

AGENDA

CANBY CITY COUNCIL MEETING

March 7, 2007, 7:30 P.M.

Council Chambers
155 NW 2nd Avenue

Mayor Melody Thompson

*Council President Walt Daniels
Councilor Teresa Blackwell
Councilor Paul Carlson*

*Councilor Randy Carson
Councilor Tony Helbling
Councilor Wayne Oliver*

CITY COUNCIL MEETING

1. CALL TO ORDER

A. Pledge of Allegiance and Moment of Silence

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 Accounts Payable \$222,308.62
- B. Approval of Minutes of the February 13, 2007 City Council Special Meeting
- C. Approval of Minutes of the February 15, 2007 City Council Work Session
- D. Approval of Minutes of the February 21, 2007 City Council Regular Meeting
- E. Memorandum of Understanding II with Canby Livability Coalition Pg. 1

7. RESOLUTIONS & ORDINANCES

- A. Res. 946 Referring to the Electorate a Proposed Annexation of 1.95 Acres Pg. 4
- B. Res. 947 Referring to the Electorate a Proposed Annexation of 32.62 Acres Pg. 9
- C. Ord. 1233, Authorizing Personal Services Agreement with Kennedy/Jenks Consultants for Engineering Services Pg. 14
- D. Ord. 1234, Authorizing Contract with Long Painting Company for the Wastewater Treatment Plant Primary Clarifier Coating Repairs Pg. 24

8. NEW BUSINESS

9. CITY ADMINISTRATOR'S BUSINESS & STAFF REPORTS

- A. Status Report on NE Redwood Master Plan
- B. Status Report on NE Canby Master Plan
- C. Status Report on Legacy Park

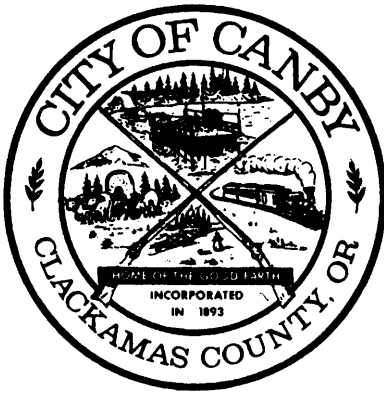
10. CITIZEN INPUT

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.



City of Canby

Office of the City Attorney

Memo to: Mayor and City Council

From: John Kelley, City Attorney

Date: February 28, 2007

Re: Memo of Understanding II with Canby Livability Coalition.

You will notice that the MOU II with the Canby Livability Coalition (CLC) is included in the consent agenda. I met with Tim Stuart and Bob Tice from the CLC to work out the changes Council requested and the CLC has agreed to everything the City wants, including a statement in paragraph 6 which recognizes that the \$35,000.00 donation will not be refunded to the CLC in the event the project is not completed. I believe the MOU meets both the City and CLC's needs and should be approved.

MEMORANDUM OF UNDERSTANDING II

WHEREAS, the City of Canby, a Municipal Corporation, hereinafter referred to as "City" and the Canby Livability Coalition, a non-profit corporation, hereinafter referred to as "CLC" wish to enter into a second agreement which shall be referred to Memorandum of Understanding II between the parties, and

WHEREAS, Holly Corners, LLC subdivided and developed a single family housing project known as Territorial Estates located at the corner of N. Holly Street and Territorial Road in Canby, Oregon during the spring of 2002. Local neighbors wished to preserve one lot of the subdivision for park and open space purposes and formed a non-profit corporation known as "CLC" to support the City and help raise funds for the purchase and development of this park and open space, and

WHEREAS, CLC offered to pay up to thirty-five thousand dollars (\$35,000.00) of the total purchase price of the lot, if the City would purchase and preserve one lot in the subdivision for park and open space purposes, and

WHEREAS, the City, by Ordinance No. 1101, authorized the purchase of Lot 30 of Territorial Estates Subdivision for the total sum of Sixty Seven Thousand Dollars (\$67,000.00) and the City did purchase said lot on or about August 7, 2002, and

WHEREAS, in June of 2004, the City and CLC entered in a written agreement entitled Memorandum of Understanding setting forth the terms of the relationship between the parties, and

WHEREAS, on November 1, 2006, CLC paid the sum of \$35,000.00 to the City of Canby pursuant to the Memorandum of Understanding and the City and the CLC wish to enter into a new written agreement, entitled Memorandum of Understanding II, to set forth conditions regarding the development of the site as a park and open space, **now therefore, the parties to this Memorandum of Understanding agree as follows:**

1. The CLC will form a steering committee to oversee the development of the open space to be known as the "Canby Green Space and Art Park". That committee will be made up of members of the Canby community and local organizations and will work in conjunction with the Clackamas County Arts Action Alliance to develop a master park design for the Canby Green Space and Art Park.

2. The completed master park design shall be presented to the Canby Parks and Recreation Advisory Board for approval and once that approval is obtained, the CLC shall seek to fund the development of the Park.

