

# **AGENDA**

## **CANBY CITY COUNCIL MEETING**

**June 20, 2007, 7:30 P.M.**

**Council Chambers**

**155 NW 2<sup>nd</sup> Avenue**

***Mayor Melody Thompson***

***Council President Walt Daniels***

***Councilor Teresa Blackwell***

***Councilor Paul Carlson***

***Councilor Randy Carson***

***Councilor Tony Helbling***

***Councilor Wayne Oliver***

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### **WORK SESSION**

**6:30 P.M.**

**City Hall Conference Room**

**182 N Holly**

The City Council will be meeting in a Work Session to review Council goals with Departmental Directors.

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### **CITY COUNCIL MEETING**

#### **1. CALL TO ORDER**

A. Pledge of Allegiance and Moment of Silence

B. Certification of Measure 3-261 Proclamation

Pg. 1

C. Certification of Measure 3-262 Proclamation

Pg. 3

#### **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**

A. Cancellation of July 5 Council Meeting

#### **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 6, 2007 City Council Work Session and Regular Meeting

#### **7. PUBLIC HEARING**

A. 2007-2008 Fiscal Year Budget

## **8. RESOLUTIONS & ORDINANCES**

- A. Res. 951, Verifying City has Met Requirements to Receive Revenues from Cigarette Gas and Liquor Taxes Pg. 5
- B. Res. 952, Adopting Budget, Making Appropriations & Categorization for the 2007-2008 Fiscal Year Pg. 7
- C. Res. 953, Adopting a Supplemental Budget for the 2006-2007 Fiscal Year Pg. 12
- D. Res. 954, Proclaiming Annexation of 1.95 Acres Pg. 15
- E. Res. 955, Proclaiming Annexation of 32.62 Acres Pg. 19
- F. Res. 956, Provide for Codifying and Compiling Certain Existing General Ordinances for the City of Canby Pg.23
- G. Ord. 1238, Vacating Six Hundred Twenty Feet (620') of the Public Right-of-Way on SW 4<sup>th</sup> Avenue East of S Birch Street Fronting Tax Lot 700 of Map 4-1E-04B (2<sup>nd</sup> Reading) Pg. 39
- H. Ord. 1245, Declaring City's Election to Receive State Revenue for Fiscal Year 2007-2008 Pg. 43
- I. Ord. 1246, Authorizing Contract with Transpo Group, Inc. Consulting Engineers for Transportation Modeling and Engineering Services (2<sup>nd</sup> Reading) Pg. 45
- J. Ord. 1247, Authorizing Contract with Nancy McClain for Professional Services for Project Management for the Canby Finance Department (2<sup>nd</sup> Reading) Pg. 47
- K. Ord. 1248, Authorizing Contract with Winstead & Associates to Provide Building Code Services (2<sup>nd</sup> Reading) Pg. 49
- L. Ord. 1250, Authorizing Contract with Frank C. Berg, Architect, P.C. for Project Management Services Relating to the New Police and Court Facility for the City of Canby Pg. 50
- M. Ord. 1251, Authorizing Change Order #2 with Canby Excavating, Inc. for Construction of S. Berg Parkway Roadway Extension Pg. 58

## **9. NEW BUSINESS**

## **10. CITY ADMINISTRATOR'S BUSINESS & STAFF REPORTS**

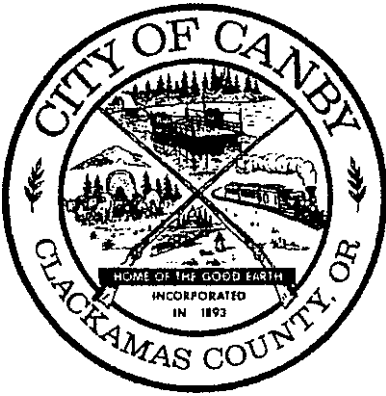
## **11. CITIZEN INPUT**

## **12. ACTION REVIEW**

## **13. EXECUTIVE SESSION: ORS 192.660(2)(d) Labor Negotiations, ORS 192.660(2)(h) Pending Litigation and ORS 192.660(2)(i) Performance Evaluation of Public Officer**

## **14. 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](http://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.



# City of Canby

General Administration Office

## **PROCLAMATION**

WHEREAS, the City of Canby, County of Clackamas, Oregon, held a Special Election on May 15, 2007 to consider the following measure:

### **MEASURE NO. 3-261**

**Shall 32.62 acres located at 23849 S. Mulino Road, North of Township Road be annexed into Canby?**

WHEREAS, the Clackamas County Elections Department offers the following as an official count of votes for the Special Election on May 15, 2007.

**YES - 1,093**

**NO - 1,088**

**Over Votes - 1**

**Under Votes - 51**

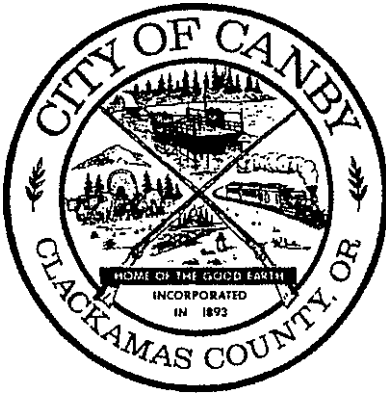
**NOW, THEREFORE**, I, Melody Thompson, Mayor of the City of Canby, Oregon, do hereby proclaim the foregoing to be a true and accurate accounting as presented by the Clackamas County Election Division dated June 7, 2007.

Dated this 20<sup>th</sup> day of June, 2007.

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Melody Thompson  
Mayor





# City of Canby

General Administration Office

## **PROCLAMATION**

WHEREAS, the City of Canby, County of Clackamas, Oregon, held a Special Election on May 15, 2007 to consider the following measure:

### **MEASURE NO. 3-262**

**Shall 1.95 acres located at 1401 S. Fir Street be annexed into Canby?**

WHEREAS, the Clackamas County Elections Department offers the following as an official count of votes for the Special Election on May 15, 2007.

**YES - 1,183**

**NO - 1,006**

**Over Votes - 0**

**Under Votes - 44**

**NOW, THEREFORE**, I, Melody Thompson, Mayor of the City of Canby, Oregon, do hereby proclaim the foregoing to be a true and accurate accounting as presented by the Clackamas County Election Division dated May 30, 2007.

Dated this 20<sup>th</sup> day of June, 2007.

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Melody Thompson  
Mayor

NUMBERED KEY CANVASS

RUN DATE:05/29/07 10:22 AM

Clackamas County Oregon  
Special District Election  
May 15, 2007

Final Official Results

REPORT-EL52

PAGE 0230

VOTES PERCENT

VOTES PERCENT

3-262 CITY OF CANBY

MEASURE APPROVING ANNEXATION OF 1.95 ACRES INTO CITY

Vote For 1

01 = Yes

02 = No

1,183 54.04

1,006 45.96

03 = OVER VOTES

04 = UNDER VOTES

0

44

01 02 03 04

0122 122

299 235 0 7

0123 123

96 73 0 4

0124 124

324 287 0 15

0125 125

238 214 0 8

0126 126

226 197 0 10

RECEIVED

JUN 01 2007

CITY OF CANE

CERTIFIED COPY OF THE ORIGINAL  
SHERRY HALL, COUNTY CLERK  
BY: *Sherry Hall*  
MAY 30 2007  
4

# ***M E M O R A N D U M***

DATE: June 12, 2007  
TO: Honorable Mayor Thompson and City Council  
FROM: Chaunee Seifried, Finance and Court Services Director  
CC: Mark Adcock, City Administrator  
RE: A RESOLUTION VERIFYING THAT THE CITY OF CANBY HAS MET THE REQUIREMENTS TO RECEIVE REVENUES FROM CIGARETTE, GAS AND LIQUOR TAXES.

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Issue: Annual verification that the City has met the requirements to receive revenues from intergovernmental taxes

Background: ORS 221.760 Prerequisites for cities in counties over 100,000 population to receive revenues from cigarette, gas and liquor taxes. (1) The officer responsible for disbursing funds to cities shall disburse such funds in the case of a city located within a county having more than 100,000 inhabitants, according to the most recent federal decennial census, only if the officer reasonably is satisfied that the city meets the requirements or if the city provides four or more of the following municipal services; (a) Police protection, (b) Fire protection, (c) Street construction, maintenance and lighting, (d) Sanitary sewers, (e) Storm sewers, (f) Planning, zoning and subdivision control, or (g) One or more utility services.

Recommendation: That council adopts RESOLUTION No. 951 validating that the city has met the requirements to receive revenues from cigarette, gas, and liquor taxes.

Fiscal Impact: The city estimates amounts to receive \$26,000 for cigarette taxes, \$153,000 for liquor taxes, and \$674,959 for gas taxes.

Attached: Resolution No. 951

**RESOLUTION NO. 951**

**A RESOLUTION VERIFYING THAT THE CITY OF CANBY HAS MET THE REQUIREMENTS TO RECEIVE REVENUES FROM CIGARETTE, GAS AND LIQUOR TAXES.**

**WHEREAS**, ORS 221.760 provides as follows:

Section 1. The officer responsible for disbursing funds to cities under ORS 323.455, 366.785 to 366.820, and 471.805 shall, in the case of a city located within a county having more than 100,000 inhabitants according to the most recent federal decennial census, disburse such funds only if the city provides four or more of the following services:

1. Police protection
2. Fire protection
3. Street construction, maintenance, and lighting
4. Sanitary sewer
5. Storm sewers
6. Planning, zoning, and subdivision control
7. One or more utility services and:

**WHEREAS**, City officials recognize the desirability of assisting the state officer responsible for determining the eligibility of cities to receive such funds in accordance with ORS 221.760,

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Canby, Clackamas County, Oregon hereby certifies that it provides the following four or more municipal services enumerated in Section 1, ORS 221.760:

1. Police protection
2. Street construction, maintenance and lighting
3. Sanitary sewers
4. Planning, zoning and subdivision control
5. Storm sewers

This Resolution is effective June 20, 2007.

**ADOPTED** by the Canby City Council at a regular meeting thereof on Wednesday, June 20, 2007.

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Melody Thompson, Mayor

ATTEST:

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Kimberly Scheafer, City Recorder – Pro Tem





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## CITY COUNCIL MEMORANDUM

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**DATE:** JUNE 12, 2007  
**TO:** HONORABLE MAYOR THOMPSON AND CITY COUNCIL  
**FROM:** CHAUNEE SEIFRIED, FINANCE & COURT SERVICES DIRECTOR  
**CC:** MARK ADCOCK, CITY ADMINISTRATOR  
**RE:** A RESOLUTION ADOPTING THE BUDGET, MAKING APPROPRIATIONS, AND CATEGORIZATION FOR THE 2006-2007 FISCAL YEAR.

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### BACKGROUND:

The City of Canby passed a Tax Base of \$1,250,000 on November 6, 1990. The City passed a local option levy of \$0.42 per \$1000.00 of assessed property value on November 07, 2006 to fund Swim Center Operations. The City levies the taxes provided for in the adopted budget at the permanent rate of 3.4886 per \$1000. These taxes are hereby levied upon all taxable property within the district as of 1:00 a.m. July 1, 2007. The allocation and categorization subject to the limits of section 11, Article XI of the Oregon Constitution.

