESOLUTION ADOPTING REVISIONS TO THE CANBY MUNICIPAL CHARTER OF 1983 AND SETTING AN EFFECTIVE DATE OF JULY 1, 2009.

WHEREAS, in May, 2009, the City of Canby proposed several revisions to its current Municipal Charter of 1983 and sent those measures to the Canby electorate for approval; and

WHEREAS, the Canby electorate approved Measures No. 3-337, No 3-338 and No. 3-339 at an election on May 19, 2009. The results were certified by the Canby City Council on June 17, 2009; and

WHEREAS, the City Council wishes to formally adopt the revisions and incorporate them into the current Charter of 1983; now therefore

IT IS HEREBY RESOLVED by the City of Canby Council as follows:

1. The Canby Municipal Charter of 1983, as revised on July 1, 2009, is hereby adopted. A copy of said revised Charter is attached hereto as Exhibit "A" and by this reference incorporated herein.
2. This resolution shall take effect on July 1, 2009.

ADOPTED this 1th day of July, 2009, by the Canby City Council.

Melody Thompson - Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder

Exhibit "A"

CITY OF CANBY



CHARTER

A CHARTER

To provide for the government of the City of Canby, Clackamas County, Oregon; and to repeal all Charter provisions of the City enacted prior to the time that this Charter takes effect.

BE IT ENACTED by the people of the City of Canby, Clackamas County, Oregon:

CHAPTER I NAMES AND BOUNDARIES

Section 1. TITLE OF ENACTMENT. This enactment may be referred to as the City of Canby Charter of 1983, and as revised on July 1, 2009.

Section 2. NAME OF CITY. The municipality of Canby, Clackamas County, Oregon, shall continue to be a municipal corporation with the name "City of Canby".

Section 3. BOUNDARIES. The corporate limits of the City shall include all territory encompassed by its boundaries as they now exist or hereafter are modified by a majority of the voters. Unless mandated by law, annexations, delayed or otherwise, to the City of Canby, may only be approved by a majority vote among the electorate. The Recorder shall keep at the City Hall at least two (2) copies of this Charter in each of which shall be maintained an accurate, up-to-date description of the boundaries. The copies and descriptions shall be available for public inspection at anytime during regular office hours of the Recorder.

CHAPTER II POWERS

Section 1. POWERS OF THE CITY. The City shall have all powers which the Constitutions, statutes and common law of the United States and of this State expressly or impliedly grant or allow municipalities, as fully as though this Charter specifically enumerated each of those powers.

Section 2. CONSTRUCTION OF CHARTER. In this Charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the City would have if this particular power were not mentioned. The Charter shall be liberally construed to the end that the City may have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to State laws and the municipal home rule provisions of the State Constitution.

Section 3. POWER TO LICENSE, TAX AND REGULATE. The City Council shall have power to license, tax and regulate for the purpose of City revenue, all businesses, callings, trades, employments and professions as the Council may require to be licensed, and which are not prohibited by the laws of the State of Oregon.

Section 4. INITIATIVE AND REFERENDUM POWERS. The power to enact or amend the Charter of the City of Canby and all other rights guaranteed to the people of this City under the Initiative and Referendum Provisions of Section 1-a, Article IV of the Constitution of the State of Oregon are hereby reserved and guaranteed to the people of the City of Canby by this Charter, and the

Council shall provide the method of carrying into effect the initiative and referendum power of the people.

CHAPTER III FORM OF GOVERNMENT

Section 1. WHERE POWERS VESTED. Except as this Charter provides otherwise, all powers of the City shall be vested in the Council.

Section 2. COUNCIL. The Council shall be composed of six Council Members elected from the City at large.

Section 3. COUNCIL MEMBERS. The Council Members in office at the time this Charter takes effect shall continue in office, until the end of their term as fixed by the Charter of the City in effect at the time this Charter is adopted. At each biennial general election after this Charter takes effect, three Council Members shall be elected, each for a term of four years; and at each biennial general election the number of Council Members required to fill vacancies pursuant to Chapter VII, Section 2, of this Chapter shall also be elected.

Section 4. MAYOR. At each biennial general election a Mayor shall be elected for a term of two years.

Section 5. ADMINISTRATOR, JUDGE, CITY ATTORNEY, AND OTHER OFFICERS. Additional officers of the City shall be a City Administrator, Municipal Judge, and City Attorney, each of whom the Council shall appoint, and such other officers as the Council deems necessary. Appointed officers shall hold their office during the pleasure of the Council or until their successors are appointed and qualified. Appointed officers are subject to removal at any time by the Council with or without cause and may be suspended in accordance with the provisions of Chapter V, Section 2(c)(3). The duties of all officers not defined in this Chapter may be prescribed by the Council. The Council may combine any two or more appointive offices.

Section 6. SALARIES. The compensation for the services of each City officer and employee shall be the amount fixed by the Council.

Section 7. QUALIFICATIONS OF OFFICERS. No person shall be eligible for an elective office of the City unless at the time of election such person is a qualified elector within the meaning of the State Constitution and has resided in the City during the 12 months immediately preceding the election. The Council shall be final judge of the qualifications and election of its own members.

CHAPTER IV COUNCIL

Section 1. MEETINGS. The Council shall hold a regular meeting in the City at least once each month at a time and place which it designates. It shall adopt rules for the government of its members and proceedings. The Mayor may, or at the request of three members of the Council shall, by giving notice thereof to all members of the Council then in the City and public notice to all interested persons, call a special meeting of the Council for a time not earlier than twenty-four nor later than forty-eight hours after the notice is given. Special meetings of the Council may also be held at any time by the

common consent of all the members of the Council and after twenty-four hours reasonable notice to the public. Emergency meetings of the Council may be called by the Mayor, or the President of the Council in the absence of the Mayor, for an actual emergency, and notice thereof shall be given by telephone calls to the press and interested persons.

Section 2. QUORUM AND CONTROL OF CONDUCT. A majority of the members of the Council shall constitute a quorum for its business, but a smaller number may meet and compel the attendance of absent members in the manner provided by Ordinance. The Council may reprimand any member for disorderly conduct at any meeting or for refusing or neglecting to attend any regular meeting without sufficient excuse therefore, and may, by unanimous vote of all other Council Members, expel a member for good cause.

Section 3. RECORD OF PROCEEDINGS. The Council shall cause a record of its proceedings to be kept. Upon the request of any of its members, the ayes and nays upon any question before it shall be taken and entered in the record.

Section 4. PROCEEDINGS TO BE PUBLIC. No action by the Council shall have legal effect unless the motion for the action and the vote by which it is disposed of take place at proceedings open to the public.

Section 5. MAYOR'S FUNCTIONS AT COUNCIL MEETINGS. The Mayor shall be chairperson of the Council and preside over its deliberations and shall have no vote on any questions before it except in the case of tie. The Mayor shall have authority to preserve order, enforce the rules of the Council and determine the order of business under the rules of the Council.

Section 6. PRESIDENT OF THE COUNCIL. At its first meeting after this Charter takes effect and thereafter at its first meeting of each odd-numbered year, the Council by vote shall elect a President from its membership. In the Mayor's absence from a Council meeting, the President shall preside over it. Whenever the Mayor is unable to perform the functions of the office, the President shall act as Mayor.

Section 7. VOTE REQUIRED. Except as this Charter otherwise provides, the concurrence of a majority of the members of the Council present at a Council meeting at which a quorum is present shall be necessary to decide any question before the Council.

Section 8. SUPERVISION OF CITY EMPLOYEES. Neither the Council nor any of its members shall give orders or directives to any subordinate or City employee, other than officers of the City, either publicly or privately, except to and through the City Administrator.

CHAPTER V POWERS AND DUTIES OF OFFICERS AND PROFESSIONAL CONTRACTORS

Section 1. MAYOR. The Mayor shall appoint the committees provided by the rules of the Council; and shall sign all records of proceedings approved by the Council. The Mayor shall have no veto power. In the Mayor's absence, the President of the Council shall sign all Ordinances passed by the Council within five days after their passage. After the Council approves a bond of a City officer or a bond for a license, contract or proposal, the Mayor shall endorse the bond.

Section 2. CITY ADMINISTRATOR.

(a) **Qualifications.** The City Administrator shall be the administrative head of the government of the City and shall be appointed by the Council without regard to political considerations and solely with reference to executive and administrative qualifications. A City Administrator need not be a resident of the City of Canby or the State at the time of appointment, but promptly thereafter shall become and remain a resident of the City during the term of the office. Before taking office, the City Administrator shall give a bond in such amount and with such surety as may be approved by the Council. The premiums on such bond shall be paid by the City.

(b) **Term.** The Administrator shall be appointed for an indefinite term and may be removed at the pleasure of the Council.

(c) **Powers and Duties.** The powers and duties of the Administrator shall be as follows:

(1) Devote full time to the discharge of official duties, attend all meetings of the Council unless excused therefrom by the Council or the Mayor, keep the Council advised at all times of the affairs and needs of the City, and make reports annually, or more frequently if requested by the Council, of all the affairs and departments of the City.

(2) See that all Ordinances are enforced and that the provisions of all franchises, leases, contracts, permits and privileges granted by the City are observed.

(3) Hire or remove all City employees and have general supervision and control over them and their work, with power to transfer an employee from one department to another. The Administrator shall supervise the departments to the end of obtaining the utmost efficiency in each of them. He shall have the power to suspend an appointed City Officer pending review and final action of the Council.

(4) Act as purchasing agent for all departments of the City.

(5) Be responsible for preparing and submitting to the Budget Committee the annual budget estimates and such reports as that body requests.

(6) Supervise the operation of all public utilities owned and operated by the City excepting the electric utility department for which the Canby Utility Board has exclusive jurisdiction, control and management as provided in the following Chapter X. The City Administrator shall have general supervision over all City property.

(7) Perform such other duties as may be prescribed from time to time by the Council.

Section 3. MUNICIPAL JUDGE. The Municipal Judge shall hold within the City a court known as the Municipal Court for the City of Canby, Clackamas County, Oregon. All areas within the City shall be within the territorial jurisdiction of the Court. The Municipal Judge shall exercise original and exclusive jurisdiction of all offenses defined and made punishable by the Ordinances of the City and of all actions brought to recover or enforce forfeitures or penalties defined or authorized by Ordinances of the City. The Municipal Judge shall have authority to issue process for the arrest of any person accused of an offense against the Ordinances of the City, to commit any such person to jail or admit to bail pending trial, to issue subpoenas, to compel witnesses to appear and testify in Court on the trial of any cause, to compel obedience to such subpoenas, to issue any process necessary to carry into effect the judgments of the Court, and to punish witnesses and others for contempt of Court. When not governed by Ordinances or this Charter, all proceedings in the Municipal Court for the violation of a City ordinance shall be governed by the applicable general laws of the State governing Justices of the Peace and Justice Courts, except that the Municipal Court shall not exercise any civil jurisdiction.

Section 4. CITY ATTORNEY. The City Attorney is a legal adviser of the officials of the City of Canby and shall be retained by the Council. It shall be the duty of such Attorney to attend all regular Council meetings and such special meetings as may be required unless excused therefrom by the Council. The City Attorney shall represent and defend the City in all suits, actions at law and all

matters and things in which the City of Canby may be legally interested. The City Attorney, or a deputy appointed by him, shall also represent the City in the Municipal Court including violations of any City Ordinances or for the violation of all other laws under which the Municipal Court has jurisdiction.

Section 5. AUTHORITY TO CONTRACT FOR PROFESSIONAL SERVICES. The Council shall have authority to contract for the professional services of those whose professional skills, training and knowledge may be required at any time or from time to time for the administration of City affairs and municipal government.

CHAPTER VI ELECTIONS

Section 1. STATE LAW. City elections must conform to state law except as this charter or ordinances provide otherwise. All elections for City offices must be nonpartisan.

Section 2. QUALIFICATIONS.

- (a) The Mayor and each Council Member must be a qualified elector under state law, and reside within the City for at least one year immediately before election or appointment to office.
- (b) No person may be a candidate at a single election for more than one City office.
- (c) Neither the Mayor nor a Council Member may be employed by the City.
- (d) The Council is the final judge of the election and qualifications of its members.