3. The CLC may develop the Canby Green Space and Art Park in phases under the following conditions:

a. Phase I shall be commenced no later than March 30, 2008 and shall be completed no later than September 30, 2008. It shall consist of at least ground preparation and the installation of walkways. The plan for Phase I shall take into account that irrigation will be necessary in the second phase, and shall plan installation of the irrigation system accordingly.

b. Phase II shall be completed no later than September 30, 2010. It shall consist of an irrigation system, art pieces, structures and plantings.

c. The entire park shall be completed no later than September 30, 2012.

d. The CLC shall be responsible for regular maintenance and clean up of the area beginning upon the date of this agreement.

4. The City recognizes the need for flexibility in the development process and will not unreasonably withhold approval of changes in the development blueprint as presented by the CLC and approved by the Parks Board. For instance, if funding becomes available for art pieces during the first two years, they may be installed in Phase I. Questions regarding flexibility issues shall be resolved by the Parks Board.

5. Pursuant to Memorandum of Understanding I, the City will fund the first \$3000.00 of the budget for Phase I of the development of the Canby Green Space and Art Park. The total cost of each phase of development shall be raised in full in advance of any construction on the site.

6. In the event the CLC fails to complete Phases I and II as set forth above, the City Council may review the project to determine if it is still viable to continue. If the Council determines the project is no longer viable, or if the CLC indicates it does not wish to continue with the development process, the Council may, in its discretion, cancel the project and either complete it, itself or sell the property. The City will not refund any of the \$35,000.00 donated by the CLC, but said funds may only be used for acquisition and development of other park and open space in the Parks Master Plan.

Dated this 27 day of February, 2007.

IT IS SO UNDERSTOOD AND AGREED:

Robert A. Tice, President

On behalf of the CLC

[Signature]

On behalf of the CLC

On behalf of the City of Canby

February 26, 2007

Memo to: Mayor/City Council

From: John H. Kelley, City Attorney 

Re: Resolution No. 946 - Ballot measure/Summary for Voter's Pamphlet for
Annexation 06-04 – Netter Annexation

Attached is Resolution No. 946. It certifies to Clackamas County elections department for the May 15, 2007 election, Annexation 06–04, application from Nick and Jamie Netter to annex 1.95 acres of property to the City. Both the Planning Commission and City Council unanimously approved it, and in accordance with the City Charter requirement for voter-approved annexations, the application must be voted on at the next election.

Attached to the Resolution is a Notice of City Measure Election with the Caption, Question and Summary for the ballot and the Explanatory Statement for the Voter's Pamphlet. The City is required to submit these documents when it refers an issue to a vote of the electorate. The deadline for having the material to the County is March 15, 2007.

The guideline for drafting the Notice and Explanatory Statement is that, "the City Attorney, to the best of his ability, give a true and impartial statement of the purpose of the measure in such language that the ballot title not create any argument for, or create prejudice against the measure". I believe the Notice and Statement I have prepared meets this criteria. If you agree, a motion to approve Resolution No. 918 is appropriate. If you are not satisfied with the language, please feel free to contact me before the meeting or draft some alternative language to bring to the meeting so that it can be discussed.

RESOLUTION NO. 946

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY RECORDER TO CERTIFY TO THE CLACKAMAS COUNTY CLERK A MEASURE REFERRING TO THE ELECTORATE A PROPOSED ANNEXATION OF 1.95 ACRES DESCRIBED AS TAX LOT 1301 OF TAX MAP 4-1E-4CA LOCATED AT 1401 S FIR STREET; AUTHORIZING THE CITY RECORDER TO SEND AN EXPLANATORY STATEMENT FOR THE VOTER'S PAMPHLET; AND DOING ALL OTHER NECESSARY ACTS TO PLACE THE MATTER BEFORE THE VOTERS OF THE CITY OF CANBY FOR THE MAY 15, 2007 ELECTION.

WHEREAS, the Canby City Council has heretofore approved an application filed by Nick and Jamie Netter, on behalf of the owners of tax lot 1301 of Tax Map 4-1E-4CA, to annex 1.95 acres into the City of Canby; and

WHEREAS, pursuant to the provisions of the Canby City Charter, the approval of the proposed annexation must be referred to the electorate of the City of Canby for an election; and

WHEREAS, ORS 250.035 requires a Notice of Measure be prepared by the City and submitted to the Clackamas County Elections Department by March 15, 2007 in order to appear on the ballot for the May 15, 2007 election; and

WHEREAS, pursuant to the Canby Municipal Code, the Canby City Attorney has prepared a Notice of City Measure Election and Summary for Voter's Pamphlet to be submitted to the Elections Department;

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

1. The City Recorder of the City of Canby is hereby authorized and directed to certify to the Clackamas County Clerk for submission to the voters at the May 15, 2007 election, the Notice of City Measure. Such Notice of City Measure Election is attached to this Resolution in proper form and adopted by the City.
2. The City Recorder of the City of Canby is further authorized and directed to submit a Summary of the Measure to be placed in the voter's pamphlet explaining in clear and concise language the affect of such ballot measure. Such summary is attached to this Resolution in proper form and adopted by the City.
3. The City Recorder, the City Administrator and the City Attorney are hereby

authorized to do all other necessary and proper acts to place the ballot measure before the voters at the May 15, 2007 election.