### ISSUE:

ORS 294.435 requires the City to hold a public hearing and adopt the budget by June 30, 2007. And ORS 294.555 requires the City to submit the Tax Certification Documents to the County Assessor by July 15, 2007.

### RECOMMENDATION:

We recommend City Council adopt resolution No.952 as recommended by the budget committee.

## RESOLUTION NO. 952

### A RESOLUTION ADOPTING THE BUDGET, MAKING APPROPRIATIONS, AND CATEGORIZATION FOR THE 2007-2008 FISCAL YEAR

**WHEREAS**, the City of Canby passed a Tax Base of \$1,250,000 on November 6, 1990;  
and

**WHEREAS**, a public hearing for the 2007-2008 City Budget was duly and regularly advertised and held on June 20, 2007; and be it resolved that the City Council of the City of Canby hereby adopts the budget approved by the Budget Committee;

**WHEREAS**, the City of Canby passed a local option levy of .42¢ per \$1,000.00 of assessed property value on November 7, 2006, with an estimated \$384,780 raised in 2007-2008; this levy is to fund Swim Center Operations.

**RESOLVED** that the City Council of Canby hereby levies the taxes provided for in the adopted budget at the permanent rate of 3.4886 per \$1,000 and a local option levy of .42¢ per \$1000.00 of assessed property value and that these taxes are hereby levied upon all taxable property within the district as of 1:00 a.m. July 1, 2007. The following allocation and categorization subject to the limits of section 11, Article XI of the Oregon Constitution make up the above aggregate levy;

	Subject to the General Government Limitation	Excluded from the Limitation
Permanent Rate Levy	3.4886	
Local Option Levy	0.4200	
Total Levy	3.9086	

**BE IT RESOLVED** that the amounts for the fiscal year beginning July 1, 2007 and for the purposes shown below are hereby appropriated as follows:

#### GENERAL FUND

ADMINISTRATION	1,406,295
COURT	355,635
PLANNING	405,236
LIBRARY	523,600
PARKS	444,568
BUILDING	937,865
POLICE	3,947,533
CEMETERY	159,730
FINANCE	473,495

TOTAL EXPENDITURES AND REQUIREMENTS

**OTHER FUNDS**

**STREET FUND**

PERSONAL SERVICES	429,846
MATERIALS & SERVICES	274,500
TRANSFERS	319,539
TOTAL EXPENDITURES AND REQUIREMENTS	<b>1,023,885</b>

**SEWER COMBINED FUND**

PERSONAL SERVICES	775,889
MATERIALS & SERVICES	440,800
DEBT SERVICE	1,640,425
TRANSFERS	308,222
CAPITAL OUTLAY	2,821,196
TOTAL EXPENDITURES AND REQUIREMENTS	<b>5,986,532</b>

**911 EMERGENCY**

MATERIALS & SERVICES	245,000
TRANSFERS	1,000
TOTAL EXPENDITURES AND REQUIREMENTS	<b>246,000</b>

**PARKS DEVELOPMENT FUND**

PERSONAL SERVICES	131,400
CAPITAL OUTLAY	2,832,965
TRANSFERS	76,655
TOTAL EXPENDITURES AND REQUIREMENTS	<b>3,041,020</b>

**LIBRARY ENDOWMENT FUND**

MATERIALS & SERVICES	500
CAPITAL OUTLAY	121,500
TRANSFERS	500
TOTAL EXPENDITURES AND REQUIREMENTS	<b>122,500</b>

**LOGGING ROAD INDUSTRIAL**

CAPITAL OUTLAY	296,727
TRANSFERS	5,000
DEBT SERVICE	71,459

TOTAL EXPENDITURES AND REQUIREMENTS	373,186
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**STREET RESERVE**

CAPITAL OUTLAY	2,524,321
TRANSFERS	37,892
TOTAL EXPENDITURES AND REQUIREMENTS	2,562,213

**CEMETERY PERPETUAL CARE**

CAPITAL OUTLAY	744,630
TRANSFERS	2,000
TOTAL EXPENDITURES AND REQUIREMENTS	746,630

**CAPITAL RESERVE**

PERSONAL SERVICES	26,400
CAPITAL OUTLAY	682,000
TRANSFERS	30,744
TOTAL EXPENDITURES AND REQUIREMENTS	739,144

**FORFEITURE FUND**

MATERIALS & SERVICES	19,840
TRANSFERS	160
TOTAL EXPENDITURES AND REQUIREMENTS	20,000

**FLEET SERVICES COMBINED FUND**

PERSONAL SERVICES	262,150
MATERIALS & SERVICES	277,450
TRANSFERS	3,000
CAPITAL OUTLAY	174,500
TOTAL EXPENDITURES AND REQUIREMENTS	717,100

**TECHNICAL SERVICES COMBINED FUND**

PERSONAL SERVICES	37,600
MATERIALS & SERVICES	67,338
CAPITAL OUTLAY	288,430
TOTAL EXPENDITURES AND REQUIREMENTS	393,368

**LID FUND #0100**

TRANSFERS	14,609
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TOTAL EXPENDITURES AND REQUIREMENTS	14,609
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**TRANSIT FUND**

PERSONAL SERVICES	67,000
MATERIALS & SERVICES	1,063,100
TRANSFERS	251,900
CAPITAL OUTLAY	187,294
DEBT SERVICE	99,589
TOTAL EXPENDITURES AND REQUIREMENTS	1,668,883

**SWIM CENTER LEVY FUND**

PERSONAL SERVICES	343,248
MATERIALS & SERVICES	97,812
TRANSFERS	36,525
CAPITAL OUTLAY	70,915
TOTAL EXPENDITURES AND REQUIREMENTS	548,500

TOTAL OPERATING BUDGET	26,857,527
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This Resolution is effective June 20, 2007.

**ADOPTED** by the Canby City Council at a regular meeting thereof on Wednesday, June 20, 2007.

\_\_\_\_\_  
Melody Thompson, Mayor

ATTEST:

\_\_\_\_\_  
Kimberly Scheafer, City Recorder pro tem



## CITY COUNCIL MEMORANDUM

**DATE:** JUNE 12, 2007  
**TO:** HONORABLE MAYOR THOMPSON AND CITY COUNCIL  
**FROM:** CHAUNEE SEIFRIED, FINANCE DIRECTOR  
**CC:** MARK ADCOCK, CITY ADMINISTRATOR  
**RE:** RESOLUTION NO. 953 ADOPTING A SUPPLEMENTAL BUDGET FOR THE 2006-2007 FISCAL YEAR.

### BACKGROUND:

The City of Canby Budget for the 2006-2007 fiscal year was approved by the voters of said City at a Tax Base Election on November 6, 1990, and a Supplemental Budget for expenditure of unanticipated cash according to ORS 294.326 will require a public hearing only if more than 10% increase of any one fund. No changes in funds are over 10%. Here is a brief summary of what the supplemental is needed for:

General Fund – received unanticipated revenue and Police Grant and Donations.

Cemetery – received donations.

Finance – Internal Control Audit charged to contingency.

Fleet/Transit – Transfer money to cover additional bus repairs.

Technical Service – Unanticipated Rev to go on Migration Project.

Capital Reserve – Grant money received for Library and Parks.

### ISSUE:

Oregon budget law prohibits the spending of monies outside of the adopted budget. This supplemental budget will reallocate unanticipated revenues and expenditures according to ORS 294.

### RECOMMENDATION:

The Finance Department has isolated and identified the monetary requirements for all Funds in the form of a supplemental budget proposal. ORS 294 outlines a specific process that the City must complete to enact a supplemental budget.

- Hold a special hearing to discuss and adopt the supplemental in over 10% in any fund. This is scheduled for the regular council meeting on June 20, 2007. The budget committee is not required to be involved.
- Five days before the hearing, a notice of the hearing is to be published in the Oregonian. This appeared in the edition on June 6, 2007.
- The City Council enacts a resolution to adopt the supplemental budget.

We recommend City Council adopt resolution No. 953 as written.

## RESOLUTION NO. 953

### A RESOLUTION ADOPTING A SUPPLEMENTAL BUDGET FOR THE 2006-2007 FISCAL YEAR

**WHEREAS**, the City of Canby Budget for the 2006-2007 fiscal year was approved by the voters of said City at a Tax Base Election on November 6, 1990, and a Supplemental Budget for expenditure of unanticipated cash was approved on June 20, 2007.

**WHEREAS**, the City of Canby has now received unanticipated revenues and a Supplemental Budget is required for the expenditures of such funds according to ORS 294.326 (1). No further voter approval is required.

#### NOW THEREFORE, BE IT RESOLVED THAT:

Section 1. The following Supplemental Budget for the City of Canby for the 2006-2007 fiscal year is hereby adopted.

#### 2006-2007 SUPPLEMENTAL BUDGET SUMMARY

<u>FUND/DEPARTMENT</u>	<u>RESOURCES</u>	<u>REQUIREMENTS</u>	
<b>GENERAL FUND</b>			
Grant Revenue	63,200	Police	38,200
Unanticipated Revenue	11,615	Cemetery	25,000
		Finance	11,615
<b>Total Resources</b>	<b>74,815</b>	<b>Total Requirements</b>	<b>74,815</b>
<b>FLEET FUND</b>			
Unanticipated Revenue	8,700	Pers. Svc.	-21,100
Transfers In	25,000	Mat. & Svc.	47,200
		Capital Outlay	7,600
<b>Total Resources</b>	<b>33,700</b>	<b>Total Requirements</b>	<b>33,700</b>
<b>TECH SERVICE FUND</b>			
Carryover	7,000	Personal Services	-9,900
Unanticipated Revenue	3,100	Capital Outlay	20,000
<b>Total Resources</b>	<b>10,100</b>	<b>Total Requirements</b>	<b>10,100</b>

**TRANSIT FUND**

Unanticipated Revenue	-10,000	Transfers Out	25,000
Grants	26,900	Mat. & Svc.	-12,600
		Capital Outlay	-95,500
		Debt	100,000
<b>Total Resources</b>	<b>16,900</b>	<b>Total Requirements</b>	<b>16,900</b>

**CAPITAL RESERVE FUND**

Grants & Donations	80,000	Capital Outlay	80,000
<b>Total Resources</b>	<b>80,000</b>	<b>Total Requirements</b>	<b>80,000</b>

<b>ALL FUNDS TOTAL RESOURCES</b>	<b>\$215,515</b>	<b>ALL FUNDS TOTAL REQUIREMENTS</b>	<b>\$215,515</b>
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**ADOPTED** by the Canby City Council at a regular meeting thereof on June 20, 2007.