Section 3. NOMINATIONS. The Council must adopt an ordinance prescribing the manner for a person to be nominated to run for Mayor or a City Council Member position.

Section 4. TIE VOTES. In the event of a tie vote for candidates for an elective office, the successful candidate shall be determined by a public drawing of lots in a manner prescribed by the Council.

Section 5. TERMS. The term of a person elected at a general election begins immediately after the first regular council meeting after the first of the year following the election, and continues until the successor qualifies and assumes the office.

Section 6. OATH OF OFFICE. Before entering upon the duties of the office, each officer shall take an oath or shall affirm support of the Constitutions and Laws of the United States, the State of Oregon and the City of Canby and to faithfully perform the duties of the office.

CHAPTER VII VACANCIES IN OFFICE

Section 1. WHAT CREATES VACANCY. An office shall be deemed vacant upon the incumbent's death, adjudicated incompetence, conviction of a felony or other offense pertaining to the office, unlawful destruction of public records, resignation, recall from office, ceasing to possess the qualifications for the office, failure of a person elected or appointed to an office to qualify therefore within ten days after the term of office commences, or in the case of a Mayor or Council Member, upon their absence from the City for 30 days without the consent of the Council or because of absence from meetings of the Council for 60 days without like consent, and upon a declaration by the Council of the

vacancy.

Section 2. FILLING OF VACANCIES. Vacant elective offices in the City shall be filled by appointment by a majority vote of the Council. The appointee's term shall begin immediately upon the appointment and shall continue until the beginning of the year following the next general biennial election and until a successor is elected and qualified. The successor for the unexpired term shall be elected at the next general biennial election after said appointment. During the temporary disability of any elected officer or during their absence temporarily from the City for any cause, the offices may be filled pro tem in the manner provided for the filling of vacancies in office permanently.

CHAPTER VIII ORDINANCES

Section 1. ENACTING CLAUSE. The enacting clause of all ordinances hereafter enacted by the Council shall be: "THE CITY OF CANBY ORDAINS AS FOLLOWS:"

Section 2. MODE OF ENACTMENT. All ordinances shall be read at two meetings of the Council. If approved by the Council the first reading may be by title only and a brief outline covering the purpose of the ordinance. The second reading may be by title only unless any person present requests to have the ordinance or any part thereof read in full. Immediately following the first reading of a proposed ordinance, it shall be signed and published by the Recorder at least once at full length in a newspaper published in Canby; provided, however, that the Council may order instead that the proposed ordinance be posted in three public and conspicuous places in said City for a period of 5 days prior to the passage of said ordinance. Whenever the Council proposes to take final action on any proposed ordinance at a special meeting, notice thereof, giving the time of such meeting, shall be published or posted along with the ordinance. In any event, before final action has been taken on any proposed ordinance, there shall be filed by or with the Recorder proof by affidavit of the publication or posting of the proposed ordinance.

Section 3. REQUIREMENT TO PASS ORDINANCES. It shall require the majority vote of all members of the Council as then constituted to pass an ordinance on its final reading.

Section 4. WHEN ORDINANCES TAKE EFFECT. An ordinance enacted by the Council shall take effect on the 30th day after its enactment; however, when the Council deems it advisable, an ordinance may provide a different time for it to take effect, and, in case of emergency, it may take effect immediately.

Section 5. RECORDING VOTE AND SIGNING ORDINANCE. Upon the final vote on an ordinance, the ayes and nays of the Council Members shall be taken and entered in the record of the proceedings and also on the ordinance. Upon enactment of the ordinance, the Mayor shall sign it with the date of its final passage and it shall be attested by the signature of the Recorder.

CHAPTER IX PUBLIC IMPROVEMENTS

Section 1. CONDEMNATION. Any necessity of taking property for the City by condemnation shall be determined by the Council and declared by a Resolution of the Council describing the property and stating the uses to which it shall be devoted. Taking of property for the City by condemnation

shall be in accordance with provisions of the Oregon Constitution and Oregon Law.

Section 2. IMPROVEMENTS. The procedure for making, altering, repairing, vacating or abandoning a public improvement shall be governed by general ordinance or, to the extent not so governed, by the applicable general laws of the State. Action on any proposed public improvement, except a sidewalk or other improvement unanimously declared by the Council to be needed at once because of an emergency, shall be suspended for six months upon a remonstrance thereto by the owners of the land to be specially assessed therefore. The number of owners necessary to suspend the action will be determined by ordinance. In this Section, "owner" shall mean the record holder of legal title, or where land is being purchased under a recorded land sale contract verified to the Recorder in writing by the record holder of legal title to the land, the purchaser shall be deemed the "owner".

Section 3. SPECIAL ASSESSMENTS. The procedure for levying, collecting and enforcing the payment of special assessments for public improvements or other services to be charged against real property shall be governed by general ordinances.

Section 4. BIDS. Public contracting shall be done in compliance with the provisions of Oregon's Public Contracting Code, the rules and regulations promulgated thereunder and with all local contracting rules established by the City.

Section 5. MUNICIPAL SEWER SYSTEM. The City shall continue to own and operate a municipal sewer system and in addition to the other methods provided by Charter, the Council may, when in its discretion it is deemed advisable, provide by ordinance for the construction or reconstruction either by contract or City construction method or the combination of both and for the maintenance, extension, operation or enlargement of sewers, sewer systems, pumping stations, sewage treatment or disposal plant, together with all appurtenances necessary, useful or convenient for the collection, treatment and disposal of sewage and for such purposes may acquire by gift, purchase, grant or condemnation, the necessary lands and rights of way therefore, either within or without the corporate limits of the City of Canby, all or any part of the foregoing being hereinafter referred to as the facilities. The City Council may construct or reconstruct that part of the foregoing facilities consisting of a treatment plant, outfall sewers, trunk sewers, main sewers and pumping plants as an entire unit or as separate units in order to continue to provide the City of Canby with a basic sanitary sewage system; and the Council may provide that the same or that part so constructed will be paid for by all of the residents of the City or property owners therein regardless of whether their property is to be actually connected with or presently served by said systems or units.

CHAPTER X UTILITIES

Section 1. UTILITY DEPARTMENTS: There is hereby created a utility department of electric service of the City of Canby and a utility department of water service of the City of Canby. Each department shall be responsible for the development, production, purchase and distribution of all water or electric revenue producing utilities of the City.

Section 2. WATER DEPARTMENT. The City Council shall have jurisdiction, control and management of the Water Department and all of its operations and facilities. The City Council shall have all the powers and duties necessary to construct, acquire, expand and operate the water system, and to do any and all acts or things that are necessary, convenient or desirable in order to operate,

maintain, enlarge, extend, preserve and promote an orderly, economical and businesslike administration of the Water Department. The City Council may assign or delegate all or a portion of its powers and duties over the Water Department to the Canby Utility Board; provided, however, that the City Council shall retain ultimate jurisdiction, control and management of the Water Department and its operations and facilities.

Section 3. UTILITY BOARD. There is hereby created the Canby Utility Board of the City (hereinafter referred to as the Board), which shall have exclusive jurisdiction, control and management of the Electric Department and all its operations and facilities. The Board shall have all the powers and duties possessed by the City to construct, acquire, expand and operate the electric system, and to do any and all acts or things that are necessary, convenient or desirable in order to operate, maintain, enlarge, extend, preserve and promote an orderly, economical and businesslike administration of the electric system. The Board shall operate as a separate unit of City government and except as provided in this Charter, both the Board and the Electric Department shall be free from the jurisdiction, direction and control of other City Officers and of the City Council. The Board may sue and be sued in its own name. All damage claims arising from the operation of the Board and the Electric Department shall be the responsibility of and be liquidated by the Board.

Section 4. ORGANIZATION OF THE CANBY UTILITY BOARD.

(a) **Number and Qualification of Board Members.** There shall be five (5) members of the Canby Utility Board appointed by the Mayor and confirmed by a majority of the Canby City Council. They shall hold office until their successors are appointed and qualified. They are subject to removal at any time by the Mayor and with the approval of a majority of the Council Members with or without cause and with or without notice. At the first Council meeting after the first of the next month after this Charter takes effect, two (2) Board members shall be appointed to serve terms of three years, two (2) Board members shall be appointed to serve terms of two years, and one (1) Board member shall be appointed to serve a term of one year. Their successors shall be appointed for terms of three years. No Board member may serve more than two successive terms. No person shall be eligible for appointment as a Board member or entitled to hold such office unless at the time of appointment and continuing thereafter, such person is a qualified elector within the meaning of the State Constitution and has resided in the City of Canby during the six months immediately preceding appointment and continues to reside in the City for the term of the appointment. The City Council shall be the final judge of the qualifications and appointment of Board members, but no Council Member or Mayor (during their term of office) shall be eligible to appointment as a member of that Board.

(b) **Vacancies.** Vacancies shall be filled for the unexpired term by the Council. No vacancy in the Board shall impair the right of remaining Board members to exercise all the powers of the Board to transact its business.

(c) **Compensation.** The compensation for the services of each Board member shall be whatever amount the Board fixes.

(d) **Organization of the Board.** Within ten (10) days after their appointment and at its first meeting in January each year thereafter, the Board members shall elect one of their number as Chairman. If the Chairman is absent at any meeting, a pro-tem shall be appointed by the members present. The Chairman shall preside over all meetings of the Board and in doing so, shall, so far as possible, follow Roberts Rules of Order. The Chairman shall, with the approval of the Board, sign all Resolutions and Orders of the Board and all notes, contracts, deeds, mortgages, bonds, and other agreements of the Board. No action shall be taken by the Board except by the affirmative vote of the majority of the members.

(e) **Quorum.** Three (3) Board members shall constitute a quorum.

(f) **Secretary-Clerk.** The Board shall appoint and fix the compensation of a Secretary-Clerk who is not a member of the Board and who shall serve at the pleasure of the Board and is subject to removal at any time and for any reason. Before entering upon the duties of the office, the Secretary-Clerk shall post a bond in such amount and with such surety or sureties as the Board may approve and to assure the faithful performance of duties. The Secretary-Clerk shall attend all meetings of the Board unless excused therefrom by the Board, keep an accurate record of its proceedings in a book provided for that purpose, sign the approved minutes of its meetings and may, with approval of the Board, sign or cosign checks for disbursement of funds.

(g) **Meetings.** The Board shall hold a regular meeting at least once a month at a time and place to be fixed by the Board. Special meetings may be called by the Chairman of the Board, or by two members of the Board. Notice of all meetings shall be given by the Secretary-Clerk in the manner and for the time required for public meetings by ORS 192.640. All regular or special meetings of the Board shall be open to the public.

Section 5. ORGANIZATION OF THE ELECTRIC DEPARTMENT.

(a) **Employees.** The Canby Utility Board shall have the authority to employ a General Manager and such supervisors, bookkeepers, attorneys, laborers, mechanics and other employees, as may be determined, and fix compensation thereof, and discharge the same at pleasure, and for any reason.

(b) **Compensation.** The Board shall have the authority to fix compensation of the Clerk and other employees of the Board and change the same from time to time.

Section 6. POWERS AND DUTIES OF THE CANBY UTILITY BOARD.

(a) **Real Estate and Contracts.** The Board, in the efficient and economical operation of the Electric Department, both inside and outside the City limits, may:

(1) purchase and sell electric power and energy and services to public and private corporations and to other consumers;

(2) construct plants, transmission lines and other facilities;

(3) purchase real estate and franchises in its name; and

(4) enter into all contracts, leases and agreements in furtherance thereof.

(b) **Extension of Services.** The Board may adopt regulations governing extension of services of the Electric Department both inside and outside the City limits. The regulations shall provide the conditions under which the extensions shall be made to render them compensatory and shall provide that each extension project shall, when completed, become the property of the Electric Department whether on public or private property. The Board may provide for the form of refunds where advances by the persons benefited are necessary to make extensions compensatory.

(c) **Joint Operations with Others.** The Board may contract with any public or private corporation or any individual, both inside and outside the City limits:

(1) for the joint use of poles and other property belonging either to the Electric Department or to the other contracting party or jointly to both parties;

(2) for the joint acquisition of real property and franchises and the joint financing, construction and operation of plants, transmission lines and other facilities, whereby any property acquired may become the property of both the Electric Department and the other contracting party; and

(3) for the purchase of energy.