This Resolution shall take effect on March 7, 2007.

ADOPTED this 7th day of March, 2007, by the Canby City Council.

Melody Thompson - Mayor

ATTEST:

Kimberly Scheafer
City Recorder, Pro-Tem

**CITY OF CANBY
NOTICE OF CITY MEASURE ELECTION
FOR THE MAY 15, 2007 ELECTION**

NOTICE IS HEREBY GIVEN that on Tuesday, May 15, 2007, an election will be held in the City of Canby, Clackamas County, Oregon. The following shall be the ballot title for the measure submitted to the City's voters on this date:

CAPTION: MEASURE APPROVING ANNEXATION OF 1.95 ACRES INTO CITY OF CANBY.

QUESTION: SHALL 1.95 ACRES LOCATED AT 1401 S FIR STREET BE ANNEXED INTO CANBY?

SUMMARY: Annexation is the legal process to bring property into the City limits. Nick and Jamie Netter have filed an application on behalf of Todd and Theresa Snelson, the owners of a 1.95 acre parcel, asking the City to bring it into the Canby City limits. The legal description of the property is Tax Lot 1301 of Tax Map 4-1E-4CA. The parcel is located at 1401 S Fir Street in Canby. This application has previously been approved by the City Council following a public hearing on February 7, 2007. The property currently contains one single family residence and three outbuildings. It is currently zoned Exclusive Farm Use (EFU) by Clackamas County. The City's Zoning Map designates the property for Medium Density Residential (R-1.5) zoning upon annexation. Any future development requires City review and must comply with land use laws.

The following authorized local government official hereby certifies that the above ballot title is true and complete, which includes completion of the ballot title challenge process.

Kimberly Scheafer
City Recorder Pro-Tem

Date

EXPLANATORY STATEMENT FOR VOTER'S PAMPHLET

MEASURE APPROVING ANNEXATION OF 1.95 ACRES INTO THE CITY OF CANBY

Measure No. _____

Word Total 374 (500 max)

This measure would approve the annexation of 1.95 acres into the city limits of the City of Canby. The property which would be included within the City boundaries is known as Tax Lot 1301 of Tax Map 4-1E-4CA and is located generally in the southwest part of the City. Tax Lot 1301 is currently zoned Exclusive Farm Use (EFU) under County zoning. If annexation into the City is approved by the voters, the parcel would be rezoned to R-1.5, Medium Density Residential, as required under the City's Comprehensive Land Use Plan (Comp Plan) and Zoning Map.

Tax Lot 1301 is owned by Todd and Theresa Snelson. Nick and Jamie Netter have filed an application, on behalf of the Snelsons, for annexation into the City of Canby. The City, following its Charter, has put this matter before the voters for approval.

The parcel is located at 1401 S Fir Street, south of SW 13th Avenue, near Hope Village. The property currently contains one single family residence and three outbuildings. Adjacent properties to the north, west and east are within current city limits. Adjacent properties to the south are located outside the current city limits. Properties to the north (Sequoia Place) and east (Hope Village) are zoned for Medium Density Residential. Property to the west is zoned Low Density Residential, while property to the south is outside the city limits, it is within Canby's Urban Growth Boundary and would be zoned Medium Density Residential upon annexation. Under the R-1.5 zoning regulations, the applicant proposes to construct 12 single family residences. Annexation alone does not set the future uses to be built on the property. Any further development would have to comply with state and local land use laws and would be subject to public review.

The Canby Comp Plan also designates properties for annexation as Priority "A", "B" or "C". Priority "A" properties shall generally be annexed prior to those areas shown as Priority "B" which, in turn, shall generally be annexed prior to those areas shown as Priority "C". The property is priority "A". The Canby Planning Commission unanimously voted to approve the application and the Canby City Council unanimously voted to approve the application and refer it to a vote of the Canby electorate.

CITY OF CANBY


Kimberly Scheafer,
Canby City Recorder - Pro tem

Date

February 26, 2007

Memo to: Mayor/City Council

From: John H. Kelley, City Attorney 

Re: Resolution No. 947 - Ballot measure/Summary for Voter's Pamphlet for
Annexation 06-05 – Netter Annexation 

Attached is Resolution No. 947. It certifies to Clackamas County elections department for the May 15, 2007 election, Annexation 06-05, application from the Parsons Family Trust to annex 32.62 acres of property to the City. Both the Planning Commission and City Council unanimously approved it, and in accordance with the City Charter requirement for voter-approved annexations, the application must be voted on at the next election.

Attached to the Resolution is a Notice of City Measure Election with the Caption, Question and Summary for the ballot and the Explanatory Statement for the Voter's Pamphlet. The City is required to submit these documents when it refers an issue to a vote of the electorate. The deadline for having the material to the County is March 15, 2007.