ATTEST:

\_\_\_\_\_  
Melody Thompson, Mayor

\_\_\_\_\_  
Kimberly Scheafer, City Recorder pro tem



## **RESOLUTION NO. 954**

**A RESOLUTION ACCEPTING THE RESULTS OF MAY 15, 2007 ELECTION, PROCLAIMING ANNEXATION INTO THE CITY OF 1.95 ACRES DESCRIBED AS TAX LOT 1301 OF TAX MAP 4-1E-4CA LOCATED AT 1401 S. FIR STREET, AND SETTING THE BOUNDARIES OF THE PROPERTY TO BE INCLUDED WITHIN THE CITY LIMITS.**

**WHEREAS**, on May 15, 2007, at a special district election, the voters of the City of Canby approved by a vote of 1183 to 1006 Measure No. 3-262 which called for the annexation of 1.95 acres into the City of Canby. Clackamas County Elections Department certified the above election results as accurate on May 29, 2007. Applicant for the property was Nick and Jamie Netter for property owner, Todd and Theresa Snelson. The property is more particularly described as Tax Lot 1301 of Tax Map 4-1E-4CA. A complete legal description of Tax Lot 1301 is attached hereto as Exhibit "A", and a map showing the location of the tax lot is attached hereto as Exhibit "B" and by this reference are incorporated herein; and

**WHEREAS**, pursuant to CMC 16.84.080, the City of Canby must proclaim by resolution, the annexation of said property into the City and set the boundaries of the new property by legal description;

**NOW THEREFORE, IT IS HEREBY RESOLVED** by the City Council of the City of Canby that the Election Results as set forth in the abstract dated May 29, 2007, are official and accepted by the Council of Canby; and it is hereby

**PROCLAIMED** by the Council of Canby that 1.95 acres of property described in Exhibit "A" and shown on Exhibit "B" is annexed into the corporate limits of the City of Canby, Oregon. Said boundaries of the property are set by the legal descriptions set forth in Exhibit "A".

This resolution shall take effect on June 20, 2007.

ADOPTED this \_\_\_\_ day of June, 2007, by the Canby City Council.

\_\_\_\_\_  
Melody Thompson - Mayor

ATTEST:

\_\_\_\_\_  
Kimberly Scheafer, City Recorder, Pro-Tem

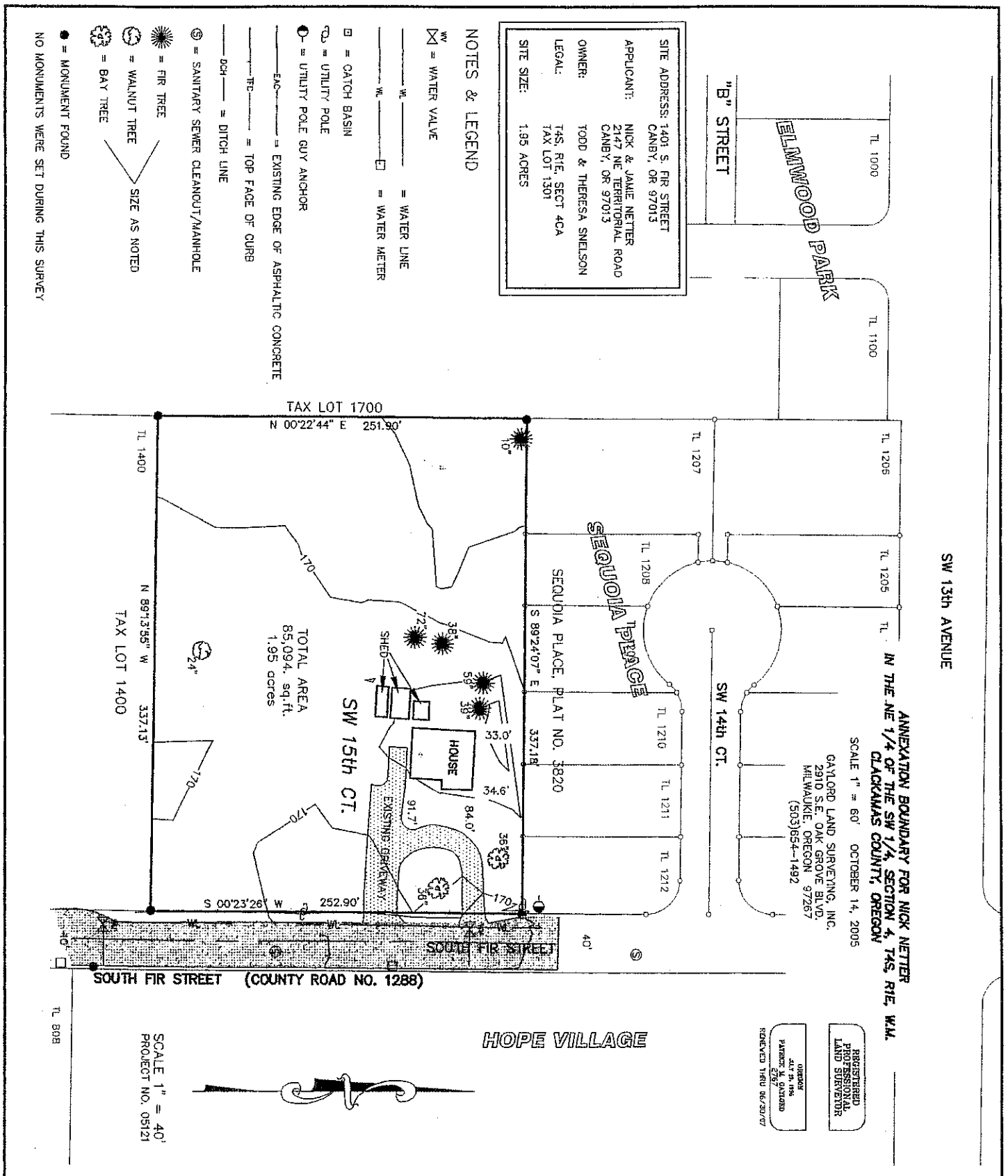
EXHIBIT "A"

October 17, 2005

NETTER ANNEXATION LEGAL DESCRIPTION

LEGAL DESCRIPTION FOR A PROPOSED ANNEXATION TO THE CITY OF CANBY IN THE NORTHEAST ONE QUARTER OF THE SOUTHWEST ONE QUARTER OF SECTION 4, T4S, R1E, W.M., CITY OF CANBY, CLACKAMAS COUNTY, OREGON. THE BOUNDARY OF THE SAID ANNEXATION BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED "GAYLORD LAND SURVEYING, INC" AT THE INTIAL POINT OF THE PLAT OF SEQUOIA PLACE, A DULY RECORDED PLAT IN CLACKAMAS COUNTY; THENCE SOUTH 89°24'07" EAST ALONG THE SOUTH LINE OF THE SAID PLAT 337.18 FEET TO AN IRON ROD WITH YELLOW PLASTIC CAP MARKED "GAYLORD LAND SURVEYING, INC" AT THE SOUTHEAST CORNER THEREOF; THENCE SOUTH 00°23'26" WEST ALONG THE WEST RIGHT OF WAY LINE OF SOUTH FIR STREET 252.90 FEET TO A 1/2" IRON PIPE AT THE NORTHEAST CORNER OF THAT TRACT OF LAND DESCRIBED BY DEED RECORDED AS FEE NO. 2000-036713, CLACKAMAS COUNTY DEED RECORDS; THENCE ALONG THE NORTH LINE OF THE SAID DEED NORTH 89°13'55" WEST 337.13 FEET TO A 1/2" IRON PIPE AT THE NORTHWEST CORNER THEREOF; THENCE NORTH 00°22'44" EAST 251.90 FEET TO THE POINT OF BEGINNING. CONTAINING 1.95 ACRES MORE OR LESS.



**RESOLUTION NO. 955**

**A RESOLUTION ACCEPTING THE RESULTS OF MAY 15, 2007 ELECTION, PROCLAIMING ANNEXATION INTO THE CITY OF 32.62 ACRES DESCRIBED AS TAX LOTS 2400 AND 3100 OF TAX MAP 3-1E-34 LOCATED AT 23849 S MULINO ROAD, AND SETTING THE BOUNDARIES OF THE PROPERTY TO BE INCLUDED WITHIN THE CITY LIMITS.**

**WHEREAS**, on May 15, 2007, at a special district election, the voters of the City of Canby approved by a vote of 1093 to 1088 Measure No. 3-261 which called for the annexation of 32.62 acres into the City of Canby. Clackamas County Elections Department certified the above election results as accurate on June 6, 2007 following a recount held on June 6, 2007. Applicant for the property was Parsons Family Trust, property owner. The property is more particularly described as Tax Lots 2400 and 3100 of Tax Map 3-1E-34. A complete legal description of Tax Lot 1300 is attached hereto as Exhibit "A", and a map showing the location of the tax lot is attached hereto as Exhibit "B" and by this reference are incorporated herein; and

**WHEREAS**, pursuant to CMC 16.84.080, the City of Canby must proclaim by resolution, the annexation of said property into the City and set the boundaries of the new property by legal description;

**NOW THEREFORE, IT IS HEREBY RESOLVED** by the City Council of the City of Canby that the Election Results as set forth in the abstract dated June 7, 2007, are official and accepted by the Council of Canby; and it is hereby

**PROCLAIMED** by the Council of Canby that 32.62 acres of property described in Exhibit "A" and shown on Exhibit "B" is annexed into the corporate limits of the City of Canby, Oregon. Said boundaries of the property are set by the legal descriptions set forth in Exhibit "A".

This resolution shall take effect on June 20, 2007.

ADOPTED this 20<sup>th</sup> day of June, 2007, by the Canby City Council.

Melody Thompson - Mayor

ATTEST:

Kimberly Scheafer, City Recorder, Pro-Tem

**ZTec Engineers, Inc.**

**Civil ♦ Structural ♦ Surveying**

John McL. Middleton, P.E.

Chris C. Fischborn, P.L.S.

Ronald b. Sellards, P.E.

3737 SE 8<sup>th</sup> Ave.

Portland, OR 97202

503-235-8795

FAX: 503-233-7889

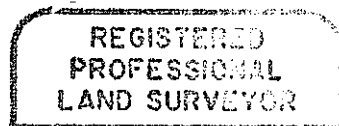
Email: chris@ztecengineers.com

**Parsons Property**

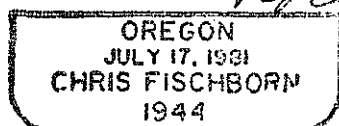
A parcel of land located in the Southeast one-quarter of Section 34, Township 3 South, Range 1 East, of the Willamette Meridian, Clackamas County, Oregon. Said parcel of land being more particularly described as follows:

Commencing at a 4¼ inch aluminum disc found at the Southeast corner of said Section 34; thence North 89°38'15" West along the South line of said Section 34, a distance of 551.22 feet to a point on the Southerly extension of an agreement line as described in Document No. 2007- , Clackamas County Deed Records; thence North 00°11'00" East along said agreement line, a distance of 20.00 feet to a point on the North right-of-way line of Township Road, said point also being the true point of beginning of the parcel of land herein described; thence continuing along said agreement line, and along the agreement line described in Document No. 2007- , Clackamas County Deed Records, and along the agreement line described in Document No. 2007- , Clackamas County Deed Records, North 00°11'00" East a distance of 1260.51 feet to a point on the South line of the "Philander Lee Donation Land Claim"; thence South 78°25'00" West, along said Donation Land Claim line, a distance of 499.34 feet to a point on the East right-of-way line of Walnut Street; thence North 00°22'11" East, along said East right-of-way line, a distance of 634.58 feet to a point on the South line of that Tract of land described in that Deed recorded as Document No. 98-024817, Clackamas County Deed Records; thence North 81°57'35" East, along said South line, a distance of 1025.11 feet to a point on the West right-of-way line of Mulino Road; thence South 00°04'29" East, along said West right-of-way line, a distance of 562.97 feet to an angle point in said West right-of-way; thence South 00°13'13" West, a distance of 1378.53 feet to a point on said North right-of-way line of said Township Road; thence North 89°38'15" West, along said North right-of-way line, a distance of 521.36 feet to the true point of beginning of the parcel of land herein described.