(d) **Eminent Domain.** The Board may enter upon any land or water for the purpose of making surveys and may exercise the right of eminent domain on behalf of the City whenever public necessity or convenience requires.

(e) **Use of Thoroughfares for Utility Installations.** Canby Utility may use the ground over, under or along any road, railroad, highway, street, sidewalk, thoroughfare or alley in the operation of

the Electric Department, but shall in all cases and subject to the applicable general regulation of the City, cause the surface of the public way to be restored in its usual condition.

(f) **Rates.** The Board shall fix rates to be charged for electricity sold and services rendered by the Electric Department. Rates shall be fair, reasonable and compensatory and shall be uniform for all consumers within the same class, but different rate schedules may be applied to different classes of consumers as determined by the Board. Rates shall be sufficient to pay all operating and maintenance costs of the Electric Department and its operations and all bond interest and bond redemption costs. The Board may require reasonable deposits for security for payment of charges for electric services and may provide for the return of deposits when satisfactory consumer credit has been established. Any proposed change in rates and the notice of a public hearing thereon shall be advertised once a week for two successive weeks in a newspaper having a general circulation in the City of Canby. Such notice shall state the proposed rate change, the reasons therefore and the time and place of the public hearing which shall be held within ten (10) days after the last publication of such notice. At the public hearing the Board shall discuss the matter and consider any objections or recommendations. The Board is not bound, however, by any public remonstrances or objections to its proposed rate change.

(g) **Authority for Expenditures.** No money shall be drawn from the funds of the Department nor shall any obligation for the expenditure of money be incurred except as authorized by the Board. No claim against the Department shall be paid unless evidenced by a voucher approved by the General Manager or by some other employee designated by him.

(h) **Bond Issues.** The Board may authorize the sale and issuance of revenue bonds necessary to finance the acquisition, construction, reconstruction, improvements and extensions of the utility system. The Board has the power to provide funding for the operation, maintenance or expansion of existing facilities. A vote of the registered voters will be required for any exploration, construction or development of energy sources over the amount of that department's gross revenues for the preceding fiscal year.

(i) **Short Term Loans.** The Board may borrow money for periods not to exceed five (5) years and may issue negotiable notes, payable from the revenues of the Electric Department, as evidence of the loans. Total loans outstanding at any one time for the Electric Department shall not exceed fifty percent (50%) of that department's gross revenue for the preceding fiscal year.

(j) **No Power to Tax.** The Board shall have no power or authority to levy ad valorem taxes on any taxable property; however, the City Council may, when in its judgment it is deemed necessary or advisable, levy such taxes for the use and benefit of said Board or for the joint use and benefit of the City and said Board.

Section 7. ANNUAL ACCOUNTING AND BUDGET. The Canby Utility Board shall prepare a budget for each fiscal year and file a copy of such budget with the City Council prior to July 1. The Board shall make an annual accounting to show the financial condition of the Electric Department prepared according to generally accepted public utility accounting principles, and file a copy of the same with the City Council each year.

Section 8. GENERAL PROVISIONS.

(a) **Disposition of Public Utilities.** The Canby Utility Board shall have no authority to cease to operate or to sell, lease or abandon, or in any other way dispose of the electric utility system and department controlled by it, without the prior express written approval of the City Council and the approving vote of a majority of the votes cast by the registered voters of the City at a general or special election called by the Council and held for that purpose.

(b) **Existing Obligation.** Contracts, obligations and bond issues relating to the electric utility system of the City legally incurred, approved or authorized prior to the taking effect of this Charter

provision shall not be impaired and shall be binding upon the Board insofar as they apply to the Electric Utility Department.

CHAPTER XI MISCELLANEOUS PROVISIONS

Section 1. DEBT LIMIT. City indebtedness may not exceed debt limits imposed by state law. A charter amendment is not required to authorize City indebtedness.

Section 2. TORTS. Tort liability of the City of Canby shall be set by limits imposed under Oregon law and shall follow all procedures set forth thereunder.

Section 3. EXISTING ORDINANCES CONTINUED. All ordinances of the City consistent with this Charter and in force when it takes effect shall remain in effect until amended or repealed.

Section 4. CONTRACTUAL OBLIGATIONS. Except gifts of money to the City for specified purposes, expenditures of sums not budgeted and expenditures of budgeted funds for a single purchase or contract in excess of \$50,000.00 shall be authorized by an ordinance; and the City shall not be bound by any such contract in excess of \$50,000.00, unless the same is in writing and signed by the Mayor or City Administrator and attested to by the Recorder on behalf of the City.

Section 5. REPEAL OF PREVIOUSLY ENACTED PROVISIONS. All Charter provisions of the City enacted prior to the time that this Charter takes effect are hereby repealed.

Section 6. SEPARABILITY OF PROVISIONS. The Sections and Subsections of this Charter are declared to be separable; and in the event that any one or more Sections, Subsections or parts of this Charter are declared unconstitutional, it shall not affect the validity of other provisions of the Charter.

Section 7. TIME OF EFFECT OF CHARTER. This Charter shall take effect July 1, 2009.

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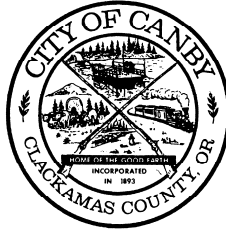
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MEMORANDUM

DATE: JUNE 29, 2009
TO: MAYOR THOMPSON AND CANBY CITY COUNCIL
FROM: KIM SCHEAFER, CMC, CITY RECORDER
THROUGH: MARK ADCOCK, CITY ADMINISTRATOR
RE: RESOLUTION 1035

Issue: With the adoption of an updated City Charter there is a need to update wording contained within the Policies and Operating Guidelines document so that it is consistent with the City of Canby Charter

Background: In 2005 the City Council adopted the Policies and Operating Guidelines Document as a reference tool for themselves and committee members to use. Several sections of the document contained language that was included in the City Charter. With passage of recent measures that affect the Charter, there is now need for this document to be updated with the new language.

Recommendation: Staff recommends adoption of Resolution 1035 which adopts the updated version of this document.

Motion: “I move to adopt Resolution 1035, A RESOLUTION ADOPTING AN UPDATED DOCUMENT ENTITLE POLICIES AND OPERATING GUIDELINES FOR THE CANBY CITY COUNCIL TO REFERENCE AS IT CONDUCTS THE BUSINESS OF THE CITY.”

Attached: Resolution 1035 and Exhibit “A”

RESOLUTION NO. 1035

**A RESOLUTION ADOPTING AN UPDATED DOCUMENT ENTITLED POLICIES AND
OPERATING GUIDELINES FOR THE CANBY CITY COUNCIL TO REFERENCE AS IT
CONDUCTS THE BUSINESS OF THE CITY**

WHEREAS, in 2005 the Mayor and City Council determined that there was a need for a standardized set of policies and operating guidelines to guide the City Council as it deliberates on public policy matters and conducts the business of the City of Canby; and

WHEREAS, on March 16, 2005 Resolution 892 was passed adopting said policies and guidelines; and

WHEREAS, recent changes to Canby City Charter has necessitated need for updating the Policies and Operating Guidelines document; now therefore

IT IS HEREBY RESOLVED by the City of Canby Council that the updated document entitled *Policies and Operating Guidelines*, attached hereto as Exhibit "A" and by this reference incorporated herein, is adopted by the Canby City Council.

This resolution is effective July 1, 2009.

ADOPTED by the Canby City Council on the 1st day of July, 2009.

Melody Thompson
Mayor

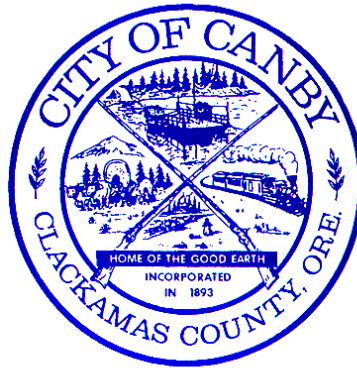
ATTEST:

Kimberly Scheafer, CMC
City Recorder Pro-Tem

Exhibit "A"

City of Canby

POLICIES & OPERATING GUIDELINES



Updated July 2009

City of Canby

POLICIES & OPERATING GUIDELINES

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POLICIES & OPERATING GUIDELINES

*For members of Canby City Council,
Boards and Commissions*

Introduction

In January 2003, the newly elected Mayor and City Council determined the need to develop a standardized set of policies and operating guidelines to guide the City Council as it deliberates on public policy matters and conducts the business of the City. In addition, the Mayor and Council believed it was important to articulate a vision of those values and principles that set the cornerstone for the type of governance that the citizens of Canby were entitled to from their elected officials.

The results of that vision for governance are included in the Policies and Operating Guidelines that appear in the following pages. In addition to being the over-riding procedural document for the City Council, these Policies and Operating Guidelines are also intended to assist those volunteer-based advisory boards and commissions that provide the Mayor and City Council with valuable policy recommendations and serve as a sounding board in the community for a wide array of public issues. With this in mind, these Policies and Operating Guidelines were reviewed by those respective City advisory boards and commissions and the City Council actively sought input on the document from these important groups.

Last, but not least, this document is intended to educate the citizens of this community on the mechanism around which the governing body of the City of Canby and its appointed advisory boards and commissions work together to address community issues, develop proactive and responsible public policy and attend to the affairs of the City.

1. Act in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of Canby and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before the Canby City Council, boards and commissions.

2. Comply with the Law

Members shall comply with the laws of the nation, the State of Oregon and the City of Canby in the performance of their public duties. These laws include, but are not limited to: the United States and Oregon constitutions; the Canby City Charter; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.

3. Conduct of Members

The professional and personal conduct of members must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of Council, boards and commissions, the staff or public.

4. Respect for Process

Members shall perform their duties in accordance with the processes and rules of order established by the City Council and board and commissions governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the City Council by City staff.

5. Conduct of Public Meetings

Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; making personal comments not appropriate to the business of the body; or otherwise interfering with the orderly conduct of meetings.

6. Decisions Based on Merit

Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

7. Communication

Members shall publicly share substantive information that is relevant to a matter under consideration by the Council or boards and commissions, which they may have received from sources outside of the public decision-making process.

8. Conflict of Interest

In order to assure their independence and impartiality on behalf of the common good, members shall not use their official positions to influence government decisions in which they have a material financial interest, or where they have an organizational responsibility or personal relationship which may give the appearance of a conflict of interest.

In accordance with the law, members shall disclose investments, interests in real property, sources of income, and gifts; and they shall abstain from participating in deliberations and decision-making where conflicts may exist.

9. Gifts and Favors

Members shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office that are not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised.

10. Confidential Information

Members shall respect the confidentiality of information concerning the property, personnel or affairs of the City. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.

11. Use of Public Resources

Members shall not use public resources not available to the public in general, such as City staff time, equipment, supplies or facilities, for private gain or personal purposes.

12. Representation of Private Interests

In keeping with their role as stewards of the public interest, members of Council should not appear on behalf of the private interests of third parties (i.e. agent for a friend or neighbor) before the Council or any board, commission or proceeding of the City. This does not prohibit a member of the Council from appearing before a board or commission to represent his/her personal interests.

13. Advocacy

Members shall represent the official policies or positions of the City Council, board or commission to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Canby, nor will they allow the inference that they do.

14. Policy Role of Members

Members shall respect and adhere to the council-manager structure of Canby City government as outlined by the Canby City Charter. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by the public, boards and commissions, and City staff.

Except as provided by the Canby City Charter, members therefore shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.

15. Independence of Boards and Commissions

Because of the value of the independent advice of boards and commissions to the public decision-making process, members of Council shall refrain from using their position to unduly influence the deliberations or outcomes of board and commission proceedings.

16. Positive Work Place Environment

Members shall support the maintenance of a positive and constructive work place environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to staff.

17. Implementation

As an expression of the standards of conduct for members expected by the City, the Policies & Operating Guidelines is intended to be self-enforcing. It therefore becomes most effective when members are thoroughly familiar with it and embrace its provisions.