The guideline for drafting the Notice and Explanatory Statement is that, "the City Attorney, to the best of his ability, give a true and impartial statement of the purpose of the measure in such language that the ballot title not create any argument for, or create prejudice against the measure". I believe the Notice and Statement I have prepared meets this criteria. If you agree, a motion to approve Resolution No. 918 is appropriate. If you are not satisfied with the language, please feel free to contact me before the meeting or draft some alternative language to bring to the meeting so that it can be discussed.

RESOLUTION NO. 947

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY RECORDER TO CERTIFY TO THE CLACKAMAS COUNTY CLERK A MEASURE REFERRING TO THE ELECTORATE A PROPOSED ANNEXATION OF 32.62 ACRES DESCRIBED AS TAX LOTS 2400 AND 3100 OF TAX MAP 3-1E-34 LOCATED AT 23849 S MULINO ROAD; AUTHORIZING THE CITY RECORDER TO SEND AN EXPLANATORY STATEMENT FOR THE VOTER'S PAMPHLET; AND DOING ALL OTHER NECESSARY ACTS TO PLACE THE MATTER BEFORE THE VOTERS OF THE CITY OF CANBY FOR THE MAY 15, 2007 ELECTION.

WHEREAS, the Canby City Council has heretofore approved an application filed by the Parsons Family Trust, as the owners of tax lots 2400 and 3100 of Tax Map 3-1E-34, to annex 32.62 acres into the City of Canby; and

WHEREAS, pursuant to the provisions of the Canby City Charter, the approval of the proposed annexation must be referred to the electorate of the City of Canby for an election; and

WHEREAS, ORS 250.035 requires a Notice of Measure be prepared by the City and submitted to the Clackamas County Elections Department by March 15, 2007 in order to appear on the ballot for the May 15, 2007 election; and

WHEREAS, pursuant to the Canby Municipal Code, the Canby City Attorney has prepared a Notice of City Measure Election and Summary for Voter's Pamphlet to be submitted to the Elections Department;

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

1. The City Recorder of the City of Canby is hereby authorized and directed to certify to the Clackamas County Clerk for submission to the voters at the May 15, 2007 election, the Notice of City Measure. Such Notice of City Measure Election is attached to this Resolution in proper form and adopted by the City.
2. The City Recorder of the City of Canby is further authorized and directed to submit a Summary of the Measure to be placed in the voter's pamphlet explaining in clear and concise language the affect of such ballot measure. Such summary is attached to this Resolution in proper form and adopted by the City.
3. The City Recorder, the City Administrator and the City Attorney are hereby

authorized to do all other necessary and proper acts to place the ballot measure before the voters at the May 15, 2007 election.

This Resolution shall take effect on March 7, 2007.

ADOPTED this 7th day of March, 2007, by the Canby City Council.

Melody Thompson - Mayor

ATTEST:

Kimberly Scheafer
City Recorder, Pro-Tem

**CITY OF CANBY
NOTICE OF CITY MEASURE ELECTION
FOR THE MAY 15, 2007 ELECTION**

NOTICE IS HEREBY GIVEN that on Tuesday, May 15, 2007, an election will be held in the City of Canby, Clackamas County, Oregon. The following shall be the ballot title for the measure submitted to the City's voters on this date:

CAPTION: MEASURE APPROVING ANNEXATION OF 32.62 ACRES INTO CITY OF CANBY.

QUESTION: SHALL 32.62 ACRES LOCATED AT 23849 S MULINO ROAD, NORTH OF TOWNSHIP ROAD, BE ANNEXED INTO CANBY?

SUMMARY: Annexation is the legal process to bring property into the City limits. The Parsons Family Trust has filed an application as the owners of a 32.62 acre parcel, asking the City to bring it into the Canby City limits. The legal description of the property is Tax Lots 2400 and 3100 of Tax Map 3-1E-34. The parcel is located at 23849 S. Mulino Road, north of Township Road, in Southeast Canby. This application has previously been approved by the City Council following a public hearing on February 7, 2007. The property currently contains a residence and several outbuildings. It is currently zoned Exclusive Farm Use (EFU) by Clackamas County. The City's Zoning Map designates the property for Light Industrial (M-1) zoning upon annexation. Any future development requires City review and must comply with land use laws.

The following authorized local government official hereby certifies that the above ballot title is true and complete, which includes completion of the ballot title challenge process.

Kimberly Scheafer
City Recorder Pro-Tem

Date

EXPLANATORY STATEMENT FOR VOTER'S PAMPHLET

**MEASURE APPROVING ANNEXATION OF 32.62 ACRES
INTO THE CITY OF CANBY**

Measure No. _____

Word Total 396 (500 max)

This measure would approve the annexation of 32.62 acres into the city limits of the City of Canby. The property which would be included within the City boundaries is known as Tax Lots 2400 and 3100 of Tax Map 3-1E-34 and is located at 23849 S. Mulino Road, north of Township Road, in the southeast part of the City. Tax Lots 2400 and 3100 are currently zoned Exclusive Farm Use (EFU) under County zoning. If annexation into the City is approved by the voters, the parcels would be rezoned to M-1, Light Industrial, as required under the City's Comprehensive Land Use Plan (Comp Plan) and Zoning Map.