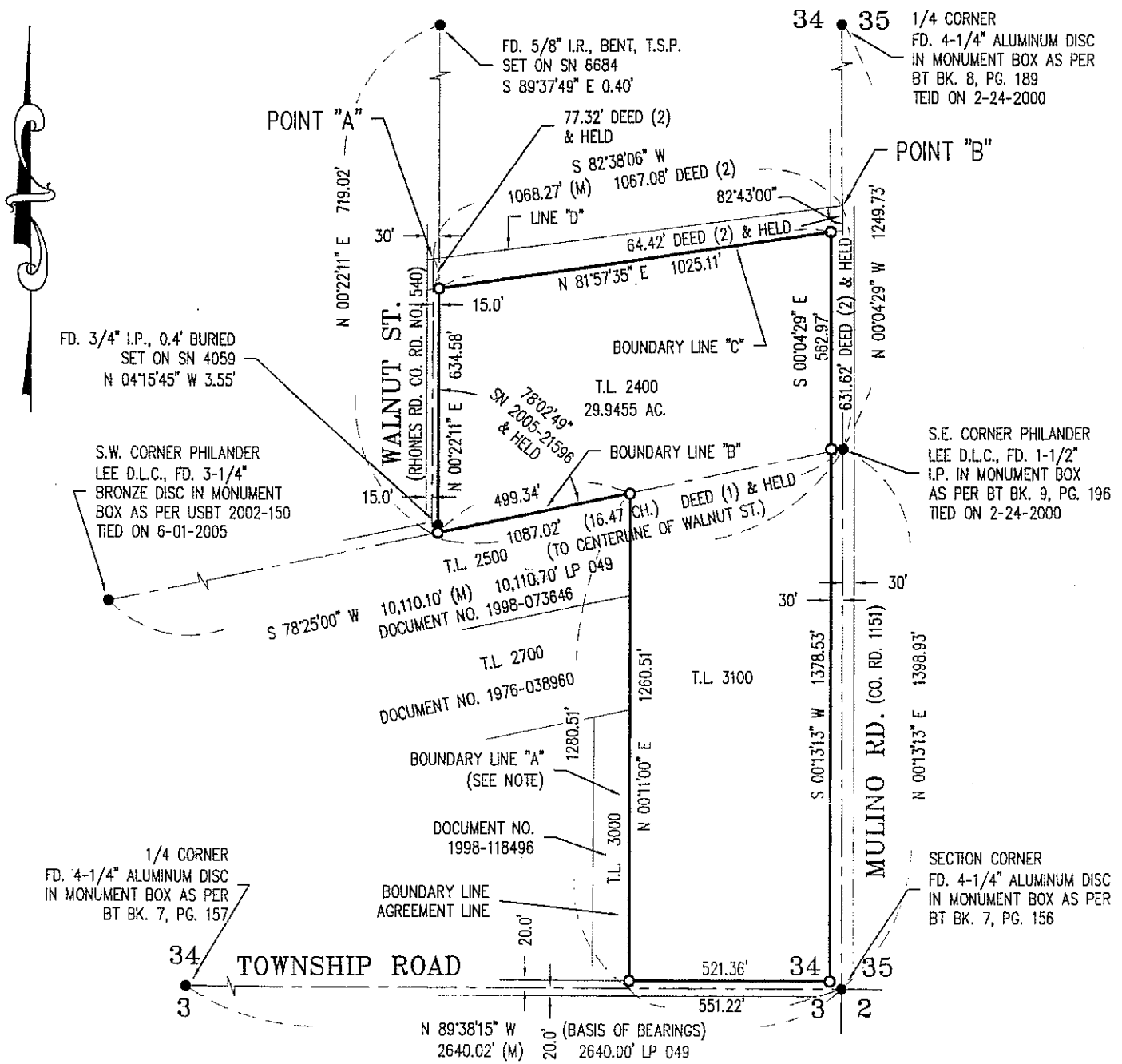
Said parcel of land contains an area of 29.9455 acres more or less.



*Chris C. Fischborn*



# EXHIBIT "B"



## GRAPHIC SCALE



( IN FEET )  
1 INCH = 400FEET

### NOTE:

BOUNDARY LINE "A" IS BEING HELD ON THIS SURVEY AS DESCRIBED IN THOSE PROPERTY LINE AGREEMENTS FILED AS DOCUMENT NO.'S \_\_\_\_\_

TITLE: <b>EXHIBIT "C"</b>		<b>ZTec ENGINEERS, INC.</b> 3737 S.E. 8TH AVE. PORTLAND, OREGON 97202 (503) 235-8795	
DATE: 12-19-06	PLOT DATE: 2-2-07		
DWG BY: JHH	CHK BY: CCF		
SHEET: 1 OF 1	FILE: N35701EXH	CLIENT: PARSONS	

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## MEMORANDUM

---

**DATE:** JUNE 12, 2007  
**TO:** MAYOR THOMPSON AND CANBY CITY COUNCIL  
**FROM:** KIM SCHEAFER, EXECUTIVE ASSISTANT/CITY RECORDER PRO TEM  
**THROUGH:** MARK ADCOCK, CITY ADMINISTRATOR  
**RE:** RESOLUTION #956

---

**Issue:** This Resolution is brought before the Council so that supplement pages to the Canby Municipal Code can be formally adopted.

**Background:** In February, 2006 the Council adopted Ordinance 1200 which adopted a revised Canby Municipal Code. Since that time, several ordinances have passed that affect the municipal code. In order to keep the code up-to-date, these ordinances were sent to American Legal Publishing who prepared a 2007 supplement for ordinances passed through April 4, 2007.

**Recommendation:** *Staff recommends approval of Resolution 956, which formally adopts 2007 supplement pages to the Canby Municipal Code.*

**RESOLUTION NO. 956**

**A RESOLUTION CODIFYING AND COMPILING CERTAIN EXISTING GENERAL ORDINANCES FOR THE CITY OF CANBY.**

**WHEREAS**, on February 15, 2006 the Canby City Council adopted Ordinance 1200 which adopted a revised code of the City of Canby entitled the "Canby Municipal Code";

**WHEREAS**, since that time Ordinances have been adopted affecting the Canby Municipal Code, causing the present general and permanent ordinances of the City to be inadequately arranged and classified and are insufficient in form and substance for the complete preservation of the public peace, health, safety and general welfare of the municipality and for the proper conduct of its affairs; and

**WHEREAS**, the Acts of the Legislature of the State of Oregon empower and authorize the City to revise, amend, restate, codify and compile any existing ordinances and all new ordinances not heretofore adopted or published and to incorporate such ordinances into one ordinance in book form; and

**WHEREAS**, the League of Oregon Cities, Ordinance Services Program, in its efforts to promote better and more efficient municipal governing, is willing to undertake the codification of the City's ordinances;

**NOW THEREFORE, IT IS HEREBY RESOLVED** by the City Council of the City of Canby that the City hereby authorizes a general compilation, revision and codification of the ordinances of the City of a general and permanent nature and publication of such ordinances in book form, at a cost according to the standard rates and billing procedures for services under the program. A copy of the 2007 supplement is attached hereto as Exhibit "A".

ADOPTED this 20th day of June, 2007, by the Canby City Council.

\_\_\_\_\_  
Melody Thompson, Mayor

ATTEST:

\_\_\_\_\_  
Kimberly Scheafer, City Recorder, Pro-Tem

# **CITY OF CANBY, OREGON**

## **CODE OF ORDINANCES**

2007 S-1 Supplement contains:  
Local legislation current through Ord. 1237, passed 4-4-2007

AMERICAN LEGAL PUBLISHING CORPORATION

432 Walnut Street Cincinnati, Ohio 45202-3909 (800) 445-5588

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## ORDINANCE NO. 1200

### AN ORDINANCE ADOPTING A REVISED CODE OF THE CITY OF CANBY ENTITLED THE "CANBY MUNICIPAL CODE" AND DECLARING AN EMERGENCY.

#### THE CITY OF CANBY ORDAINS AS FOLLOWS:

##### Section 1. Adoption of Canby Municipal Code.

(A) The provisions of the document marked and designated as the "Canby Municipal Code" (hereinafter referred to as Code") are hereby enacted as a general and permanent law of the City of Canby.

Section 2. Code Provisions as Law. The provisions of this Ordinance and the Code adopted in Section 1 of this Ordinance are the laws of the City of Canby and not merely prima facie evidence of the law.

Section 3. Effective Date of Code. The provisions of this Ordinance and the Code adopted in Section 1 will take effect on February 15, 2006.

##### Section 4. General Savings Provision.

(A) This Ordinance and the Code adopted in Section 1 shall not affect rights and duties that matured, penalties that were incurred and proceedings that were begun before the effective date in Section 3 of this Ordinance.

(B) The repealing provision of the Canby Code 1988 shall not affect or impair any act done, offense committed or liability, penalty, forfeiture or punishment incurred before the effective date in Section 3 of this Ordinance.

##### Section 5. Continuity of Existing Provisions.

(A) The provisions of the Code that are the same in substance as Code or Ordinance provisions that are in effect immediately before this code becomes effective are construed as restatements and continuations of the prior provisions.

(B) For purposes of adoption of the Code, the members of all city boards, committees, or commissions created under a Code or Ordinance provision repealed by this Ordinance shall continue to hold office for the period of time specified in the repealed provision.

(C) A person who holds a license, permit, right or privilege granted under a prior code provision repealed by this Ordinance may continue to operate under and use such license, permit, right or privilege until expiration thereof according to the terms of a code provision under the license, permit, right or privilege was issued, unless the same is revoked sooner by the city.

Section 6. Emergency Clause. This Ordinance being enacted by the Council in the exercise of its police power and for the purpose of meeting an emergency, and being necessary for the immediate preservation of the public peace, health and safety, an emergency is hereby declared to exist and this Ordinance shall become effective immediately upon its adoption by the Council and approval by the Mayor.

## Canby - Adopting Ordinance

**SUBMITTED** to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, February 1, 2006, 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, February 15, 2006, commencing at the hour of 7:30 p.m. in the Council Meeting Chambers at Canby City Hall in Canby, Oregon.

Kimberly Scheafer /s/  
Kimberly Scheafer, City Recorder Pro Tem

**PASSED** on second and final reading by the Canby City Council at a regular meeting thereof on the 15th day of February, 2006, by the following vote:

YEAS 5

NAYS 0

Melody Thompson /s/  
Melody Thompson, Mayor

### ATTEST:

Kimberly Scheafer /s/  
Kimberly Scheafer, City Recorder Pro Tem

## CHARTER OF THE CITY OF CANBY

### 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.

**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 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.  
(Amendment passed at election November 4, 1997)

### 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 Councilmembers elected from the City at large.

**Section 3. COUNCILMEMBERS.** The Councilmembers 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 Councilmembers shall be elected, each for a term of four years; and at each biennial general election the number of Councilmembers 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, CITY RECORDER, CITY TREASURER AND OTHER OFFICERS.** Additional officers of the City shall be a City Administrator, Municipal Judge, City Attorney, City Recorder and City Treasurer, 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 pre-scribed 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 therefor, 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.



pay may result in foreclosure in the same manner as provided for other assessments.