For this reason, ethical standards shall be included in the regular orientations for candidates for City Council, applicants to board and commissions, and newly elected and appointed officials. Members entering office shall sign a statement affirming they read and understood the City of Canby Policies & Operating Guidelines. In addition, the Policies & Operating Guidelines shall be annually reviewed by the City Council, boards and commissions, and the City Council shall consider recommendations from boards and commissions and update it as necessary.

18. Compliance and Enforcement

The Policies & Operating Guidelines expresses standards of ethical conduct expected for members of the Canby City Council, boards and commissions. Members themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government.

The chairs of boards and commissions and the Mayor have the additional responsibility to intervene when actions of members that appear to be in violation of the Policies & Operating Guidelines are brought to their attention.

The City Council may impose sanctions on members whose conduct does not comply with the City's ethical standards as set forth in the City of Canby Charter, Chapter IV, Section 2.

A violation of the Policies & Operating Guidelines shall not be considered a basis for challenging the validity of a Council, board or commission decision.

CITY COUNCIL WORKSHOP GUIDELINES

Workshops with our boards and committees should have an agenda, or list of items that are to be discussed.

- A. Who leads the meeting and conducts the general discussion of attendees should be established ahead of time.
- B. If different staff or leaders will be addressing different points, this should be indicated on the agenda and will greatly help to organize the time and make it efficient.
- C. If there are many items to be discussed, setting an “estimated time” of discussion for each point may help to move things along.

Workshop seating should be conducive to group discussion, presentations, and a general feeling of equalization among the boards, commissions, citizens, and council/mayor.

- A. Seating arranged in such a way as to diminish “power” roles is a good idea to encourage active participation by all.

The goal is to have Workshops with our boards and committees attended by all (or at least a large majority) of committee members.

The Council, board or commission, or City staff originating the workshop should come to meetings prepared.

- A. If boards, committees, or City staff are generating the workshop, the Council would like a few written proposals that we all can discuss and decide on. Likewise, if the Council is presenting material to a group, there should be options or proposals.
- B. If a more general, or “big picture” discussion needs to take place, it would still help to have printed discussion items to keep us on track.

The Council, board or commission, or City staff making the presentation should summarize and simplify any handouts, support documentation, statistics, facts and figures that are going to be discussed at the meeting.

- A. Any information more than a couple of pages should be distributed in the days prior to the meeting so the Mayor and Council have the opportunity to familiarize itself with the information.

Meetings should end with everyone feeling a sense of accomplishment and a clear direction (even if everyone does not agree with the outcome).

MODEL OF EXCELLENCE

Canby City Council, Boards and Commissions

MEMBER STATEMENT

As a member of the Canby City Council or of a Canby board or commission, I agree to uphold the Policies & Operating Guidelines for elected and appointed officials adopted by the City and conduct myself by the following model of excellence. I will:

Recognize the worth of individual members and appreciate their individual talents, perspectives and contributions;

Help create an atmosphere of respect and civility where individual members, City staff and the public are free to express their ideas and work to their full potential;

Conduct my personal and public affairs with honesty, integrity, fairness and respect for others;

Respect the dignity and privacy of individuals and organizations;

Keep the common good as my highest purpose and focus on achieving constructive solutions for the public benefit;

Avoid and discourage conduct which is divisive or harmful to the best interests of Canby;

Treat all people with whom I come in contact in the way I wish to be treated;

I affirm that I have read and understood the City of Canby Policies & Operating Guidelines.

Date: _____

Printed Name & Office: _____

Signature: _____

FORM OF GOVERNMENT

The City of Canby operates under the Council-Manager form of government. All Oregon cities over 2,500 population have the Council-Manager form except Portland, Beaverton, Burns, Lakeview and Junction City. The chief characteristic of this form is that the Council appoints a qualified person as City Administrator to take charge of the daily supervision of the City affairs

COUNCILMEMBERS - At each biennial general election after this Charter takes effect, three Council members shall be elected each for a term of four years; and each biennial general election the number of Council members required to fill vacancies pursuant to Chapter VII. Section 2.

COUNCIL LIAISONS - Council liaisons are selected on an annual basis. The designation is flexible based upon the needs of the Council. Liaisons are encouraged to attend committee meetings on a regular basis. Liaisons will report back to the Council on committee activities not included in the committee minutes. Liaisons are not voting members of committees. Liaisons will clarify personal opinion and differentiate that from Council opinion.

MAYOR - At each biennial general election a Mayor shall be elected for a term of two years.

ADMINISTRATOR, JUDGE, CITY ATTORNEY AND OTHER OFFICERS - Additional officers of the City shall be a City Administrator, Municipal Judge, and City Attorney, each of whom the Council shall appoint, and such other officers as the Council deems necessary. Appointed officers shall hold their office during the pleasure of the Council or until their successors are appointed and qualified. Appointed officers are subject to removal at any time by the Council with or without cause and may be suspended in accordance with the provisions of Chapter V, Section 2(c)(3) of the City of Canby Charter. The duties of all officers not defined in this Chapter may be prescribed by the Council. The Council may combine any two or more appointive offices.

MAYOR - The Mayor shall be chairperson of the Council and preside over its deliberations and shall have no vote on any questions before it except in the case of tie. The Mayor shall have authority to preserve order, enforce the rules of the Council and determine the order of business under the rules of the Council. The Mayor shall appoint the committees provided by the rules of the Council; and shall sign all records of proceedings approved by the Council. The Mayor shall have no veto power. In the Mayor's absence, the President of the Council, shall sign all Ordinances passed by the Council within five days after their passage. After the Council approves a bond of a City officer or a bond for a license, contract or proposal, the Mayor shall endorse the bond.

PRESIDENT OF THE COUNCIL - At its first meeting after this Charter takes effect and thereafter at its first meeting of each odd-number year the Council by vote shall elect a President from its membership. In the Mayor's absence from a Council meeting, the

President shall preside over it. Whenever the Mayor is unable to perform the functions of the office, the President shall act as Mayor.

CITY ADMINISTRATOR - The City Administrator shall be the administrative head of the government of the City and shall be appointed by the Council without regard to political considerations and solely with reference to executive and administrative qualifications. A City Administrator need not be a resident of the City of Canby or the State at the time of appointment, but promptly thereafter shall become and remain a resident of the City during the term of the office. Before taking office, the City Administrator shall give a bond in such amount and with such surety as may be approved by the Council. The premiums on such bond shall be paid by the City. The Administrator shall be appointed for an indefinite term and may be removed at the pleasure of the Council.

The powers and duties of the Administrator shall be as follows:

- A. Devote full time to the discharge of official duties, attend all meeting of the Council unless excused there from by the Council or the Mayor, keep the Council advised at all times of the affairs and needs of the City, and make reports annually, or more frequently if requested by the Council, of all the affairs and departments of the City.
- B. See that all Ordinances are enforced and that the provisions of all franchises, leases, contracts, permits and privileges granted by the City are observed.
- C. Hire or remove all City employees and have general supervision and control over them and their work, with power to transfer an employee from one department to another. The administrator shall supervise the departments to the end of obtaining the utmost efficiency in each of them.
- D. Act as purchasing agent for all departments of the City.
- E. Be responsible for preparing and submitting to the Budget Committee the annual budget estimates and such reports as the body requests.
- F. Supervise the operation of all public utilities owned and operated by the City excepting the electric utility department for which the Canby Utility Board has exclusive jurisdiction, control and management as provided in the following Chapter X.
- G. The City Administrator shall have general supervision over all City property.
- H. Perform such other duties as may be prescribed from time to time by the Council

AUTHORITY TO CONTRACT FOR PROFESSIONAL SERVICES - The Council shall have authority to contract for the professional services of those whose professional skills, training and knowledge may be required at any time or from time to time for the administration of City affairs and municipal government. The duties and responsibilities of such persons engaged for their professional skills, knowledge and ability shall be specified in their respective contracts with the City by the contracts for the services of the following persons shall include the following particular duties, services and responsibilities:

- A. **Municipal Judge.** The Municipal Judge shall hold within the City a court known as the Municipal Court for the City of Canby, Clackamas County, Oregon. All areas within the City shall be within the territorial jurisdiction of the Court. The Municipal Judge shall exercise original and exclusive jurisdiction of all offenses defined and made punishable by the Ordinances of the City and of all actions brought to recover or enforce forfeitures or penalties defined or authorized by Ordinances of the City. The Municipal Judge shall have authority to issue process for the arrest of any person accused of an offense against the Ordinances of the City, to commit any such person to jail or admit to bail pending trial, to issue subpoenas, to compel witnesses to appear and testify in court on the trial of any cause, to compel obedience to such subpoenas, to issue any process necessary to carry into effect the judgments of the Court, and to punish witnesses and others for contempt of Court. Men not governed by Ordinances or this Charter, all proceeding in the Municipal Court for the violation of a City ordinance shall be governed by the applicable general laws of the State governing Justices of the Peace and Justice Courts, except that the Municipal Court shall not exercise any civil jurisdiction.
- B. **City Attorney.** The City Attorney is a legal adviser of the officials of the City of Canby and shall be retained by the Council. It shall be the duty of such Attorney to attend all regular Council meetings and such special meetings as may be required unless excused there from by the Council. The City Attorney shall represent and defend the City in all suits, actions at law and all matters and things in which the City of Canby may be legally interested. The City Attorney, or a deputy appointed by him, shall also represent the City in the Municipal Court including violations of any City Ordinances or for the violation of all other laws under which the Municipal Court has jurisdiction.

Boards, Committees & Commissions

These boards, committees and commissions are advisory to the City Council and assist the Council in forming policy and making law. Committees are encouraged to make an annual presentation to the City Council. Selection of Committee Chairs are decided annually by each committee (except Budget Committee). Committee members who have three unexcused absences from meetings are subject to removal from the committee.

Bike & Pedestrian Committee – The Bicycle and Pedestrian Committee consists of five (5) members. Members serve three (3) year terms. ***Members are appointed by City Council upon recommendation by the Committee Chairperson and assigned Council Liaison. The Mayor may vote only when necessary to break a tie.***

The duties of the committee shall include:

- A. Keeping informed about current trends in bicycle and pedestrian services and administration;

- B. Studying growth and needs in the City and its vicinity for bicycle and pedestrian facilities;
- C. Developing long-range plans for bicycle and pedestrian services and facilities, consistent with City priorities;
- D. Investigating sources of funding for bicycle and pedestrian services and facilities;
- E. Recommending policies for the acceptance and use of gifts for bicycle and pedestrian purposes;
- F. Participating in the annual budgetary process of the City as that process pertains to the bicycle and pedestrian facilities and services;
- G. Recommending policies and procedures conducive to efficient and effective operation of the bicycle and pedestrian transportation system;
- H. Reviewing and recommending terms of contracts and working relationships with other public agencies regarding bicycle and pedestrian facilities and services;
- I. Encouraging widespread public support and use of bicycle and pedestrian facilities and services; and performing other duties as authorized by the City Council; and
- J. Performing other duties as authorized by the City Council.

Budget Committee – The Budget Committee consists of the members of the City Council and six (6) citizens-at-large. Members serve three (3) year terms. ***Citizens-at-large are appointed and confirmed by the City Council. The Mayor may vote only when necessary to break a tie.***

Canby Public Library Board – The Library Board consists of five (5) members. Not less than three members shall be residents of the City. Members serve four (4) year terms. ***Members are appointed by City Council upon recommendation by the Board Chairperson and assigned Council Liaison. The Mayor may vote only when necessary to break a tie.***

The duties of the Library Board shall include:

- A. Keeping informed about current trends in the library services and administration;
- B. Studying library growth and needs in the City and its vicinity;
- C. Developing long-range plans for library service and facilities, consistent with City priorities and with state, regional and national goals pertinent to libraries;
- D. Recommending types of library service for the City and its vicinity;
- E. Investigating sources of funding for library service and facilities;
- F. Recommending policies for the acceptance and use of gifts for library purposes;
- G. Participating in the annual budgetary process of the City as that process pertains to the library;
- H. Recommending policies and procedures conducive to efficient and effective operation of the library;
- I. Reviewing and recommending terms for contracts and working relationships with other public agencies regarding library service;
- J. Encouraging widespread public support and use of the library;

- K. Submitting an annual report to the City Council and the state library; and
- L. Performing other duties as authorized by the City Council.