Tax Lots 2400 and 3100 are owned by the Parsons Family Trust. The Trust has filed an application for annexation into the City of Canby. The City, following its Charter, has put this matter before the voters for approval.

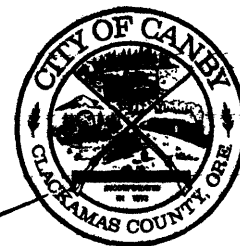
The parcel is located at 23849 S. Mulino Road, north of Township Road, in Southeast Canby. The property currently contains one single family residence and several outbuildings. Adjacent properties to the north and a portion of the properties to the west are within current city limits. Adjacent properties to the south and a portion of the properties to the west are located outside the current city limits. Properties to the east are located outside the City's Urban Growth Boundary. Properties to the north and west are zoned for Light Industrial development. Property to the south is outside the city limits, but is within Canby's Urban Growth Boundary and would be zoned Light Industrial upon annexation. The applicant proposes to market the property as Light Industrial as part of the Pioneer Industrial Park designation. Annexation alone does not set the future uses to be built on the property. Any further development would have to comply with state and local land use laws and would be subject to public review.

The Canby Comp Plan also designates properties for annexation as Priority "A", "B" or "C". Priority "A" properties shall generally be annexed prior to those areas shown as Priority "B" which, in turn, shall generally be annexed prior to those areas shown as Priority "C". The property is priority "C". The Canby Planning Commission unanimously voted to approve the application and the Canby City Council also unanimously voted to approve the application and refer it to a vote of the Canby electorate.

CITY OF CANBY

Kimberly Scheafer,
Canby City Recorder - Pro tem

Date



MEMORANDUM

TO: *Honorable Mayor Thompson and City Council*
FROM: *John R. Williams, Community Development & Planning Director*
THROUGH: *Mark C. Adcock, City Administrator*
DATE: *February 26, 2007*
RE: *Contract with Kennedy/Jenks Consultants*

Summary

Ordinance 1233 would approve a contract with Kennedy/Jenks Consultants for engineering services related to the Northwood subdivision and the park therein. This consultant has been under contract for some time, but a recent scope addition pushed the total value of the contract over \$15,000, thus requiring Council approval.

Recommendation

Staff recommends that the City Council **approve** Ordinance 1233.

Rationale

Kennedy/Jenks has been under a \$10,000 contract to perform design and construction engineering services related to the Northwood Subdivision. This is necessary because the City's normal contract engineering firm, Curran-McLeod, has a conflict of interest on this project.

At this time additional hours are required due to unexpected construction issues and the need to design the City's future park (this task was not contained in the original scope of work). Planning and Parks Department staff have been satisfied with Kennedy/Jenks' work, and recommend authorizing this contract to allow this firm to finish work on the project.

Background

The Northwood subdivision is a four-phase low-density residential project located in NW Canby. The consulting engineer reviews a wide variety of construction issues related to storm water, sanitary sewer, and transportation. In addition, the Parks department has retained Kennedy/Jenks to provide design engineering services for the future City park.

This is not a typical engineering expense for a land use application. Curran-McLeod's bills are typically much lower due to their familiarity with Canby's infrastructure systems, processes, and requirements. In addition, the park design work (\$5,000) is above our usual requirements.

Future subdivision phases will require additional work; these will be handled as contract amendments as they occur. The contract establishes hourly rates for this work.

Other options:

1. Seek alternative firms to complete the work. Staff did not recommend this option because Kennedy/Jenks has become very familiar with the project. A new firm would cause significant extra costs at this point.

Attached:

Ordinance 1233; proposed personal services agreement including attachment.

ORDINANCE 1233

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH KENNEDY/JENKS CONSULTANTS FOR ENGINEERING SERVICES; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Canby requires design and construction engineering services for the review of issues relating to certain current planning applications, and park design work for the new park in the Northwood Subdivision; and

WHEREAS, the City wishes to employ Kennedy/Jenks Consultants as an independent contractor under a personal services contract to complete this work; and

WHEREAS, a personal services contract for these services has been reviewed and approved by both parties but needs approval of the City Council because the expense is over \$15,000; 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 Kennedy/Jenks Consultants for design and construction engineering services. 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 these services 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, March 7, 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, March 21, 2007, commencing at the hour of 7:30 P.M. in the Council Meeting Chambers at Canby City Hall in Canby, Oregon.

Kimberly Scheafer
City Recorder Pro-Tem

PASSED on the second and final reading by the Canby City Council at a regular meeting thereof on March 21, 2007 by the following vote:

YEAS _____ NAYS _____

Melody Thompson, Mayor

ATTEST:

Kimberly Scheafer
City Recorder Pro Tem

PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is between the CITY OF CANBY (City) and Kennedy/Jenks Consultants (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 as 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" attached hereto. Contractor agrees that \$20,000 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, 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 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: John R. Williams
City of Canby
PO Box 930
182 N. Holly Street
Canby, OR 97013

CONTRACTOR: Gordon Munro
Kennedy/Jenks Consultants
200 SW Market Street Suite 500
Portland, OR 97201-5715

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:

Approved as to form: 
City Attorney

Kennedy/Jenks Consultants

Engineers & Scientists

200 S.W. Market Street, Suite 500
Portland, Oregon 97201-5715
503-295-4911
503-295-4901 (Fax)

25 January 2007

Mr. John Williams, City Planner
City of Canby
170 NW 2nd Avenue
P.O. Box 930
Canby, OR 97013

Subject: Amendment #1
Development Review Assistance
K/J 0691005*00

Dear John:

This letter defines amendment #1 for the development review services as requested. This includes the scope of work, budget, basis of compensation, and authorization.