(Ord. 982, passed 1-7-1997)

**§ 4.24.070 Advisory committee.**

Any assessment ordinance adopted as herein provided may require creation, for each economic improvement district, of an advisory committee to allocate expenditure of monies for economic improvement activities within the scope of this subchapter. If an advisory committee is created, the Council shall strongly consider appointment of owners of property within the economic improvement district to the advisory committee. An existing association of property owners or tenants may enter into agreement with the city to provide the proposed economic improvement.

(Ord. 982, passed 1-7-1997)

**§ 4.24.080 Use of monies.**

Money derived from assessments or fees levied under the procedures set forth in this subchapter shall be spent only for the economic improvements set forth in the economic improvement plan and for the cost of city administration of the economic improvement district.

(Ord. 982, passed 1-7-1997)

**ASSESSMENTS**

**§ 4.24.150 Findings of fact.**

The City Council makes and enters the following findings of fact, based upon the oral and written testimony received on January 15, 2003:

A. Written notices to the affected property owners were mailed not less than 30 days prior to the scheduled public hearings;

B. The area within the proposed district is zoned commercial;

C. No residential real property or any portion of a structure used primarily for residential purposes is assessed;

D. Written objections to the proposed district that were received at the public hearing are less than 33% of the total assessment to be levied; and

E. The rate to be assessed each benefited and assessed property is in proportion to the benefit that the property may be derived from the district.

(Ord. 1113, passed 2-19-2003)

**§ 4.24.160 Creation of district.**

The City Council hereby approves and creates the Canby Commercial Economic Improvement District (District) for the purpose of promoting within the district economic improvements by planning or management of development of improvement activities; by landscaping or other maintenance of public areas; by promotion of commercial activity or public events; by activities in support of business expansion, development and recruitment; and by improvement in parking systems or parking enforcement.

(Ord. 1113, passed 2-19-2003)

**§ 4.24.170 Duration.**

The District shall be in effect for 5 consecutive years commencing April 1, 2003.

(Ord. 1113, passed 2-19-2003)

**§ 4.24.180 Assessment rate.**

The property shall be assessed as follows:

A. Four cents per square foot per year of real property in Zone 1;

B. One cent per square foot per year of real property in Zone 2; and

C. One-quarter of 1 cent per square foot per year of real property in Zone 3.

(Ord. 1113, passed 2-19-2003)

**§ 4.24.190 Total assessment.**

The total assessment each year of the 5-year term is \$67,157.85.

(Ord. 1113, passed 2-19-2003)

**§ 4.24.200 Reference material and docket of city liens.**

A. Attached hereto and incorporated herein by this reference is a copy of the area contained in the district, including the boundaries of Zones 1, 2 and 3; a copy of the annual assessments for FYE 2003-2008 assessed in the District, as prepared by the City Recorder; and an updated annual assessment final

report for FYE 2003-2008. The City Recorder is directed to enter a statement of each assessment in the city lien docket as provided by the Charter and ordinances of the city. Each of the assessments is hereby declared to be and to constitute a lien against the respective real property described in the assessment adopted hereby.

B. A copy of the updated annual assessment final report for FYE 2003-2008 attached to Ord. 1160 is by this reference incorporated herein as if set out in full.

(Ord. 1113, passed 2-19-2003; Am. Ord. 1160, passed 10-20-2004)

**§ 4.24.210 Collection of funds.**

The City Recorder is hereby directed to give notice that the above assessments are declared to be due and payable with 30 days from the date of mailing of the notice of assessment, and in the event that the assessments are not so paid, the same shall thereupon become delinquent and bear interest at the rate of 9% per annum thereafter; and thereafter, the City Council shall proceed in the manner prescribed by the Charter and the ordinances of the city for the collection of the delinquent assessments.

(Ord. 1113, passed 2-19-2003)

**§ 4.24.220 Disbursement of funds by City Recorder.**

The City Recorder shall disburse funds collected for the district to Canby Business Development (CBD) bi-monthly, commencing May 15, 2003, to accomplish the purposes set forth in § 4.24.160. Effective May 22, 2006, all interest charged and collected by the city, together with past due assessments received shall be distributed to CBD with the next bi-monthly payment from the city to CBD. No funds shall be distributed if the CBD ceases to exist for the purposes set forth in its adopted bylaws or if bylaws are amended so as to be in conflict with the enabling legislation contained in O.R.S. Chapter 223 or in § 4.24.160.

(Ord. 1113, passed 2-19-2003; Am. Ord. 1160, passed 10-20-2004; Am. Ord. 1219, passed 9-6-2006)

**§ 4.24.230 Expenditure of funds.**

Funds shall be allocated and expended by the CBR in accordance with the following conditions: the filing with the City Recorder of materials showing

compliance with § 4.24.160 before any funds are released. A report will be prepared annually and provided to the City Recorder on June 1, of each year that the district is in effect. The annual report will include a current budget, including an annual financial statement, scope of work and list of accomplishments of the CBR from the prior year.  
(Ord. 1113, passed 2-19-2003)

**§ 4.24.240 Classification; assessments and fees; notice.**

A. The property assessments of this subchapter are not subject to the limits of Article XI, Section 11(b) of the Oregon Constitution.

B. Within 15 days of the adoption of this subchapter, the City Recorder shall cause to be published, in a newspaper of general circulation within the city, a notice of adoption of this subchapter classifying the property assessments as incurred charges and not subject to the limits of Article XI, Section 11(b) of the Oregon Constitution. The notice shall:

1. Appear in the general news section of the newspaper, not in the classified advertisements;
2. Measure at least 3 square inches;
3. Be printed in a type size at least equal to 8-point type; and

4. State that the city has adopted this subchapter classifying the property assessment for the financing of the district as charges that are not subject to the limits of Article XI, Section 11(b) of the Oregon Constitution, that the reader may contact the designated city official, the City Recorder, to obtain a copy of the ordinance, that judicial review of the classification may be sought within 60 days of the date this subchapter was adopted, the date of the adoption being February 19, 2003, and if no review is sought within the time specified, no subsequent challenges to the classification will be permitted.

(Ord. 1113, passed 2-19-2003)

TABLE I: FRANCHISES

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
996	6-17-1998	Authorizing the City Administrator to enter into an agreement between the city and Canby Telephone Association to extend the current non-exclusive franchise agreement
1000	7-15-1998	Amending Section 7 of Ord. 668 regarding annual franchise fee to be paid by the Franchisee, Canby Telephone Association, to the city, increasing the annual franchise fee from 3.7% to 7% of the gross annual revenue for local exchange service, and repealing Ord. 845
1001	7-15-1998	Amending Section 12 of Ord. 788 regarding annual franchise fee to be paid by the franchisee, Northwest Natural Gas Company to the city, increasing the annual franchise fee from 3% to 5% of the gross annual revenue for local natural gas service
1012	12-2-1998	Authorizing the City Administrator to enter into an agreement between the city and Canby Telephone Association to further extend the current non-exclusive franchise agreement. The extension shall be controlled by the terms and conditions of Ord. 732 except that the additional extension shall expire and be of no legal effect as of January 21, 1999
1014	1-20-1999	Authorizing the City Administrator to enter into an agreement between the city and Canby Telephone Association to further extend the current non-exclusive franchise agreement. The extension shall be controlled by the terms and conditions of Ord. 732 except that the additional extension shall expire and be of no legal effect as of April 22, 1999, or on such date as the city may grant a new non-exclusive franchise to CTA, whichever occurs first.

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
1017	4-7-1999	Granting a non-exclusive franchise to North Willamette Telecom to provide cable service within the city for a period of 12 years from the effective date of the ordinance
1040	11-17-1999	Extending the current non-exclusive franchise agreement between the city and Canby Telephone Association for the provision of telecommunication services within the city. Ord. 668 is amended by extending the expiration date thereof to June 6, 2000, or on such date as the city may grant a new non-exclusive franchise to Canby Telephone Association, whichever first occurs. The terms and conditions of Ords. 668 and 845 shall control the extension.
1053	7-19-2000	Granting to Canby Telephone Association a nonexclusive franchise for the provision of telecommunications services within the city pursuant to Chapter 12.36 of the Code of Ordinances, for a term of ten years, commencing with the effective date of Ord. 1053
1169	2-2-2005	Granting to Canby Telephone Association a non-exclusive franchise for a period of 12 years from the effective date of Ord. 1160, to operate and maintain a cable television system in the city
1208	6-7-2006	Granting to Northwest Natural Gas Company a non-exclusive gas utility franchise for a period of 20 years and fixing terms, conditions and compensation of such franchise and repealing Ord. 788

## REFERENCES TO ORDINANCES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
975	8-20-1997	8.04.120
—	11-4-1997	Charter, Chapter 1
982	1-7-1997	4.24.010 - 4.24.080
984	2-18-1998	4.24.010
989	4-1-1998	2.32.010 - 2.32.030
992	5-6-1998	2.48.020, 2.48.030, 2.48.090
996	6-17-1998	T.S.O. I
1000	7-15-1998	T.S.O. I
1001	7-15-1998	T.S.O. I
1005	8-19-1998	4.12.080
1012	12-2-1998	T.S.O. I
1014	1-20-1999	T.S.O. I
1017	4-7-1999	T.S.O. I
1032	10-6-1999	2.68.010 - 2.68.050
1035	11-3-1999	12.08.010 - 12.08.200
1036	11-3-1999	12.36.010 - 12.36.090
1031	11-24-1999	4.28.010
1040	11-17-1999	T.S.O. I
1053	7-19-2000	T.S.O. I 10549-6-2000 12.20.010 - 12.20.070
1081	11-21-2001	3.24.010 - 3.24.250
1082	11-21-2001	12.40.010 - 12.40.080
1085	1-2-2002	15.04.010 - 15.04.050
1091	2-20-2002	4.04.110
1093	3-20-2002	2.36.010
1108	1-8-2003	15.20.010 - 15.20.280
1109	11-20-2002	2.70.010 - 2.70.050
1110	2-5-2003	12.24.060, 12.24.065
1113	2-19-2003	4.24.150 - 4.24.240
1133	2-18-2004	2.56.020 - 2.56.080
1136	4-21-2004	2.64.020, 2.64.030
1137	4-21-2004	2.20.030, 2.20.040
1151	8-18-2004	13.08.150
1153 § 1.1	12-15-2004	13.16.001
1153 § 1.2	12-15-2004	13.16.002
1153 § 1.3	12-15-2004	13.16.003
1153 § 1.4	12-15-2004	13.16.004
1153 § 1.3	12-15-2004	13.16.005