Canby Urban Renewal Advisory Committee - The Canby Urban Renewal Advisory Committee consists of nine (9) members: four (4) citizens-at-large, one (1) from the Canby Business Revitalization Board (CBR), one (1) from the Chamber of Commerce Board (Chamber), one (1) from the Industrial Area Association (IAA), one (1) from the Canby Fire District Board (CFD), and one (1) business person not a member of any of previously identified boards. Members serve two (2) year terms. ***Citizens-at-large and the business person positions are appointed by the Urban Renewal Agency following an interview panel consisting of the URA Chairperson, URA Committee Chairperson, and Council Liaison.***

Duties and powers of the Canby Urban Renewal Advisory Committee are:

- A. Fiscal year operating and capital improvement budgets;
- B. Business plan review relating to infrastructure project cost allocations, infrastructure project agreements, and infrastructure project property agreements;
- C. Infrastructure project descriptions and priorities;
- D. Infrastructure engineering design, construction bids and requests for proposal; Infrastructure related property acquisitions; and
- E. Any other matter directly related to the Canby Urban Renewal Plan and Programs that are assigned to the Committee, from time to time, by the Board.

Canby Urban Renewal Budget Committee – The Urban Renewal Budget Committee consists of members of the Urban Renewal Agency, six (6) citizens-at-large from the City Budget Committee, and one (1) additional citizen-at-large. Members serve three (3) year terms. ***Citizens-at-large are appointed and confirmed by the Urban Renewal Agency.***

Canby Utility Board – The Canby Utility Board consists of five (5) members. Members serve three (3) year terms. ***Members are appointed by the Mayor and confirmed by the City Council following an interview panel consisting of the Mayor, City Council Liaison, and Canby Utility Board Chairperson. No Board member may serve more than two successive terms. The Mayor may vote only when necessary to break a tie.***

The Board, in the efficient and economical operation of the Electric Department and Water Department, both inside and outside the City limits, may:

- A. Purchase and sell electric power and energy and services to the public and private corporations and to other consumers;
- B. Construct plants, transmission lines and other facilities;
- C. Purchase real estate and franchises in its name;
- D. Enter into all contracts, leases and agreements in furtherance thereof; and

- E. Through an inter-governmental agreement with the City, management of the Water Department and all of its operations and facilities.

The Board may contract with any public or private corporation or any individual, both inside and outside the City limits:

- A. For the joint use of poles and other property belonging either to the Electric Department or to the other contracting party or jointly to both parties; and
- B. For the joint acquisition of real property and franchises and the joint financing, construction and operation of plants, transmission lines and other facilities, whereby any property acquired may become the property of both the Electric Department and other contracting party, for the purchase of energy.

Historic Review Board – The Historical Review Board consists of seven (7) members. Members serve three (3) year terms. *Members are appointed by City Council upon recommendation by the Board Chairperson and assigned Council Liaison. The Mayor may vote only when necessary to break a tie. (This text update will be contained within Title 16 of the Planning Code the next time a text amendment occurs.)*

It is the responsibility of the Historic Review Board to ensure that the purposes of this section are implemented, and to perform the following duties:

- A. Adopt rules to govern its deliberations and decisions, including a method to record its proceedings;
- B. Carry out the duties described for it in this ordinance and assist the Planning Director, Planning Commission and Canby City Council on historic preservation matters;
- C. Maintain and update an inventory of historic resources within the City, as provided under section 16.110.035;
- D. Review and render decisions on all historic landmark and historic district applications, as provided under section 16.110.045;
- E. Review and make recommendations on application of the Historical Protection Overlay Zone, as provided under section 16.110.045;
- F. Review and render decisions on proposals to alter the exterior of a Historic Landmark subject to the procedures and criteria set forth in section 16.110.080;
- G. Review and render decisions on all proposed new construction on property where a Historic Landmark is located, or within a Historic District, subject to the procedures and criteria set forth in section 16.110.080;
- H. Review all requests for demolition of a historic landmark or contributing resource, as provided under section 16.110.075;
- I. Review and make recommendations to the Planning Commission on all Conditional Use applications under section 16.38;
- J. Review and make recommendations on all partitions and subdivisions of designated properties, as provided under section 16.110.085;

- K. Disseminate information to educate the public as to local, state and federal laws protecting antiquities and historic places;
- L. Act as consultant for local preservation groups, educational workshops, signage and monummentation projects, and other similar projects;
- M. Advise interest groups, agencies, boards, commissions, and citizens on matters relating to historic preservation within the City; and
- N. Provide design guidance for historic property owners.

Parks and Recreation Advisory Board – The Parks and Recreation Advisory Board consists of seven (7) members. Members serve for three (3) years. ***Members are appointed by City Council upon recommendation by the Board Chairperson and assigned Council Liaison. The Mayor may vote only when necessary to break a tie.***

- A. Keeping informed about current trends in parks and recreation services and administration;
- B. Studying growth and needs in the City and its vicinity for parks and recreation services;
- C. Developing long-range plans for parks and recreation services and facilities, consistent with City priorities;
- D. Recommending types of parks and recreation services for the City and its vicinity, including marketing of such services;
- E. Investigating sources of funding for parks and recreation services and facilities;
- F. Recommending policies for the acceptance and use of gifts for parks and recreation purposes;
- G. Participating in the annual budgetary process of the City as that process pertains to parks and recreation services;
- H. Recommending policies and procedures conducive to efficient and effective operation of parks and recreation services;
- I. Reviewing and recommending terms of contracts and working relationships with other public agencies regarding parks and recreation services;
- J. Encouraging widespread public support and use of parks and recreation services and facilities;
- K. Submitting an annual report to the City Council;
- L. Advising the Planning Department regarding park land dedication and other park planning issues to meet the public needs identified in the Park Master Plan and Park Acquisition Plan; and
- M. Performing other duties as authorized by the City Council.

Planning Commission – The Planning Commission consists of seven (7) members. Members serve three (3) year terms. ***Members are appointed by the City Council upon recommendation of the Mayor, Council Liaison, and Planning Commission Chairperson. The Mayor may vote only when necessary to break a tie. (This text update will be contained within Title 16 of the Planning Code the next time a text amendment occurs.)***

Except as otherwise provided by law, it shall be the duty of the commission and it shall have power to:

- A. Recommend and make suggestions to the City Council and to all other public authorities concerning laying out, widening, extending, and locating of streets, parking, sidewalks and boulevards, relief of traffic congestion, betterment of housing and sanitation conditions and establishing of zones of districts limiting the use, height, area and bulk of buildings and structures;
 - B. Recommend to the City Council and all other public authorities plans for regulation of the future growth, development and beautification of the municipality in respect to its public and private buildings and works, streets, parks, grounds and vacant lots, and plans consistent with future growth and development of the City in order to secure to the City and its inhabitants sanitation, proper service of all public utilities, and transportation facilities;
 - C. Act as the City's official citizen involvement entity, hearing any and all comments, criticisms, and suggestions concerning City planning policies, procedures, or regulations as members of the public may wish to convey to the City;
 - D. Do and perform all other acts and things necessary or proper to carry out the provisions of City ordinances and of Oregon Revised Statutes, Chapter 227, and all amendments thereto;
 - E. Study and propose in general such measures as may be advisable for promotion of the public interest, health, safety and welfare of the City and of the surrounding area;
 - F. Perform such acts as are now, or may hereafter be, specified in the Land; and
 - G. Development and Planning Ordinance or otherwise authorized by the City Council.
- (Ord. 740 section 10.2.60, 1984)

Traffic Safety Commission – The Traffic Safety Commission consists of a seven (7) member voting board with non-voting liaisons representing the Canby Police Department, the Public Works Department, and the City Council. Members serve three (3) year terms. ***Members are appointed by City Council upon recommendation by the Commission Chairperson and assigned Council Liaison. The Mayor may vote only when necessary to break a tie.***

The Traffic Safety Commission is specifically responsible for, but not limited to the following:

- A. Developing and implementing coordinated traffic safety programs that meet local needs;
- B. Act in an advisory capacity to the City Council in the coordination of traffic safety activities of the official agencies and departments of Canby;
- C. Reviewing and recommending project applications for funding to the City Council;

- D. Serving as liaison between the City of Canby, the Clackamas County Safety Commission, and the Oregon Traffic Safety Commission in developing the State Highway Safety Programs and in meeting the National Highway Safety Programs Standards;
- E. Promoting public acceptance of official programs authorized or instigated by the City;
- F. Fostering public knowledge and support of traffic law enforcement and traffic engineering problems;
- G. Cooperating with Canby schools in promoting educational traffic safety aids; and
- H. Educating the public in traffic safety aids.

Transit Advisory Committee – The Transit Advisory Committee consists of seven (7) members. Members serve three (3) year terms. ***Members are appointed by City Council upon recommendation by the Committee Chairperson and assigned Council Liaison. The Mayor may vote only when necessary to break a tie.***

The Canby Transit Advisory Committee is specifically responsible for, but not limited to the following:

- A. Developing and assessing, on an ongoing basis, the transportation needs of the citizens of Canby;
- B. Acting in an advisory capacity to the Transit Director in the coordination of transit services;
- C. Promoting and educating the public regarding acceptance and usage of the transit system; and
- D. Promoting and educating the public regarding special problems associated with the use of the transit system by youth, elderly and disable citizens.

ORDINANCE NO. 1310

AN ORDINANCE DECLARING THE CITY'S ELECTION TO RECEIVE STATE REVENUE FOR FISCAL YEAR 2009-2010.

WHEREAS, a public hearing for the use of state revenue sharing funds was held before the Budget Committee on June 17, 2009, and before City Council on June 17, 2009; now therefore,

THE CITY OF CANBY, OREGON, ORDAINS AS FOLLOWS:

Section 1 Pursuant to ORS 221.770, the City of Canby hereby elects to receive state revenues for fiscal year 2009-2010.

SUBMITTED, to the Canby City Council and read the first time at a regular meeting thereof on June 17, 2009, ordered posted as provided by the Canby City Charter and scheduled for second reading and action of the Canby City Council at a regular meeting thereof on July 1, 2009, commencing at the hour of 7:30 p.m. at the Council Meeting Chambers located at 155 NW 2nd Avenue, Canby, Oregon.

Kimberly Scheafer, CMC
City Recorder

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 1st day of July, 2009 by the following vote:

YEAS_____ NAYS_____

Melody Thompson, Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder

2nd Reading

ORDINANCE NO. 1311

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT EXTENSION WITH CYNTHIA THOMPSON OF BCB CONSULTING FOR PROFESSIONAL SERVICES FOR MANAGEMENT OF CANBY AREA TRANSIT SERVICE; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Canby currently has need of management services for Canby Area Transit to prepare and submit grants, monitor existing grants, assist with budget analysis and development, assist with future planning, and other such activities until such time as a Transit Manager is employed by the City; and

WHEREAS, the City currently employs Cynthia Thompson of BCB Consulting, as an independent contractor to manage the Canby Area Transit Service and wishes to continue to employ Cynthia Thompson of BCB Consulting, as an independent contractor under a personal services contract for the purpose of carrying out the these activities; and

WHEREAS, Cynthia Thompson of BCB Consulting has proposed an extension of existing personal services contract which is acceptable to the City; and

WHEREAS, in accordance with ORS Chapter 279 and Canby Public Purchasing Rules set forth in Ordinance No 1170 and Resolution No. 897, Exhibit A, Section 6 E (1), the city may extend existing personal service contracts not exceeding \$75,000.00 by direct appointment without competition where the additional amount to extend the existing contract does not increase the contract by more than 25%; and

WHEREAS, the City Council meeting and acting as the Contract Review Board for the City of Canby has reviewed this proposal, reviewed the staff report and finds that the contract extension with Cynthia Thompson is in the best interest of the City to enter into; now therefore,

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. 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 contract with Cynthia Thompson of BCB Consulting, the copy of said contract is attached hereto and marked as Exhibit "A" and by this reference fully incorporated herein.

2nd Reading

Section 2. Emergency Declared.

It being necessary for the health, safety, and general welfare of the citizens of Canby that there be no interruption in service for the Canby Area Transit program, an emergency is hereby declared to exist and this ordinance shall 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 Wednesday, June 17, 2009, 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, July 1, 2009, commencing at the hour of 7:30 PM in the Council Meeting Chambers at Canby City Hall located at 155 SW 2nd Avenue in Canby, Oregon.