Scope of Work

Proposed Amendment #1 includes two work items.

- Northwood Estates: Continued development review services to complete the Phase I Northwood subdivision and subsequent phases of the subdivision. This includes design review and construction assistance, as requested by the City as defined in the original scope of work.
- Northwood Estates: Work with the City staff to produce CAD drawings of the park improvements in the Northwood subdivision. City staff will provide the direction and specifics such: the specific trees to be planted, the type of fence, the irrigation system layout, the type of planters, the type of bike racks, the type of street lights, and the general location of these items. Kennedy/Jenks will develop CAD drawings that can be used to construct the park.

Mr. John Williams, City Planner
City of Canby
25 January 2007
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Kennedy/Jenks Consultants

Budget

The amendment will add \$10,000 to the budget. The total budget is outlined as follows:

<u>Original Budget:</u>	Planning Services	\$ 5,000
	<u>Engineering Services</u>	<u>\$ 5,000</u>
	Total	\$10,000
<u>Amendment #1:</u>	Engineering Services	\$ 5,000
	<u>Park Design</u>	<u>\$ 5,000</u>
	Total	\$10,000

The original budget plus the amendment will bring the total contract to \$20,000.

Basis of Compensation

Compensation for our services will continue to be on a time and expense reimbursement basis as follows:

Primary Reviewer	
Gordon Munro	\$132
Secondary Reviewer	
Aaron Eder	\$110
Specialty Review*	\$139
Structural, Stormwater, Electrical, Architectural	
Specialty Subconsultants*	Cost plus 10%
Geotechnical, Transportation	
Administrative Support	\$69
Direct Expenses	Cost plus 10%
Mileage	federal rate

*These reviewers will only be used with authorization from the City of Canby.

Payments shall be made monthly, based on invoices which describe services and list actual costs and expenses.

The rates are valid through December 31, 2007. Any work performed after that date will be invoiced at the rate schedule currently in effect at that time.

Mr. John Williams, City Planner
City of Canby
25 January 2007
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Kennedy/Jenks Consultants

Authorization

It is understood that the previously agreed to Terms and Conditions shall apply to this Amendment.

If this proposal meets with your approval, please sign where noted below and return a copy to our office to serve as our authorization. Upon signing this letter becomes part of the contract.

Thank you for considering us for this work. We look forward to working with you.

Very truly yours,

KENNEDY/JENKS CONSULTANTS, INC.



Gordon Munro
Project Manager

AUTHORIZATION:

CITY OF CANBY

By: _____
(Signature)

(Print Name)

Title: _____

Date: _____

CURRAN-MCLEOD, INC.
CONSULTING ENGINEERS

6655 S.W. HAMPTON STREET, SUITE 210
PORTLAND, OREGON 97223

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

FROM: Curt J. McLeod, P.E.
CURRAN-MCLEOD, INC.

DATE: February 26, 2007

ISSUE: WASTEWATER TREATMENT PLANT
PRIMARY CLARIFIER COATING SYSTEM REPAIRS
ORDINANCE No. 1234

SYNOPSIS: This staff report is transmitting for Council approval a contract for coating system repairs on the primary clarifier at the Wastewater Treatment Plant.

RECOMMENDATION: That the Council approve ordinance 1234 that authorizes the Mayor and City Administrator to execute a contract with Long Painting Company in the amount of \$24,900.

RATIONALE: This is a routine function to maintain the serviceability of the clarifier equipment at the treatment plant.

BACKGROUND: The City solicited three bids and received two for the recoating project including the following:

Long Painting Co.	\$24,900
HCI Industrial	\$37,500

This is the last of three clarifiers to recoat at the Wastewater Treatment Plant. The first two were completed in 2005-2006. This last clarifier is smaller and has less equipment to prepare and recoat, as is reflected in the price.

FISCAL IMPACT: This project is funded through the wastewater department and budgeted for this fiscal year.