# Canby - Parallel References

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
1153 § 2.1	12-15-2004	13.16.015
1153 § 2.2	12-15-2004	13.16.016
1153 § 2.3	12-15-2004	13.16.017
1153 § 2.4	12-15-2004	13.16.018
1153 § 2.5	12-15-2004	13.16.019
1153 § 2.6	12-15-2004	13.16.020
1153 § 2.7	12-15-2004	13.16.021
1153 § 2.8	12-15-2004	13.16.022
1153 § 2.9	12-15-2004	13.16.023
1153 § 3.1	12-15-2004	13.16.035
1153 § 3.2	12-15-2004	13.16.036
1153 § 3.3	12-15-2004	13.16.037
1153 § 3.4	12-15-2004	13.16.038
1153 § 3.5	12-15-2004	13.16.039
1153 § 3.6	12-15-2004	13.16.040
1153 § 3.7	12-15-2004	13.16.041
1153 § 3.8	12-15-2004	13.16.042
1153 § 4.1	12-15-2004	13.16.055
1153 § 4.2	12-15-2004	13.16.056
1153 § 4.3	12-15-2004	13.16.057
1153 § 4.4	12-15-2004	13.16.058
1153 § 4.5	12-15-2004	13.16.059
1153 § 4.6	12-15-2004	13.16.060
1153 § 4.7	12-15-2004	13.16.061
1153 § 4.8	12-15-2004	13.16.062
1153 § 5.1	12-15-2004	13.16.075
1153 § 5.2	12-15-2004	13.16.076
1153 § 5.3	12-15-2004	13.16.077
1153 § 5.4	12-15-2004	13.16.078
1153 § 5.5	12-15-2004	13.16.079
1153 § 5.6	12-15-2004	13.16.080
1153 § 5.7	12-15-2004	13.16.081
1153 § 5.8	12-15-2004	13.16.082
1153 § 6.1	12-15-2004	13.16.090
1153 § 6.2	12-15-2004	13.16.091
1153 § 6.3	12-15-2004	13.16.092
1153 § 6.4	12-15-2004	13.16.093
1153 § 6.5	12-15-2004	13.16.094
1153 § 6.6	12-15-2004	13.16.095
1153 § 6.7	12-15-2004	13.16.096
1153 § 6.8	12-15-2004	13.16.097
1153 § 6.9	12-15-2004	13.16.098
1153 § 6.10	12-15-2004	13.16.099
1153 § 6.11	12-15-2004	13.16.100
1153 § 6.12	12-15-2004	13.16.101

## References to Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
1153 § 6.13	12-15-2004	13.16.102
1153 § 6.14	12-15-2004	13.16.103
1153 § 6.13	12-15-2004	13.16.104
1153 § 7.1	12-15-2004	13.16.115
1153 § 7.2	12-15-2004	13.16.116
1153 § 8	12-15-2004	13.16.130
1153 § 9	12-15-2004	13.16.140
1153 § 10	12-15-2004	13.16.150
1153 § 10.1	12-15-2004	13.16.151
1153 § 10.2	12-15-2004	13.16.152
1153 § 10.3	12-15-2004	13.16.153
1153 § 10.4	12-15-2004	13.16.154
1153 § 10.5	12-15-2004	13.16.155
1153 § 10.6	12-15-2004	13.16.156
1153 § 10.7	12-15-2004	13.16.157
1153 § 10.8	12-15-2004	13.16.158
1153 § 10.9	12-15-2004	13.16.159
1153 § 10.10	12-15-2004	13.16.160
1153 § 10.11	12-15-2004	13.16.161
1153 § 10.12	12-15-2004	13.16.162
1153 § 11.1	12-15-2004	13.16.175
1153 § 11.2	12-15-2004	13.16.176
1153 § 11.3	12-15-2004	13.16.177
1153 § 11.4	12-15-2004	13.16.178
1153 § 12.1	12-15-2004	13.16.190
1153 § 12.2	12-15-2004	13.16.191
1153 § 12.3	12-15-2004	13.16.192
1153 § 12.4	12-15-2004	13.16.193
1153 § 12.5	12-15-2004	13.16.194
1153 § 13.1	12-15-2004	13.16.210
1153 § 13.2	12-15-2004	13.16.211
1153 § 13.3	12-15-2004	13.16.212
1153 § 13.4	12-15-2004	13.16.213
1153 § 14.1	12-15-2004	13.16.230
1153 § 14.2	12-15-2004	13.16.231
1153 § 14.3	12-15-2004	13.16.232
1153 § 14.4	12-15-2004	13.16.233
1153 § 14.5	12-15-2004	13.16.234
1160	10-20-2004	4.24.200, 4.24.220
1165	12-1-2004	4.32.010 - 4.32.090
1166	1-5-2005	9.44.010, 9.44.060 - 9.44.110
1169	2-2-2005	T.S.O. I
1170	2-16-2005	2.16.010 - 2.16.030
1200	2-15-2006	Adopting Ordinance
1208	6-7-2006	T.S.O. I,
1219	9-6-2006	4.24.220

## Canby - Parallel References



## **ORDINANCE NO. 1238**

### **AN ORDINANCE VACATING SIX HUNDRED TWENTY FEET (620') OF THE PUBLIC RIGHT-OF-WAY ON SW 4<sup>TH</sup> AVENUE EAST OF S BIRCH STREET FRONTING TAX LOT 700 OF MAP 4-1E-04B.**

**WHEREAS**, the City presently owns the portion of SW 4<sup>th</sup> Avenue right-of-way shown in Exhibit "A" fronting Tax Lot 700 of Map 4-1E-04B, and more particularly described in Exhibit "B", both attached heretofore by this reference incorporated herein; and,

**WHEREAS**, a petition for vacation of right-of-way was filed by the Canby School District on February 9, 2007; and,

**WHEREAS**, the petition was reviewed by the City Staff and the petition was found to be complete and more than two-thirds of the affected property owners, by area, consented to the vacation; and,

**WHEREAS**, the vacation is requested in order to fulfill the School District's need to expand the High School's facilities and the vacation is requested in order to provide a measure of safety for students traversing the area of the proposed vacation; and,

**WHEREAS**, as required by law, a notice of public hearing was published for two (2) consecutive weeks in the Canby Herald newspaper and posted on the property; and,

**WHEREAS**, a public hearing was held on this matter before the Canby City Council on June 6, 2007 and all statutory requirements for the vacation were found to be met; and,

**WHEREAS**, the Canby City Council adopts a condition of approval, which states, "Vacation of right-of-way is contingent upon final approval of the Conditional Use Permit and Design Review applications (City file CUP 07-01/DR 07-01) submitted in conjunction with this request for vacation of right-of-way. If the Conditional Use Permit and Design Review applications are not approved, the area of right-of-way shall revert back to the City at no cost to the City."; now therefore

### **THE CITY OF CANBY ORDAINS AS FOLLOWS:**

The public right-of-way as described by the legal description attached as Exhibit "B" shall be vacated and title to the vacated property shall attach to the neighboring property described as Tax Lot 700 of Map 4-1E-04B.

The vacation of said right-of-way described in Exhibit "B", is approved with the following condition: Vacation of right-of-way is contingent upon final approval of the Conditional Use Permit and Design Review applications (City file CUP 07-01/DR 07-01) submitted in conjunction with this request for vacation of right-of-way. If the

Conditional Use Permit and Design Review applications are not approved, the area of right-of-way shall revert back to the City at no cost to the City.

SUBMITTED to the City Council and read the first time at a regular meeting thereof on Wednesday, June 6, 2007; ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the City of Canby Charter and to come before the City Council for final reading and action at the regular meeting thereof on Wednesday, June 20, 2007; commencing after the hour of 7:30 P.M., at the City Council's Chambers at Canby City Hall, Canby, Oregon.

ENACTED by the Canby City Council at a regular meeting thereof on June 20, 2007 by the following votes:

YEAS: \_\_\_\_\_

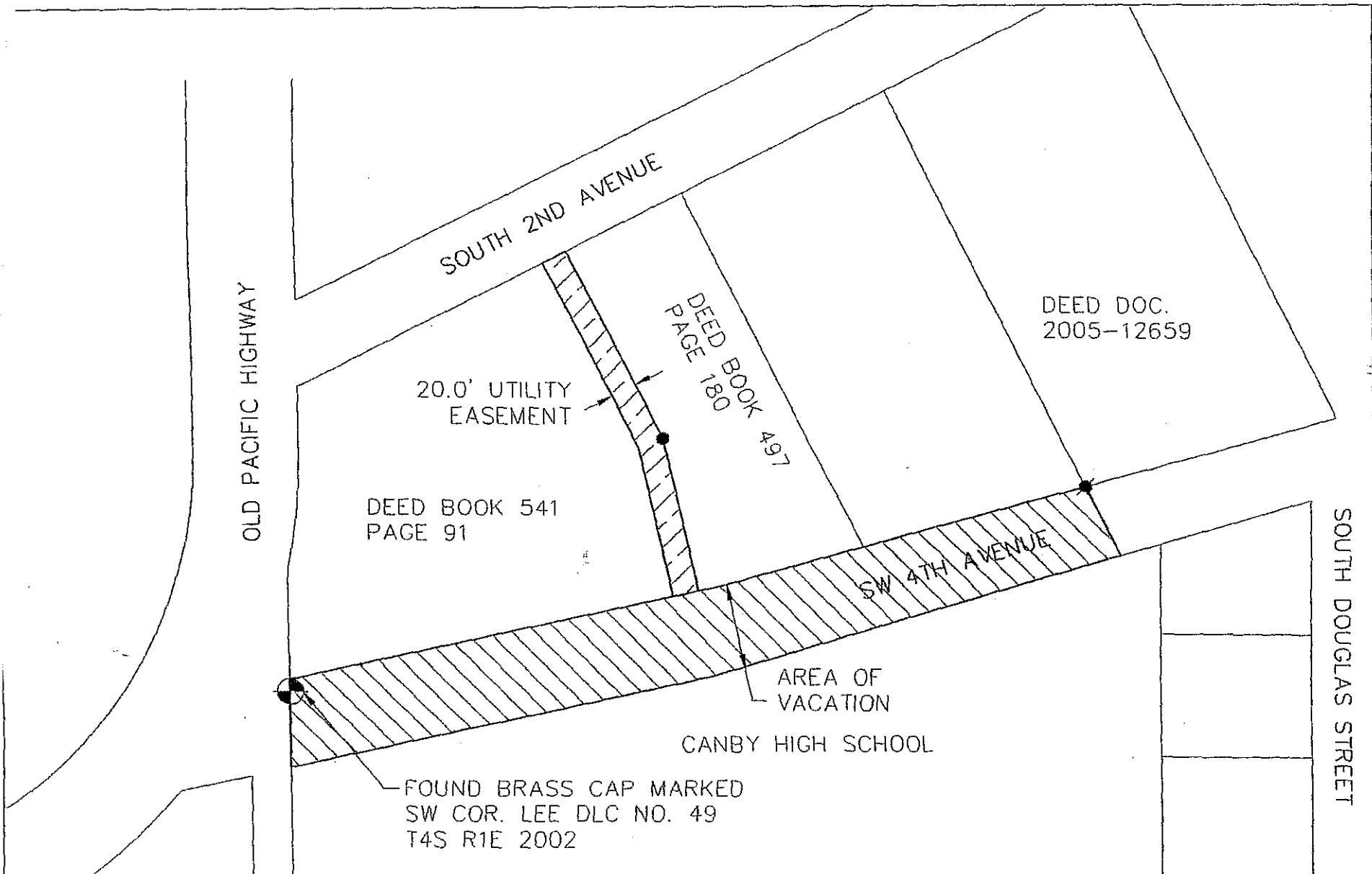
NAYS: \_\_\_\_\_

\_\_\_\_\_  
Melody Thompson, Mayor

ATTEST:

\_\_\_\_\_  
Kimberly Scheafer, City Recorder, Pro Tem

14



SCALE: 1"=100'

DATE: 12/18/2006

DRAWN BY: RKR

CHECKED BY: JPT

REVISIONS

JOB NO. 683-07B



**WESTLAKE**  
CONSULTANTS INC.

ENGINEERING • SURVEYING • PLANNING

PACIFIC CORPORATE CENTER  
15115 S.W. SEQUOIA PARKWAY, SUITE 150  
TIGARD, OREGON 97224

(503) 684-0852  
FAX (503) 624-0167

EXHIBIT

A

VACATED AREA DESCRIPTION  
SW 4<sup>th</sup> AVENUE

Project No. 683-07B  
December 19, 2006  
Canby High School  
Page 2 of 2

A tract of land situated in the northwest 1/4 of Section 4, Township 4 South, Range 1 East, Willamette Meridian, Clackamas County, Oregon, also being a portion of the Philander Lee Donation Land Claim No. 56 and being more particularly described as follows:

Beginning at the southwest corner of that tract of land described in Statutory Warranty Deed, recorded December 5, 2005 as 2005-12659, said point being on the north right of way SW 4<sup>th</sup> Avenue, which bears 609.89 feet east and 157.52 feet north of the Southwest corner of said Philander Lee Donation Land Claim No. 56:

Thence, South 74° 29' 30" West along the northerly right of way line of SW 4<sup>th</sup> Avenue, 285.68 feet to a point;

Thence, South 77° 57' 12" West, 342.67 feet to a point, which bears 9.62 feet north, and 0.52 feet east of the Southwest corner of said Philander Lee Donation Land Claim No. 56;

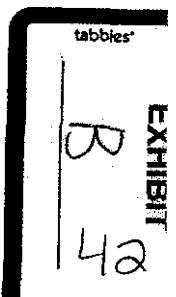
Thence, South 00° 35' 29" East leaving said northerly right of way line, 68.10 feet more or less to a point on the southerly right of way line of said SW 4<sup>th</sup> Avenue;

Thence, North 77° 47' 33" East along the said southerly right of way line, 333.34 feet to a point;

Thence, North 73° 39' 33" East, 323.90 feet to a point;

Thence North 26° 20' 00" West leaving said south right of way, 60.68 feet more or less to the north right of way of said SW 4<sup>th</sup> Avenue and the point of beginning;

Containing 41,256.91 square feet.



# ***M E M O R A N D U M***

***DATE:*** June 12, 2007  
***TO:*** Honorable Mayor Thompson and City Council  
***FROM:*** Chaunce Seifried, Finance and Court Services Director  
***CC:*** Mark Adcock, City Administrator  
***RE:*** ORDINANCE DECLARING THE CITY'S ELECTION TO  
RECEIVE REVENUE FOR FISCAL YEAR 2007-2008.

---

**Issue:** An ordinance declaring the City's election to receive state revenues for fiscal year 2007-2008.

**Background:** State Revenue Sharing Law, ORS 221.770, requires cities to annually pass an ordinance or resolution requesting state revenue sharing money. The law mandates public hearings be held by the city, both before the budget committee to discuss possible uses of the funds and before the city council on the proposed uses of the funds in relation to the entire budget. Certification of these hearings are required this has to be done and filed with the Office of Business Administration prior to July 31.

**Recommendation:** That council adopts ORDINANCE No. 1245 declaring the city's election to receive state revenue for fiscal year 2007-2008.

**Fiscal Impact:** The amount estimated by the city to receive is approximately \$90,000.

**Attached:** Ordinance No. 1245

**ORDINANCE NO. 1245**

**AN ORDINANCE DECLARING THE CITY'S ELECTION TO RECEIVE STATE REVENUE FOR FISCAL YEAR 2007-2008.**

**WHEREAS**, a public hearing for the use of state revenue sharing funds was held before the Budget Committee on April 25, 2007, and before City Council on June 20, 2007; 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 2007-2008.

**SUBMITTED**, to the Canby City Council and read the first time at a regular meeting thereof on June 20, 2007, 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 18, 2007, commencing at the hour of 7:30 p.m. at the Council Meeting Chambers at the Canby City Hall in Canby, Oregon.

**ENACTED** by the Canby City Council at a regular meeting thereof on July 18, 2007, by the following vote:

YEAS \_\_\_\_\_ NAYS \_\_\_\_\_

\_\_\_\_\_  
Melody Thompson, Mayor

ATTEST:

\_\_\_\_\_  
Kimberly Scheafer, City Recorder – Pro Tem

**ORDINANCE NO. 1246**

**AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH THE TRANSPO GROUP, INC. CONSULTING ENGINEERS FOR TRANSPORTATION MODELING AND ENGINEERING SERVICES; AND DECLARING AN EMERGENCY.**

**WHEREAS**, the CITY OF CANBY requires transportation modeling and engineering services related to an update of the City's Comprehensive Plan and Transportation System Plan; and

**WHEREAS**, THE TRANSPO GROUP, INC. has been providing this service since 2004 however the contract amount now requires an ordinance of the City Council; and

**WHEREAS**, the CITY OF CANBY anticipates the need to complete the engineering work within calendar year 2007; Now therefore,

**THE CITY OF CANBY ORDAINS AS FOLLOWS:**

Section 1. The Mayor is hereby authorized and directed to execute, and declare in the name of the CITY OF CANBY and on its behalf, the attached Personal Services Contract with TRANSPO GROUP, INC. for \$15,083.00. A copy of the agreement with TRANSPO GROUP, INC. is attached hereto and marked as Exhibit "A" and by this reference incorporated herein.

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

**SUBMITTED** to the Canby City Council and read the first time at a regular meeting therefore on Wednesday, June 6, 2007; ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and scheduled for second reading before the City Council for final reading and action at a regular meeting thereof on Wednesday, June 20, 2007, commencing at the hour of 7:30 pm at the Council Meeting Chambers at the Canby City Hall, 182 N. Holly, Canby, Oregon.

\_\_\_\_\_  
Kimberly Scheafer, City Recorder Pro-Tem

**PASSED** on second and final reading by the Canby City Council at a regular meeting thereof on the 20<sup>th</sup> day of June, 2007, by the following vote:

YEAS \_\_\_\_\_

NAYS \_\_\_\_\_

\_\_\_\_\_  
Melody Thompson, Mayor

ATTEST:

\_\_\_\_\_  
Kimberly Scheafer, City Recorder Pro-Tem



## **ORDINANCE NO. 1247**

### **AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH NANCY MCCLAIN FOR PROFESSIONAL SERVICES FOR PROJECT MANAGEMENT FOR THE CANBY FINANCE DEPARTMENT; AND DECLARING AN EMERGENCY.**

**WHEREAS**, the City of Canby currently has a need for project management services for Canby Finance Department; and

**WHEREAS**, the City wishes to employ Nancy McClain, as an independent contractor under a personal services contract for the purpose of carrying out the these financial projects; and

**WHEREAS**, Nancy McClain has proposed a 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 B (7), the city may enter into personal service contracts not exceeding \$75,000.00 by direct appointment without competition; 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 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 Nancy McClain, the copy of said contract is attached hereto and marked as Exhibit "A" and by this reference fully incorporated herein.

### Section 2. Emergency Declared.

It being necessary for the health, safety, and general welfare of the citizens of Canby that this master plan 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.

2nd Reading 47

**SUBMITTED** to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, June 6, 2007, 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, June 20, 2007, commencing at the hour of 7:30 PM in the Council Meeting Chambers at Canby City Hall in Canby, Oregon.

\_\_\_\_\_  
Kimberly Scheafer, City Recorder Pro-tem

**PASSED** on second and final reading by the Canby City Council at a regular meeting thereof on the 20<sup>th</sup> day of June 2007, by the following vote:

YEAS \_\_\_\_\_

NAYS \_\_\_\_\_

\_\_\_\_\_  
Melody Thompson, Mayor

ATTEST:

\_\_\_\_\_  
Kimberly Scheafer, City Recorder Pro-tem

**ORDINANCE NO. 1248**

**AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH WINSTEAD AND ASSOCIATES TO PROVIDE BUILDING CODE SERVICES.**

**WHEREAS**, the City of Canby has heretofore had a contract with Winstead and Associates to provide building inspections and plan check services; and

**WHEREAS**, this contract needs to be renewed for another year; and

**WHEREAS**, the City Council has reviewed the proposed contract and found it appropriate and in the best interests of the City of Canby; 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 Winstead and Associates. A copy of the contract with Canby is attached hereto and marked as Exhibit "A" and by this reference incorporated herein.

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

**SUBMITTED** to the Canby City Council and read the first time at a regular meeting therefore on Wednesday, June 6<sup>th</sup>, 2007; ordered posted as required by the Canby City Charter and scheduled for second reading on Wednesday, June 20<sup>th</sup>, 2007, after the hour of 7:30 pm at the Council Chambers at the Canby City Hall, 182 N. Holly, Canby, Oregon.

**PASSED** on second and final reading by the Canby City Council at a regular meeting thereof on the 20<sup>th</sup> day of June, 2007, by the following vote:

YEAS \_\_\_\_ NAYS \_\_\_\_

ATTEST:

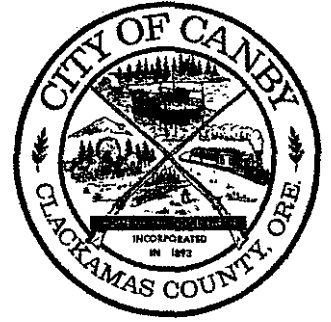
\_\_\_\_\_  
Kimberly Scheafer  
City Recorder Pro Tem

\_\_\_\_\_  
Melody Thompson  
Mayor

THIS HAS BEEN REVIEWED  
BY THE FINANCE DIRECTOR  
*Chrana Sigif*

*2nd Reading*

# MEMORANDUM



**TO:** *Honorable Mayor Thompson and City Council*  
**FROM:** *Chief Greg A. Kroeplin*  
**THROUGH:** *Mark C. Adcock, City Administrator*  
**DATE:** *June 11, 2007*

---

Issue: Secure Personal Service Agreement with Project Manager for new Police/Court facility.

Synopsis: Contract services with Project Manager

Recommendation: Staff recommends that the City Council approve Ordinance #1250 allowing the Mayor and City Administrator to execute a Personal Services Agreement with Francis C. Berg, Architect, P.C. (see Exhibit "A" attached to Ordinance #1250).

Rationale: Project Manager needed to help select an architect to do preliminary, conceptual design work for a new Police and Court facility to support a future bond election. Required Project Manager expertise for project of this magnitude is not present on staff; and, therefore, must be contracted.

Provides for continuity and process development from facility concept to level of completion of design for public consideration in a voter-approved bond measure.

Coordinates all tasks associated with the project in the "Scope of Work" set forth in the contract.

Background: Facilities needs study completed for the City of Canby in January 2005. The needs study advised the need for a new Police and Court Facility. The Urban Renewal Agency authorized purchase of approx. 6.1 acres in July 2006. In March 2007, presentations from four different firms interested in becoming Project Manager were conducted. Through this process, Francis C. Berg, Architect P.C., was selected.