Kimberly Scheafer, CMC
City Recorder

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 1st day of July, 2009, by the following vote:

YEAS_____

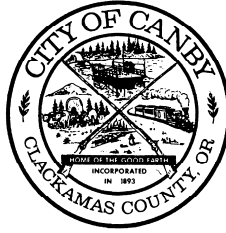
NAYS_____

Melody Thompson, Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder

2nd Reading



MEMORANDUM

DATE: JUNE 29, 2009
TO: MAYOR THOMPSON AND CANBY CITY COUNCIL
FROM: KIM SCHEAFER, CMC, CITY RECORDER
THROUGH: MARK ADCOCK, CITY ADMINISTRATOR
RE: ORDINANCE 1312

Issue: With the passing of Measure 3-338 the nomination procedures for a qualified elector running for elective office have been removed from the City Charter and are set forth by ordinance instead.

Background: The nomination procedures for running for an elective office were previously contained within the City Charter. By the passage of this Ordinance, the procedures will be the same as contained in the old Charter thus still requiring 50 signatures and establishing the filing deadlines as 75 days before the election. Information as to the type of form are now just being referred to as conforming to the form designed by the Secretary of State. In the future if the Council decides to change the procedures such as establishing a filing fee, changing number of signatures, etc., this can be done by amending the Ordinance.

Recommendation: Staff recommends approval of Ordinance 1312 which provides procedures for those submitting paperwork to run for an elective office.

Motion: "I move to approve Ordinance 1312, AN ORDINANCE ESTABLISHING NOMINATION PROCEDURES FOR ELECTIVE OFFICE; ADDING CHAPTER 2.10 TO THE CANBY MUNICIPAL CODE; AND DECLARING AN EMERGENCY to come up for second reading on July 15, 2009."

Attached: Ordinance 1312

ORDINANCE NO. 1312

AN ORDINANCE ESTABLISHING NOMINATION PROCEDURES FOR ELECTIVE OFFICE; ADDING CHAPTER 2.10 TO THE CANBY MUNICIPAL CODE; AND DECLARING AN EMERGENCY.

THE CITY OF CANBY DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 2.10 is added to the Canby Municipal Code, to provide:

Chapter 2.10

CANDIDATE NOMINATIONS FOR ELECTIVE OFFICE

2.10.010 Nominations.

A. A petition nominating a qualified elector to be a candidate for election to the Canby City Council or to the office of Mayor shall be signed by not fewer than fifty (50) electors. No elector shall sign more than one nomination petition for each office to be filled. No elector shall sign more than one nomination petition for the office of Mayor. If an elector signs more nomination petitions than permitted by this subsection, the elector's signature shall be valid only on the first petition filed for the office.

B. The form of petition for nomination for all candidates for elective positions within the City shall substantially conform to the form designated by the Secretary of State.

C. All pages comprising a petition for nomination shall be assembled and filed with the City Recorder as one instrument in the manner provided by the Secretary of State not less than 75 days before the election. The City Recorder shall make a record of the exact time at which each petition for nomination is filed and shall take and keep on file the name and address of the person by whom it is filed.

D. Within five days after the filing, the City Recorder shall notify the nominee and the person who filed the petition for nomination whether or not the petition is valid. If it is found insufficient, the City Recorder shall return it immediately to the person who filed it, with a statement certifying that the petition for nomination is insufficient and stating the reason(s).

E. Within the time allowed for the filing of petitions for nomination, an insufficient petition may be amended and filed again as a new petition, or a different petition may be filed for the same nominee. Any qualified elector for whom a valid petition for nomination has been filed shall have his or her name printed on the ballot for the election if, within five days after the City Recorder notifies the nominee of a valid nomination, an acceptance of nomination is filed with the City Recorder on the nominee's behalf.

F. The petition for nomination for a nominee who is successfully elected shall be filed in the office of the City Recorder until the expiration of the term of office for which the nominee is elected.

Section 2. Emergency Declared. The electors of the City of Canby have enacted a new Charter which becomes effective July 1, 2009. The above provisions were present in the former Charter, but were not retained. It being necessary for the health, safety, and general welfare of the citizens of Canby that this project be completed as soon as possible, an emergency is hereby declared to exist and this ordinance shall 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 Wednesday, July 1, 2009, 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, July 15, 2009, commencing at the hour of 7:30 PM in the Council Meeting Chambers at 155 NW 2nd Avenue, Canby, Oregon.

Kimberly Scheafer, CMC
City Recorder

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 15th day of July 2009, by the following vote:

YEAS_____

NAYS_____

Melody Thompson, Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder

MEMORANDUM



TO: *Honorable Mayor Thompson and City Council*
FROM: *Dwayne Barnes, Director of Public Works*
DATE: *June 24, 2009*
THROUGH: *Mark C. Adcock, City Administrator*

Issue: Ordinance 1313, An Ordinance Amending CMC Chapter 12.08 Regarding Street Excavation.

Synopsis: The existing code requires permits only when a street cut is made. The amended code adds the words "rights-of-way" in three locations to the code.

Recommendation: Staff recommends the Council adopt Ordinance 1313.

Rationale: By not requiring permits, except for street cuts, contractors are allowed to dig up sidewalks and not be held responsible for repairing them. Additionally, contractors currently install items such as power poles and telephone pedestals in locations that restrict pedestrian access and cause vision clearance issues. When a permit is not required outside the paved surface, staff has no means of tracking construction and verifying adherence to design and safety standards.

Attached: Ordinance 1313

ORDINANCE 1313

AN ORDINANCE AMENDING CANBY MUNICIPAL CODE CHAPTER 12.08 REGARDING STREET EXCAVATIONS.

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. Sections 12.08.010 through 12.08.200 of Chapter 12.08 of the Canby Municipal Code, are hereby amended to read as set forth in Exhibit "A" to this Ordinance and incorporated as if fully set forth herein.

Section 2. These amendments shall apply only to Chapter 12.08 as set forth in the Canby Municipal Code. All other provisions of the Code shall continue in full force and effect.

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, July 1, 2009, 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, July 15, 2009, commencing at the hour of 7:30 PM in the Council Meeting Chambers at 155 NW 2nd Avenue, Canby, Oregon.

Kimberly Scheafer, CMC
City Recorder

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 15th day of July 2009, by the following vote:

YEAS _____

NAYS _____

Melody Thompson, Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder

Exhibit "A"

CHAPTER 12.08: STREET EXCAVATIONS

Section

| | |
|-----------|--|
| 12.08.010 | Permission to make excavation. |
| 12.08.020 | Authorized official. |
| 12.08.030 | Permit applications. |
| 12.08.040 | Applicant's verification. |
| 12.08.045 | Exemptions from requirements. |
| 12.08.050 | Construction schedule. |
| 12.08.060 | Construction permit fee. |
| 12.08.070 | Issuance of permit. |
| 12.08.080 | Notice of construction. |
| 12.08.090 | Compliance with permit. |
| 12.08.100 | Noncomplying work. |
| 12.08.110 | Completion of construction. |
| 12.08.120 | As-built drawings. |
| 12.08.130 | Restoration of public rights-of-way and city property. |
| 12.08.140 | Filing of bond. |
| 12.08.150 | Specifications for work. |
| 12.08.160 | Acceptance or rejection of replacement work. |
| 12.08.170 | Responsibility for underground utilities. |
| 12.08.180 | Claims for defective work. |
| 12.08.190 | Water seepage. |
| 12.08.200 | Penalty. |

§ 12.08.010 Permission to make excavation.

No person, firm or corporation, nor any employee, agent or representative of any person, firm or corporation shall dig any hole or make any excavation in or upon any **rights-of-way**, street or alley of the city; change, alter or destroy the surface of any street or

alley; obstruct the reasonable use of pedestrian travel over and upon the **rights-of-way**, street or alley; or cause or attempt to cause any or all of the same to be done by any other person, firm or corporation, employee, agent or representative whosoever, without first having applied to the City Council and having first received from the City Council, or its duly appointed and authorized official, its written consent and permission for the activity.
(Ord. 1035, passed 11-3-1999)

§ 12.08.020 Authorized official.

The City Administrator is designated and appointed as the authorized official referred to in § 12.08.010 who is delegated with full power and authority to act for the City Council in the matter of the consent and permission.
(Ord. 1035, passed 11-3-1999)

§ 12.08.030 Permit applications.

Applications for permits to make excavations **within rights-of-way** or street cuts within the city shall be submitted upon forms to be provided by the city and shall be accompanied by drawings, plans and specifications in sufficient detail to demonstrate:

A. That the facilities will be constructed in accordance with all applicable codes, rules and regulations;

B. That the facilities will be constructed in accordance with a franchise agreement, if applicable;

C. The location and route of all facilities to be installed aboveground or on existing utility poles;

D. The location and route of all new facilities

on or in the public rights-of-way to be located under the surface of the ground, including the line and grade proposed for the burial at all points along the route which are within the public rights-of-way. Existing facilities shall be differentiated on the plans from new construction;

E. The location of all of applicant's existing underground utilities, conduits, ducts, pipes, mains, and installations which are within the public rights-of-way along the underground route proposed by the applicant. A cross-section shall be provided showing new or existing facilities in relation to the street, curb, sidewalk or right-of-way; and

F. The construction methods to be employed for protection of existing structures, fixtures and facilities within or adjacent to the public rights-of-way, and description of any improvements that applicant proposes to temporarily or permanently remove or relocate.

(Ord. 1035, passed 11-3-1999)

§ 12.08.040 Applicant's verification.

Unless exempted under § 12.08.045 of this code, all permit applications shall be accompanied by the verification of a registered professional engineer, or other qualified and duly authorized representative of the applicant, that the drawings, plans and specifications submitted with the application comply with applicable technical codes, rules and regulations.

(Ord. 1035, passed 11-3-1999)

§ 12.08.045 Exemption from requirements.

A. The City Administrator or designee may exempt applications for permits from the requirements of §§ 12.08.040 and 12.08.120 through 12.08.160, when in his or her discretion:

1. The amount of work to be done in city streets does not warrant the imposition of these requirements; and

2. The public interest in the city's streets and ways is adequately safeguarded.

B. The City Administrator may develop administrative regulations and policies to implement the provisions of this section.

(Ord. 1035, passed 11-3-1999)

§ 12.08.050 Construction schedule.

All permit applications shall be accompanied by a written construction schedule, which shall include a deadline for completion of construction. The construction schedule is subject to approval by the city. (Ord. 1035, passed 11-3-1999)

§ 12.08.060 Construction permit fee.

Unless otherwise provided in a franchise agreement, if applicable, prior to issuance of a construction permit, the applicant shall pay a permit fee of \$100, or as otherwise determined by resolution of the City Council. The fee shall be designed to defray the costs of city administration of the requirements of this chapter.

(Ord. 1035, passed 11-3-1999)

§ 12.08.070 Issuance of permit.

If satisfied that the applications, plans and documents submitted comply with all requirements of this code and the franchise agreement, if applicable, the city shall issue a permit authorizing construction of the facilities, subject to further conditions, restrictions or regulations affecting the time, place and manner of performing the work as the city may deem necessary or appropriate.

(Ord. 1035, passed 11-3-1999)

§ 12.08.080 Notice of construction.

Except in the case of an emergency, the permittee shall notify the city not less than 2 working days in advance of any excavation or construction in the public rights-of-way.

(Ord. 1035, passed 11-3-1999)

§ 12.08.090 Compliance with permit.

All construction practices and activities shall be in accordance with the permit and approved final plans and specifications for the facilities. The city and its representatives shall be provided access to the work site and any further information as they may require to ensure compliance with the requirements.

(Ord. 1035, passed 11-3-1999)

§ 12.08.100 Noncomplying work.

All work which does not comply with the permit, the approved or corrected plans and specifications for the work or the requirements of this chapter shall be removed at the sole expense of the permittee.
(Ord. 1035, passed 11-3-1999)

§ 12.08.110 Completion of construction.