ORDINANCE NO. 1234

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH LONG PAINTING COMPANY FOR THE WASTEWATER TREATMENT PLANT PRIMARY CLARIFIER COATING REPAIRS; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Canby has heretofore solicited bids for clarifier coating system repairs at the Wastewater Treatment Plan; and

WHEREAS, the solicitation documents were sent to three local contractors with experience to complete this type of work; and

WHEREAS, two bids were received and opened on February 23, 2007 at 2:00 PM by the City of Canby in the Planning Department office with the low responsive bid being received from Long Painting Company in the amount of twenty four thousand nine hundred dollars; and

WHEREAS, the Canby City Council, acting as the City's Contract Review Board, met on Wednesday, March 7, 2007 and considered the bid and reports and recommendations of the City staff, including the staff recommendation that the low responsive bid be selected; and

WHEREAS, the Canby City Council determined that the low responsive bid was that of Long Painting Company; 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 Long Painting Company for primary clarifier coating system repairs as specified, for the bid amount of \$24,900. A copy of the contract with Long Painting Company 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, March 7, 2007; ordered posted as required by the Canby City Charter and scheduled for second reading on Wednesday, March 21, 2007 after the hour of 7:30 pm at the Council Chambers at the Canby City Hall, 182 N. Holly, Canby, Oregon.

Kimberly Scheafer, City Recorder

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 21st day of March, 2007, by the following vote:

YEAS NAYS

Melody Thompson, Mayor

ATTEST:

Kimberly Scheafer, City Recorder

CONTRACT FOR CONSTRUCTION

THIS AGREEMENT is dated as of the _____ day of _____ in the year 2007 by and between

CITY OF CANBY

(hereinafter called OWNER) and

LONG PAINTING COMPANY

(hereinafter called CONTRACTOR)

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

ARTICLE 1 - WORK

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

CITY OF CANBY

WASTEWATER TREATMENT PLANT

PRIMARY CLARIFIER COATING REPAIRS

The project consists of spot surface preparation and re-coating of one 50' diameter by 9.8 foot sidewall depth primary clarifier including spot repair of the coating systems on the mechanism, and then re-coating the mechanism and concrete walls of the structure.

ARTICLE 2 - ENGINEER

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

ARTICLE 3 - CONTRACT TIME

- 3.1 The Work will be substantially completed by APRIL 13, 2007, and completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within 30 days after the date of Substantial Completion.
- 3.2 **Liquidated Damages:** OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not substantially complete within the time specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Article 12 of the

General Conditions. They also recognize the delays, expense and difficulties involved in proving in a legal proceeding the actual loss suffered by OWNER if the Work is not substantially complete on time.

Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER or the OWNER may withhold from amounts due the CONTRACTOR Five Hundred Dollars (\$500.00) for each day that expires after the time specified in paragraph 3.1. for substantial completion until the Work is substantially complete.

ARTICLE 4 - CONTRACT PRICE

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

Twenty Four Thousand Nine Hundred Dollars

And No/100 cents (\$ 24,900.00) Lump Sum as shown in the attached Bid Proposal.

ARTICLE 5 - PAYMENT PROCEDURES

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

- 5.1 Progress Payments will not be approved.
- 5.2 OWNER shall make one payment of 95% of the contract amount upon Substantial Completion, less such amounts as ENGINEER shall determine in accordance with paragraph 14.02 of the General Conditions.
- 5.2 Final Payment: Upon final completion and acceptance of the Work in accordance with paragraph 14.07 of the General Conditions, OWNER shall pay the remainder of the value of the Contract Work completed, as recommended by ENGINEER as provided in said paragraph 14.07.

ARTICLE 6 - INTEREST

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

ARTICLE 7 - CONTRACTOR'S REPRESENTATIONS

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

- 7.1 CONTRACTOR has familiarized himself with the nature and extent of the Contract Documents, Work, locality, and with all local conditions and federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the Work.
- 7.2 CONTRACTOR has studied carefully all reports of investigations and tests of subsurface and latent physical conditions at the site or otherwise affecting cost, progress or performance of the Work which were relied upon by ENGINEER in the preparation of the Drawings and Specifications and which have been identified in the Supplementary Conditions.
- 7.3 CONTRACTOR has made or caused to be made examinations, investigations and tests and studies of such reports and related data in addition to those referred to in paragraph 7.2 as he deems necessary for the performance of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports or similar data are or will be required by CONTRACTOR for such purposes.
- 7.4 CONTRACTOR has correlated the results of all such observations, examinations, investigations, tests, reports and data with the terms and conditions of the Contract Documents.
- 7.5 CONTRACTOR has given ENGINEER written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

ARTICLE 8 - CONTRACT DOCUMENTS

- 8.1 This Agreement.
- 8.2 Exhibits to this Agreement.
- 8.3 Performance and other Bonds.
- 8.4 Notice of Award.
- 8.5 General Conditions of the Construction Contract.

- 8.6 Supplementary Conditions.
- 8.7 Technical Specifications.
- 8.8 Drawings bearing the following general title: N/A
- 8.9 Addenda number 1.
- 8.10 CONTRACTOR'S Bid
- 8.11 Any Modification, including Change Orders, duly delivered after execution.

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

ARTICLE 9 - MISCELLANEOUS

- 9.1 Terms used in this Agreement which are defined in Article 1 of the General Conditions shall have the meanings indicated in the General Conditions.
- 9.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically by without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.
- 9.3 OWNER and CONTRACTOR each binds himself, his partners, successors, assigns and legal representatives to the other party hereto, his partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.
- 9.4 In the event a suit, arbitration or other legal action is required by either the OWNER or the CONTRACTOR to enforce any provisions of this Agreement, the prevailing parties shall be entitled to all reasonable costs and reasonable attorney's fees upon trial or subsequent appeal.