## **ORDINANCE NO. 1250**

### **AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH FRANK C. BERG, ARCHITECT, P.C. FOR PROJECT MANAGEMENT SERVICES RELATING TO THE NEW POLICE AND COURT FACILITY FOR THE CITY OF CANBY; AND DECLARING AN EMERGENCY.**

**WHEREAS**, the City of Canby wishes to design and construct a new Police and Court facility and will require a project manager to help with the design phase of the project; and

**WHEREAS**, the City has heretofore interviewed several potential candidates for the position of project manager and wishes to employ Frank C. Berg, Architect, P.C., as an independent contractor under a personal services contract for the purpose of carrying out these activities; and

**WHEREAS**, a proposed personal services contract which is acceptable to the City has been signed by Frank C. Berg; 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 B (7), the city may enter into personal service contracts not exceeding \$75,000.00 by direct appointment without competition; 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 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 Frank C. Berg, Architect, P.C., the copy of said contract is attached hereto and marked as Exhibit "A" and by this reference fully incorporated herein.

### Section 2. Emergency Declared.

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, June 20, 2007, 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 18, 2007, commencing at the hour of 7:30 PM in the Council Meeting Chambers at Canby City Hall in Canby, Oregon.

\_\_\_\_\_  
Kimberly Scheafer, City Recorder Pro-tem

**PASSED** on second and final reading by the Canby City Council at a regular meeting thereof on the 18<sup>th</sup> day of July 2007, by the following vote:

YEAS \_\_\_\_\_

NAYS \_\_\_\_\_

\_\_\_\_\_  
Melody Thompson, Mayor

ATTEST:

\_\_\_\_\_  
Kimberly Scheafer, City Recorder Pro-tem

THIS HAS BEEN REVIEWED  
BY THE FINANCE DIRECTOR  
Chauncey Seifried

## EXHIBIT "A"

### PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is between the CITY OF CANBY (City) and FRANCIS C. BERG, Architect P.C. (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, more specifically identified as A1.01 and A1.02 of "Basic Services".
- 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 on a fee-for-services basis according to the proposed rate schedule submitted with the Contractor's proposal. See Exhibit "B-1 to B-3" attached hereto. Contractor agrees that \$47,000.00 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.
- D. To the extent the Contractor is negligent, the Contractor shall indemnify, save harmless and defend the City, its officers, councilors and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the negligent acts, errors, omissions or fault of the Contractor or the Contractor's employees.

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, including automobile coverage for any vehicle used for City business. Property damage per occurrence, \$250,000.00.
  - B. Professional liability -- errors and omissions - \$1,000,000.00.

The City shall be named as an additional insured on all insurance required, except for professional liability coverage. 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.

9. 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.
10. Modifications. Any modification of the provisions of this Agreement shall be in writing and signed by the parties.
11. 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  
P.O. Box 930  
182 N. Holly Street  
Canby, OR 97013

CONTRACTOR:  
Address:

Frank C. Berg, Architect P.C.

6393 Silverton Road N.E.  
Salem, OR 97305  
Telephone (503) 358-6810

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

CONTRACTOR:

CITY OF CANBY:

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**TO:** Honorable Mayor and City Council  
City of Canby  
ATTN: Mr. Mark Adcock, City Administrator

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

**DATE:** June 11, 2007

**ISSUE:** SOUTH BERG PARKWAY ROADWAY EXTENSION  
APPROVAL OF CHANGE ORDER NUMBER 2, ORDINANCE No. 1251

**SYNOPSIS:** This staff report is to request Council approval of Change Order No. 2 to the South Berg Parkway construction contract with Canby Excavating, Inc. through approval of Ordinance Number 1251. This work includes the construction of 12" diameter storm drain system including two new manholes and resurfacing the trench area between NW 6<sup>th</sup> Avenue and N. Baker Drive.

**RECOMMENDATION:**

That the Council approve Ordinance Number 1251 approving Change Order Number 2 with Canby Excavating, Inc. and authorizing the Mayor and City Recorder to execute a contract change order with Canby Excavating, Inc. in the amount of \$20,210.99

**RATIONALE:** OAR 137-049-0910 and the City of Canby's Public Purchasing Rules permits the City to expand the current contract with Canby Excavating, Inc. to a maximum 25% increase of the original contract amount for work that is similar to the original scope of construction procurement. This work type is the same as the storm drainage construction on Berg Parkway and Canby Excavation has agreed to add this work to their scope.

**BACKGROUND:**

Change Order Number 2 is a modification to the Berg Parkway stormwater construction project currently underway. This change order work is to intercept the existing stormwater at the intersection of N 6<sup>th</sup> Avenue and North Baker Street to reroute to an existing outfall approximately 200 feet south. The existing outfall to be abandoned currently extends along the southerly line of the Tessman Property located

Honorable mayor & City Council

June 11, 2007

Page 2

at 601 NW 6<sup>th</sup> Avenue and discharges at a very steep location of the existing bank. The existing outfall is beginning to cause bank erosion that could materially impact the existing residential lot and must be diverted.

This problem was first identified last winter when the existing storm pipe on the south side of the Tessman's property failed and began eroding the bank immediately west of N 6<sup>th</sup> Avenue. The City Public Works department performed temporary repairs until a permanent solution could be adopted and alleviate this problem.

**FISCAL IMPACT:**

This work will be funded from the Sewer Reserve Fund.

cc: John Williams  
John Kelly, Esq.

**ORDINANCE NO. 1251**

**AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE CHANGE ORDER NUMBER 2 WITH CANBY EXCAVATING, INC. FOR CONSTRUCTION OF SOUTH BERG PARKWAY ROADWAY EXTENSION; AND DECLARING AN EMERGENCY.**

**WHEREAS**, the City of Canby has heretofore advertised and received bids for the South Berg Parkway Roadway Extension; and

**WHEREAS**, the notice of call for bids was duly and regularly published in the Oregon Daily Journal of Commerce on March 27th, 2007; and

**WHEREAS**, the Canby City Council, acting as the City's Contract Review Board, met on Wednesday, May 2, 2007, and awarded a construction contract to Canby Excavating, Inc. of Canby, Oregon in the sum of \$711,649.95; and

**WHEREAS**, in accordance with General Provisions for Public Contracting, the City Council, acting as the City's Contract Review Board, met on Wednesday, June 20th, 2007, considered the report and recommendation of the City Engineer to approve Change Order Number 2 and found that the additional work proposed is reasonably related to the scope of work in the original contract; now therefore

**THE CITY OF CANBY ORDAINS AS FOLLOWS:**

Section 1. The Mayor and City Administrator are hereby authorized and directed to execute, and declare in the name of the City of Canby and on its behalf, the attached Change Order Number 2 with Parker Northwest Paving Company of Oregon City, Oregon in the amount of \$20,210.99. A copy of a Change Order Number 2 with Canby Excavating, Inc. of Canby, Oregon is attached hereto and marked as Exhibit "A" and by this reference incorporated herein.

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

**SUBMITTED** to the Canby City Council and read the first time at a regular meeting therefore on Wednesday, June 20th, 2007; ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and scheduled for second reading before the City Council for final reading and action at a regular meeting thereof on Wednesday, July 18th, 2007, commencing at the hour of 7:30 pm at the Council Meeting Chambers at the Canby City Hall, 182 N. Holly, Canby, Oregon.

\_\_\_\_\_  
Kimberly Scheafer, City Recorder Pro Tem

**PASSED** on second and final reading by the Canby City Council at a regular meeting thereof on the 18th day of July, 2007, by the following vote:

YEAS \_\_\_\_\_

NAYS \_\_\_\_\_

\_\_\_\_\_  
Melody Thompson, Mayor

ATTEST:

\_\_\_\_\_  
Kimberly Scheafer, City Recorder Pro Tem

EXHIBIT "A"

CHANGE ORDER NO. 2

Dated June 11, 2007

OWNER'S Project No ENGINEER'S Project No 1322

Project S. Berg Parkway Roadway Extension

CONTRACTOR CANBY EXCAVATING, INC.

Contract For: S. Berg Parkway Roadway Extension Contract Date: May 16, 2007

To CANBY EXCAVATING, INC.  
CONTRACTOR

You are directed to make the changes noted below in the subject Contract:

CITY OF CANBY

OWNER

By

Dated

Nature of Changes

1.	12" Diameter U-Rib Pipe w/ Trench Excavation and Native Material Backfill	203 LF @ \$43.30/LF	\$8,789.90
2.	48" Diameter Storm Drain Manhole, All Depth	2 Each @ \$2,662.80	\$5,325.60
3.	Connect to Existing Manhole	1 Each @ 3,165.49	\$3,165.49
4.	Asphalt Trench Patching	10 Tons @ \$132.00	\$1,320.00
5.	Asphalt Sawcut	420 LF @ \$1.00	\$420.00
6.	Type G-2 Catch Basin	1 Each @ 1,190.00	\$1,190.00
	<b>TOTAL COST</b>		<b>\$20,210.99</b>



These changes result in the following adjustment of Contract Price and Contract Time:

Contract Price Prior to This Change Order \$ 711,649.95

Net (Increase) ~~(Decrease)~~ Resulting from this Change Order \$ 20,210.99

Current contract Price Including This Change Order \$ 731,860.94

Contract Time Prior to This Change Order 150  
(Days or Date)

Net ~~(Increase)~~ (Decrease) Resulting from This Change Order 0  
(Days)

Current Contract Time Including This Change Order 150  
(Days or Date)

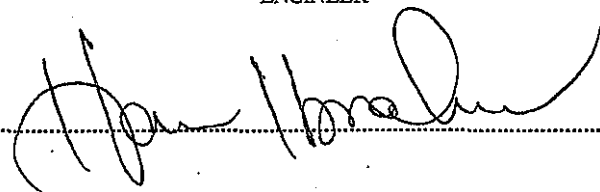
The Above Changes Are Approved:

CURRAN-McLEOD, INC.

ENGINEER

By

Dated

  
June 11, 2007

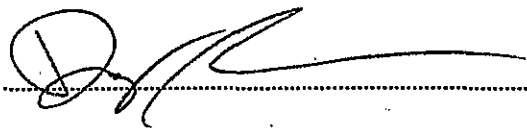
The Above Changes Are Accepted:

CANBY EXCAVATING, INC.

CONTRACTOR

By

Dated

  
6/11/2007

**Canby Landscape Construction  
& Maintenance**

22353 S. Haines Road

Canby, Oregon 97013

#266-4377

9185

OR. Lic. #11106

CUSTOMER'S ORDER NO. 263-6963		DEPT.	DATE 6-2-07	
NAME: LARRY RICKSGER				
ADDRESS: 455 S.E. 2ND AVE				
CITY, STATE, ZIP CANBY, OR. 97013				
SOLD BY:	CASH	C.O.D.	CHARGE	ON ACCT.
				MOSE RTD. PAID OUT

QUANTITY	DESCRIPTION	PRICE	AMOUNT
1			
2	IRRIGATION SERVICE		
3			
4	REMODEL #1 ZONE		
5	DUE TO NEW		
6	SIDEWALK INSTALLATION	65	-
7			
8			
9			
10	CONTRACTOR:		
11			
12			
13			
14			
15	TOTAL	\$	65.00

RECEIVED BY:

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