The permittee shall promptly complete all construction activities so as to minimize disruption of the city rights-of-way and other public and private property. All construction work within the city rights-of-way, including restoration, must be completed within 120 days of the date of issuance of the construction permit, unless an extension or an alternate schedule has been approved pursuant to the schedule submitted and approved by the appropriate city official as contemplated by § 12.08.050 above.
(Ord. 1035, passed 11-3-1999)

§ 12.08.120 As-built drawings.

If requested by the city, the permittee shall furnish the city with 2 complete sets of plans drawn to scale and certified to the city as accurately depicting the location of all facilities constructed pursuant to the permit. These plans shall be submitted to the City Engineer or designee within 60 days after completion of construction, in a format mutually acceptable to the permittee and the city.
(Ord. 1035, passed 11-3-1999)

§ 12.08.130 Restoration of public rights-of-way and city property.

A. When a permittee, or any person acting on its behalf, does any work in or affecting any public rights-of-way or city property, he or she shall, at his or her own expense, promptly remove any obstructions therefrom and restore the ways or property to good order and condition unless otherwise directed by the city and as determined by the City Engineer or designee.

B. If weather or other conditions do not permit the complete restoration required by this section, the permittee shall temporarily restore the affected rights-of-way or property. This temporary restoration shall be at the permittee's sole expense and the permittee shall promptly undertake and complete the required

permanent restoration when the weather or other conditions no longer prevent the permanent restoration.

Any corresponding modification to the construction schedule shall be subject to approval by the city.

C. If the permittee fails to restore rights-of-way or property to good order and condition, the city shall give the permittee written notice and provide the permittee a reasonable period of time not exceeding 30 days to restore the rights-of-way or property. If, after the notice, the permittee fails to restore the rights-of-way or property to as good a condition as existed before the work was undertaken, the city shall cause the restoration to be made at the expense of the permittee.

D. A permittee or other person acting in its behalf shall use suitable barricades, flags, flagging attendants, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of the work in or affecting the rights-of-way or property. A permittee shall also take appropriate measures to assure that during the performance of the excavation work, traffic conditions as near normal as practicable shall be maintained at all times so as to cause as little inconvenience as possible to the occupants of the abutting property and to the general public.

E. For a period of 12 months following the completion of the work and the restoration of a street, the person who opened the street shall be responsible for the condition of the fill and replacement, and of the resurfacing. Should the trench settle during this period, it is the responsibility of the permittee to bring the street back to proper grade, notwithstanding the fact the work may have previously been approved and the bond canceled.

(Ord. 1035, passed 11-3-1999)

§ 12.08.140 Filing of bond.

Any person, firm or corporation making an application for excavations or a street cut shall, at the time and place of filing of the application and before a permit is issued, file with the City Recorder a bond executed by a surety company authorized to transact surety business in this state, or by 1 or more sufficient personal sureties approved by the City Administrator.

A personal surety must be a resident of this state. The bond shall be for the security and benefit of the city and shall be conditioned upon the applicant faithfully performing the excavation or street cut work in a careful, good and workmanlike manner to the satisfaction of the Superintendent of Public Works and within the time limit as prescribed by the permit. The amount of the bond shall be set by the City Administrator, but in no event shall it be less than \$1,000. In setting the amount of the bond, the City Administrator shall consider the nature and extent of the work to be done, the location of the street, usual traffic, kind and use of adjoining property, and probable costs to the city for replacement and restoration. The bond shall remain in force until 12 months after substantial completion of the work as determined by the city.

(Ord. 1035, passed 11-3-1999)

§ 12.08.150 Specifications for work.

All portions of an excavation or street cut which lie within the curb lines of the street or other actual traveled portion of the street as designated by the City Administrator shall be back-filled according to standard public works specifications. On streets having asphaltic paving and/or impregnated surfaces, a minimum of 4 inches of compacted hot-mix asphaltic concrete shall be placed in the upper portions of the pavement cut and rolled and/or tamped to the grade of the surrounding pavement. The same standards shall be applied to sidewalks except when the sidewalk is composed of poured concrete, in which case the sidewalk, where cut, shall be replaced with concrete. On surfaced streets and on the shoulders of paved and surface streets, the permittee shall place a minimum of 8 inches of compacted crushed rock having a gradation of 1 minus, which shall be rolled and/or tamped to the grade of the surrounding surfacing. If the full depth of the cut exceeds 8 inches, it shall be entirely filled with a granular material of 1 minus gradation and rolled and/or tamped to the grade of the surrounding surfacing. All backfilling and resurfacing shall be inspected and approved by the Superintendent of Public Works.

(Ord. 1035, passed 11-3-1999)

§ 12.08.160 Acceptance or rejection of replacement work.

All bonds filed by applicants shall be retained by the city until the City Administrator gives approval of the replacement. The City Administrator shall, within 45 days of the completion date stated on the permit or any extension thereof, if an extension is granted, either approve or reject the replacement. If the replacement is rejected, the permittee shall be informed in writing of the rejection and must, within 30 days of the notification, correct the replacement to the standards in effect. If the permittee fails to make the necessary corrections, his or her bond will be forfeited to the city to apply on its costs, and the city will proceed to make the necessary correction either by contract or city construction method, or a combination of both. In either case, the permittee shall be responsible for paying the city's costs of making or having corrections made, including engineering and any legal publication costs.

(Ord. 1035, passed 11-3-1999)

§ 12.08.170 Responsibility for underground utilities.

The permittee shall inform himself or herself as to the existence and location of all underground utilities and protect the same against damage. The permittee shall be responsible for any damage done to any public or private property by reason of the breaking of any water pipes, sewers, gas pipes, electric conduits or other utility facilities.

(Ord. 1035, passed 11-3-1999)

§ 12.08.180 Claims for defective work.

Acceptance or approval by the city of any excavation work and the replacement thereof and resurfacing, if any, shall not prevent the city from asserting a claim against the permittee for incomplete or defective work, if discovered within 12 months from the completion of the work.

(Ord. 1035, passed 11-3-1999)

§ 12.08.190 Water seepage.

It shall be unlawful for any person owning, controlling, using or operating any water main, irrigation or drainage pipeline or ditch, flume or other structure to permit any water from the water main,

pipeline, ditch, flume or other structure to flow, waste or seep into any street or alley of the city in a manner as to damage or injure the street or alley, or as to interfere with traffic thereon.

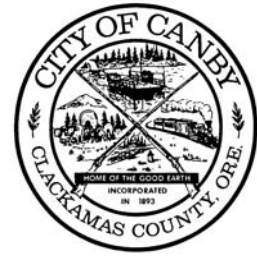
(Ord. 1035, passed 11-3-1999)

§ 12.08.200 Penalty.

Any person violating the provisions of this chapter, upon conviction, shall be punished by a fine not to exceed \$500.

(Ord. 1035, passed 11-3-1999)

MEMORANDUM



TO: *Honorable Mayor Thompson and City Council*
FROM: *Bryan C. Brown, Planning Director*
DATE: *July 1, 2009*
THROUGH: *Mark C. Adcock, City Administrator*

Issue/Objective:

To determine if the Council has an interest in modifying the new sign code to delegate the necessary approval of Community Event Sign Plans for banners or decorations which extend over a street to the City Administrator.

Synopsis:

There have been instances in years past where Councilors have voiced a concern about event banners that have been erected on power or light poles that cross over a street. The committee helping to draft the new sign code was aware of this and provided code language that now requires application for approval of a Community Event Sign Plan. There are several requirements in place now for gaining approval most applying to permanent signage where it is necessary to secure consent of 51 percent of the property owners in the vicinity of the Sign Plan area or for approval of the Sign Plan to be submitted by a recognized neighborhood association. Temporary signage which extends over a street must obtain encroachment permits, sign a liability waiver, and gain other agency approval if the street access encroached upon is controlled by another agency. In addition, approval of both permanent and temporary signage, including event banners extending into or over a street, requires approval by the City Council.

Recommendation: *Staff recommends the Council consider pursuing implementation of Option #1- delegating the approval of Community Event Sign Plans for banners which extend over a street to the City Administrator.*

Rationale:

The new sign ordinance has beefed up the standards when signage is proposed to extend within a street by requiring submittal of a Sign Plan, securing an encroachment permit, and exempting the City from liability. Consent or support of a majority of property owners in the sign area is now necessary if signage such as banners on light poles is intended to be permanent.

The question for consideration being raised by staff at this time pertains to whether it would be appropriate for such sign approvals to occur at the staff level. The City Council is the policy setting body for the community and has put in place additional considerations to be addressed with regard to the erection of street signage. Staff can assure that those criteria are followed with approvals in the future. A staff level approval could be less onerous in terms of timing for temporary signage where an event planner may not be aware of the city's requirements, including Council approval, until it is too late to get the issue on a Council agenda in a timely manner. An incident like this recently occurred, but involved approval of a temporary banner in a city park, where it was agreed Ordinance Section 16.42.030 provided below is not applicable. The City as the owner of the park, has the authority to decide if any signage is permitted and

under what terms and conditions. This ownership right may not be as clear when it comes to dealing with signage in the public rights-of-way. Generally, all sign codes, including Canby's, prohibits signage within public rights-of-way except as specifically allowed such as for banners or temporary real estate sales signs. So in the above instance the City Administrator made the decision regarding the park banner which is how all public signage decisions were previously handled, including those extending into public rights-of-way prior to adoption of the new sign ordinance.

Beyond the requirements listed in the ordinance, a decision regarding which banners to allow or not allow should likely be limited to issues related to how long it is to be allowed, technical erection details to help assure safety, size and design in terms of attractiveness. Legal issues could arise if the content or nature of the event advertisement becomes a determining factor as to whether a Sign Plan is approved or not. Court decisions have held up the concept of "content neutrality" by requiring that similar signage in similar locations be treated equally regardless of content. Under these legal circumstances, it may be that the City Administrator could do an equally good job of reviewing and approving applications for banners since our code does set up a process which allows them.

The most pressing argument for switching approval to an administrative staff level is likely to arise due to time constraints of the event planner who does not think far enough ahead to get his Event Sign Plan set on a Council agenda for approval before the actual event occurs. We encountered a similar instance this month with a banner being erected in Wait Park without knowledge that City approval was necessary. We currently treat the erection of signage in City owned parks separately from the sign ordinance, as the City is clearly the property owner and has the discretion to approve signage or not within the City parks. The event planner would not have had time to schedule approval on a Council agenda.

If nothing else, staff merely wanted the Council to be aware that the new sign ordinance, adopted in January of this year, requires both temporary and permanent signage proposed to extend into streets be approved by the Council. The time it takes for this approval could be of issue for temporary event signs.

Code Language:

The exact wording of the existing code language on this issue is provided for your review below.

16.42.030 Community event sign plan.

Temporary banners or seasonal holiday decorations which extend over a street, over a private road providing vehicle access into a property, or are attached to utility or streetlight poles, shall be permitted only after the City Council has approved a Community Event Sign Plan.

A. Application for approval of a Community Event Sign Plan shall be made on forms provided by the Planning Director, and shall be accompanied by all required information and fees.

B. Applicant shall obtain all encroachment permits and other agency approvals required, prior to submitting an application for a Community Event Sign Plan. If signage is proposed within a right-of-way controlled by another agency, the applicant shall provide written consent from the appropriate agency regarding the signage prior to submitting an application for a Community Event Sign Plan. The consent shall identify any restrictions desired by the owner of the right-of-way.

C. The applicant shall assume all liability for incidents involving the sign by signing a document exempting the City from liability and providing liability insurance in the form required by the City Attorney and in an amount not less than the current tort liability limitations.

D. Applications for permanent geographic identification banners or signage which extend over a street, over a private road providing vehicle access into a property, or are attached to utility or streetlight poles, shall be submitted following the same application procedures as described for temporary signage, and shall be submitted by a neighborhood association that is officially recognized by the City, or shall be accompanied by a petition indicating the consent of at least 51 percent of the property owners in the geographic area delineated on the Sign Plan application.

E. Except for permanent banners or signage identifying a geographic area or district of the City, all banners and signage approved in a Community Event Sign Plan shall be removed within 2 days after the associated event or activity has ended, or no later than directed by City Council in the Sign Plan approval, whichever date is later.