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

This Agreement will be effective on _____, 2007.

OWNER

City of Canby
182 N. Holly Street
Canby, OR 97013

By _____

Attest _____

CONTRACTOR

Long Painting Company
2663 NW St. Helens Road
Portland, OR 97210

By _____

Attest _____

BID PROPOSAL

TO: Mr. Darvin Tramel
Wastewater System Supervisor
City of Canby Planning Department
170 NW 2nd Avenue
Canby, OR 97013

FEB 23, 2007

The undersigned is a (indicate one):

☒ RESIDENT ☐ NON RESIDENT

bidder as defined by ORS 279A.120, structured as (check one of the following and insert information requested):

- ☒ a. A Corporation organized and existing under laws of the State of WA; or
- ☐ b. A Partnership registered under the laws of the State of _____; or
- ☐ c. An individual doing business under an assumed name registered under the laws of the State of _____.

The undersigned bidder declares that the only persons or parties interested in this proposal are those named herein, that this proposal is in all respects fair and without fraud and that it is made without collusion with any representatives of the OWNER.

The bidder further declares that: a) he has examined the plans, specifications, and other proposed contract documents; b) he has determined the extent, character, and location of the proposed Work, the nature and type of excavation to be done, the location and condition of existing streets and roadways giving access to the site of the Work, and topography of the site of the Work; and c) he has personally inspected the site of the Work and has satisfied himself as to the conditions of the Work and understands the listing of materials as included herein is brief and is intended only to associate the said quantities with detailed requirements of the contract documents.

The bidder does hereby propose to furnish all materials, tools, equipment, and appliances, and to perform all labor and work necessary to construct and complete the project entitled:

**CITY OF CANBY
WASTEWATER TREATMENT PLANT
PRIMARY CLARIFIER COATING REPAIRS**

and all specified work appurtenant thereto, and in connection with this project for the OWNER with the time limit specified, and in accordance with plans, specifications and change order documents prepared by the ENGINEER for the sums set forth in the following schedule of prices, it being understood that the unit prices are independent of the exact quantities involved and that they represent a true measure of the labor and materials required to perform the Work.

The successful bidder agrees to be substantially complete by April 13, 2007, and achieve final completion within 30 calendar days from the date of substantial completion. In the event the successful bidder fails to achieve substantial completion or final completion within the time limits specified in the contract documents, liquidated damages shall be paid to the OWNER at the rate of \$500.00 per calendar day, excluding Sundays and holidays, until the Work is complete.

BASIC BID:

1. The undersigned hereby proposes to furnish all equipment, materials and labor required to prepare and recoat ONE (1) 50 foot diameter by 9.8 foot sidewall primary clarifier, in strict conformance with the requirements of the Contract Documents, as detailed herein, for the lump sum price of:

TWENTY FOUR THOUSAND NINE HUNDRED Dollars

and NO cents (\$ 24,900.⁰⁰/₁₀₀) lump sum.

TOTAL BASIC BID \$ 24,900.⁰⁰/₁₀₀

Accompanying herewith is Bid Security which is equal to five percent (5%) of the total amount of the Basic Bid.

The undersigned agrees, if awarded the Contract, to execute and deliver to the OWNER within fifteen (15) days after receiving the Contract forms, an Agreement and satisfactory Construction Performance and Construction Payment Bonds each in an amount equal to one hundred percent (100%) of the Contract sum, using forms provided therefore by the OWNER. The Surety requested to issue the Construction Performance Bond will be:

WILLIS OF SEATTLE

(Name of Surety Company)

The undersigned hereby authorizes said Surety to disclose any information to the OWNER concerning the undersigned's ability to supply a Construction Performance Bond in the amount of the Contract.

The undersigned certifies that (1) this Bid has been arrived at independently and is being submitted without collusion with, and without any agreement, understanding, or planned common course of action with, any other vendor of materials, supplies, equipment, or services described in the Advertisement for Bids designed to limit independent bidding or competition, (2) the contents of this Bid have not been communicated by the undersigned or its employees or agents to any person not an employee or agent of the undersigned or its surety on any bond furnished with the Bid and will not be communicated to such person prior to the official opening of the bids, and (3) if awarded the Contract, he will commence work within ten (10) calendar days after the date of Notice to Proceed and that he will complete the Work within the specified number of days set forth in the Agreement.

The undersigned certifies that he has received and duly considered the following Addenda to the specifications.

Addenda: No. 1 to No. 1 inclusive.

The undersigned agrees if awarded the Contract, that he will comply with the provisions of the Contract Documents.

Name of Firm: LONG PAINTING COMPANY

Signature: * John Fisher

Name: JOHN FISHER

Address: 2663 N.W. ST. HELENS ROAD
PORTLAND, OR 97210

Telephone No. 503-226-6757

Construction Contractors Board No. # _____

If Corporation,

Attest: _____

Secretary of Corporation

(SEAL)

* If bid is by a partnership, then one of the partners must sign the bid.