Options:

1. Direct staff to pursue delegating the approval of Community Event Sign Plans for banners which extend over a street to the City Administrator through implementation of a formal text amendment to Chapter 16.42.030 of the Land Development & Planning Ordinance.
2. Direct staff to pursue delegating only the approval of temporary Community Event Sign Plans to the City Administrator.
3. Keep the process for approval of Community Event Sign Plans in our newly adopted sign ordinance in tact as it exists with Council approval required.
4. Consider adding additional criteria to regulate signage which is allowed to extend into streets. This would be useful if it is found that the City is somewhat restricted in deciding which banners to approve or not that otherwise meet our current ordinance application requirements.

Fiscal Impact:

Costs associated with implementing either Option #1, or 2, is negligible but text amendments do take staff time away from other identified projects. No cost to Option #3 and Option #4 raises a possible issue that legal council can address related to “content neutrality.”

Attachments: none

PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is between the CITY OF CANBY (City) and PROTHMAN/Greg Prothman (Contractor).

- A. City requires services which Contractor is capable of providing, under terms and conditions hereinafter described.
- B. Contractor is able and prepared to provide such services as City requires, under those terms and conditions set forth.

The Parties Agree a Follows:

- 1. Scope of Services. Contractor's services under this Agreement are set forth in Exhibit "A", attached hereto.
- 2. Contractor Identification. Contractor shall furnish to City its employer identification number as designated by the Internal Revenue Service, or Contractor's Social Security Number, as City deems applicable. **Contractor understands it is required to obtain a City of Canby business license for conducting business in the City.**
- 3. Compensation:
 - A. City agrees to pay Contractor according to the proposed rate schedule submitted with the Contractor's proposal. See Exhibit "A" **Professional Fees and Guarantee** attached hereto. Contractor agrees that **\$25,000 (fees and expenses)** is the not to exceed price of this contract, without prior written approval from the City.
 - B. City agrees to pay Contractor within 30 days after receipt of Contractor's itemized statement. Amounts disputed by the City may be withheld pending settlement.
 - C. City certifies that sufficient funds are available and authorized for expenditure to finance costs of the Agreement.

4. Contractor is Independent Contractor.
- A. Contractor's services shall be provided under the general supervision of the City Administrator. Contractor shall be an independent contractor for all purposes and shall be entitled to no compensation other than the compensation provided for under Paragraph #3 of this Agreement.
 - B. Contractor certifies that it is either a carrier-insured employer or a self-insured employer as provided in Chapter 656 of the Oregon Revised Statutes.
 - C. Contractor hereby represents that no employee of the City, or any partnership or corporation in which a City Employee has an interest, will or has received any remuneration of any description from Contractor, either directly or indirectly, in connection with the letting or performance of this contract, except as specifically declared in writing.
5. Subcontractors and Assignment. Contractor shall neither subcontract any of the work, nor assign any rights acquired hereunder, without obtaining prior written approval from City. City, by this Agreement, incurs no liability to third persons for payment of any compensation provided herein to Contractor. Any subcontract between Contractor and subcontractor shall require the subcontractor to comply with all applicable OSHA regulations and requirements.
6. Work is Property of City. All work performed by Contractor under this Agreement shall be the property of the City. City agrees that the Contractor may use its work in other assignments if all City of Canby data and references are removed.
7. Term.
- A. This Agreement may be terminated by:
 - 1. Mutual written consent of the parties.

2. Either party, upon thirty (30) days written notice to the other, delivered by certified mail or in person.
3. City, effective upon deliver of written notice to Contractor by certified mail, or in person, under any of the following:
 - a. If Contractor fails to provide services called for by this Agreement within the time specified or any extension thereof.
 - b. If services are no longer required.
8. Professional Standards. Contractor shall be responsible to the level of competency presently maintained by others practicing the same type of work in City's community, for the professional and technical soundness, accuracy and adequacy of all work and materials furnished under this authorization.
9. Insurance. Insurance shall be maintained by the Contractor with the following limits:
 - A. Liability - \$1,000,000.00 combined single limit, bodily injury/property damage, including automobile coverage for any vehicle used for City business.
 - B. Professional liability – errors and omissions - \$1,000,000.00, combined single limit, bodily injury/property damage.

The City shall be named as an additional named insured on all required policies. The City may require current copies of insurance certificates. Procuring of such required insurance shall not be construed to limit Contractor's liability hereunder. Notwithstanding said insurance, Contractor shall be obligated for the total amount of any damage, injury or loss caused by Contractor's negligence or neglect connected with the Agreement.
10. Legal Expense. In the event legal action is brought by City or Contractor against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and

conditions hereby created, the losing party shall pay the prevailing party such reasonable amounts for attorneys fees, costs, and expenses as may be set by the court both at trial and all appeals therefrom.

11. Modifications. Any modification of the provisions of this Agreement shall be in writing and signed by the parties.
12. Notices. Any notice, bills, invoices, reports, or other documents required by this Agreement shall be sent by the parties by United States mail, postage paid, or personally delivered to the address below. All notices shall be in writing and shall be effective when delivered. If mailed, notices shall be deemed effective forty-eight(48) hours after mailing unless sooner received.

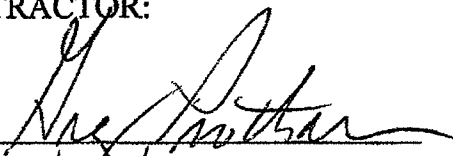
CITY: Mark Adcock, City Administrator
City of Canby
PO Box 930
182 N. Holly Street
Canby, OR 97013

CONTRACTOR: Greg Prothman
PROTHMAN
3633 136th PL SE, Suite 206
Bellevue, WA 98006

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly appointed officers.

CONTRACTOR:

By:



Date:

6/22/09

CITY OF CANBY:

By: _____

Date: _____

Approved as to Form

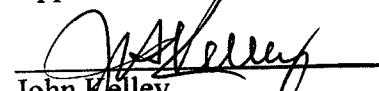

John Kelley
City Attorney

EXHIBIT A**CITY OF CANBY
POLICE CHIEF RECRUITMENT
SCOPE OF WORK****Project Planning & Research**

- ◆ Review the proposed search outline and modify as needed
- ◆ Develop a project timeline
- ◆ Identify the geographic scope of the search
 - Regional
 - Western United States
 - National
- ◆ Decide if a salary survey is needed
This review will provide the City with accurate salary information to evaluate if the position is at "market rate." If a survey is needed, we will work with the City to identify similar organizations for compensation comparisons.
- ◆ Gather and review all relevant documents related to the Police Chief position and the City.
- ◆ Interview key stakeholders.

Identifying the "Ideal" Candidate

The Position Profile includes:

- ◆ A description of the ideal candidate qualifications
 - Years of related experience required
 - Previous positions and sizes of communities
 - Specific relevant experience
 - Education requirements
 - Ideal personality traits and work habits
- ◆ City information, including
 - City location and quality of life opportunities
 - A summary of City services
 - Number of City employees and budget size
 - A basic description of the position
- ◆ A description of key issues and priorities facing the City and the Police Chief position
- ◆ A description of the compensation package
- ◆ Information on how and when to apply

Recruitment Strategy

- ◆ Creating Recruitment Brochures
Highlighting the position and the department
- ◆ Direct Mail Campaign
Researching and compiling a comprehensive list of potential candidates to be reached through a direct mail campaign
- ◆ Direct Contact Calls
Making direct recruiting calls to promising candidates based upon our extensive personal knowledge of excellent candidates
- ◆ Ads in Print and on the Web
Creating and placing targeted ads in professional publications, journals and on related websites targeting qualified candidates

Candidate Screening

- ◆ Initial Resume Screening
We will conduct an initial review of all resumes, screening for minimum qualifications.
- ◆ Supplemental Questions & Applications

The remaining qualified applicants will be asked to complete an application and Supplemental Questions/Writing Sample. We have found that this exercise provides a good example of a candidate's writing skills, analytical abilities and communication style and is an early indicator of his/her philosophy and values.

- ◆ **First Workshop**
Based upon the responses to the supplemental questions, we further screen the applicant pool, bringing the most promising candidates for your review. Using the application, supplemental questionnaire, resume and other materials submitted by the candidates, we will work with the City to identify the top semifinalists. We will also begin preliminary discussions about designing the final interview process.
- ◆ **Consultant Semifinalist Interviews**
We will conduct in person or videoconference interviews with each of the semifinalist candidates.
- ◆ **Second Workshop**
Based upon the results of the semifinalist interviews, we will present our findings and recommendations for your review. We will then work with you to identify four to six candidates to invite to the final interviews. We will also complete the planning and design of the final interview process and begin identifying potential interview questions.

Final Interviews

- ◆ **Detailed Background Checks**
Prior to the final interviews we will conduct a thorough background check on each of the finalist candidates. If a "red flag" is found we will work diligently to either verify that the issue is serious enough to eliminate the candidate from further consideration or be able to fully explain the issue to the City's satisfaction.
 - **References**
We will ask each candidate to provide names of their supervisors, subordinates and peers for the last several years. From this list we will conduct detailed reference checks on the finalist candidates through detailed conversations with the individuals who have direct knowledge of the candidate's work and management style. We will also make a point of contacting individuals not on the candidate's preferred list of references.
 - **Education Verification**
Prior to the final interviews we will verify that the candidate did in fact graduate with the degrees listed on their resume. We have found that approximately 1 out of 30 candidates will not have a degree claimed on their resume.
 - **Criminal History and Driving Record Check**
We will conduct a criminal history and driving record check on each candidate in the states in which they have worked.
 - **Sex Offender Check**
We will verify that the candidate is not a registered sex offender in the states where they have worked.
- ◆ **Candidate Travel Coordination**
For those candidates who will be traveling to the final interviews, we will coordinate the travel arrangements, ensuring that each candidate is fully prepared for the final interviews and not distracted by travel difficulties. We coordinate and finalize air travel, hotel reservations and rental cars.
- ◆ **Final Interview Binders**
The binders include:
 - A master schedule of all panels and candidate interviews
 - A draft list of suggested interview questions designed to augment questions that you may wish to ask
 - Each candidate's resume

- Each candidate's application
- Each candidate's answers to the supplemental questions
- ♦ Final Interview Process
 - Elements of the final interview process include:
 - Identifying interview panel participants (if desired by the City)
We will work with the City to identify the participants of different interview panels to ensure that all stakeholders identified by the City have been represented.
 - Providing suggested interview questions for each panel
 - Provide (as needed) and coordinate City facilitators for each panel
 - Facilitate the City's selection of the successful candidate
We will assist the City in their final process of determining their top candidate(s). We will also notify the unsuccessful candidates.
 - ♦ Assisting in Developing a Compensation Package and Letter of Offer
Once the top candidate has been selected, we can also assist the City in developing a letter of offer outlining the compensation package and further assisting the City as an on-call advisor until an employment agreement is reached.

Professional Fee & Guarantee

Professional Fee

Fee for professional services is \$16,500 plus expenses. All expenses incurred for conducting the recruitment are the responsibility of the City. Expenses will vary depending upon direction from the City regarding how geographically broad the recruitment effort is and where the top candidates come from (travel expenses). Expenses not to exceed \$8,500 unless discussed with the City prior to expenditure. A 3% charge will be added to all pass through expenses which reflects City and State B&O tax obligations. Expense items include but are not limited to:

- Newspaper, trade journal websites and other advertising related to the announcement of the position
- Direct mail announcements and regret letters
- Facsimile and delivery expenses
- Printing of documents and materials
- Consultant travel and related expenses
- Any client-required licenses, fees or taxes
- Travel and related expenses for candidates during the interview process

Professional fees are billed in three equal installments during the course of the search. The first installment is billed when Prothman begins the project. The second installment is billed at the mid-point of the recruitment. The final installment is billed at the conclusion of the search. Expenses are billed monthly.

Guarantee

Our record of success in placing highly qualified candidates provides that Prothman will guarantee the placement of a qualified candidate. Provided the Client follows our finalist candidate recommendations and the key elements of the search process as outlined in the proposal, if the selected finalist candidate leaves the position, or is terminated, for any cause within two years from the employment date, we will conduct a replacement search with no additional professional fee. The only cost to you would be the expenses related to the additional search.

Cancellation

You have the right to cancel the search at any time. Your only obligation would be the fees and expenses incurred prior to cancellation.