

AGENDA

CANBY CITY COUNCIL MEETING

February 15, 2006, 7:30 P.M.

Council Chambers

155 NW 2nd Avenue

Mayor Melody Thompson

Council President Teresa Blackwell

Councilor Randy Carson

Councilor Walt Daniels

Councilor Roger Harris

Councilor Wayne Oliver

CITY COUNCIL MEETING

1. CALL TO ORDER

A. Pledge of Allegiance and Moment of Silence

B. Employee of the Month Presentation – January

Pg. 1

C. Iwo Jima Proclamation

Pg. 2

2. COMMUNICATIONS

3. CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS

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

4. MAYOR'S BUSINESS

5. COUNCILOR COMMENTS & LIAISON REPORTS

6. CONSENT AGENDA

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

A. Approval of Accounts Payable \$350,071.50

B. Approval of Minutes of the January 23 City Council Workshop

C. Approval of Minutes of the February 1 City Regular Meeting and Executive Session

D. Reappointment to Transit Advisory Board

Pg. 3

E. Reappointments to Canby Utility Board

Pg. 4

7. PUBLIC HEARING

A. APP 05-01 Krishchenko

Pg. 6

8. UNFINISHED BUSINESS

A. Discussion Regarding Council Vacancy

9. RESOLUTIONS & ORDINANCES

- A. Res. 917, Referring Ballot Measure to Electorate a Proposed Annexation of 4.5 Acres and Authorizing Explanatory Statement Pg. 145
- B. Res. 918, Referring Ballot Measure to Electorate a Proposed Annexation of 1.95 Acres and Authorizing Explanatory Statement Pg. 150
- C. Ord. 1200, Adopting a Revised Code of the City of Canby Entitled the "Canby Municipal Code" (2nd Reading) Pg. 155
- D. Ord. 1201, Authorizing Contract with Ron Robinson Home Builder of Canby, Oregon for the Remodel of the Canby Transit Offices (2nd Reading) Pg. 157
- E. Ord. 1202, Authorizing Contract with Curran-McLeod, Inc. for Engineering Services on SE 2nd Avenue Street and Utility Improvements Pg. 159
- F. Ord. 1203, Authorizing Change Order No. 1 with HCI Industrial and Marine Coatings, Inc. for Coating Repairs to the WWTP Secondary Clarifier Pg. 174
- G. Ord. 1204, Authorizing Contract with Curran-McLeod, Inc. for Engineering Services on Hazel Dell Way Pumping Station Project Pg. 179

10. NEW BUSINESS

- A. Cooperative Improvement Agreement with ODOT for Berg Parkway Pg. 197
- B. Cooperative Improvement Agreement with ODOT for Territorial/99E Pg. 208

11. CITY ADMINISTRATOR'S BUSINESS & STAFF REPORTS

12. CITIZEN INPUT

13. ACTION REVIEW

14. EXECUTIVE SESSION: ORS 192.660(2)(h) Pending Litigation and ORS 192.660(3) Labor Negotiations

15. 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 of Canby
Employee of the Month
Nomination Form**

Name of Nominee: Bob Godon

Date: 10/20/2005

Department: Building

Nominated By: Margaret Yochem

Which of these criteria describes the reason for your nomination of this person?

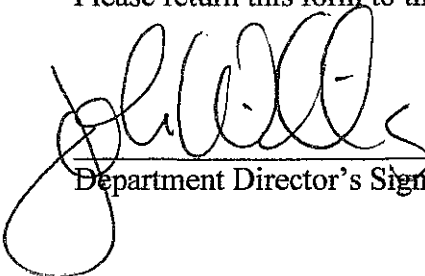
- ☐ Improved quality
 - ☐ Timely completion of a project
 - ☐ Demonstrates exemplary leadership and integrity
 - ☐ Excellent customer service (demonstrating exceptional customer service, an on-going commitment to customers, or innovation or creativity in customer service)
 - ☒ Overcame adverse obstacles or worked under unusual conditions
 - ☐ Increased program effectiveness or efficiency
 - ☐ Saves the City time/money
 - ☐ Improved levels of cooperation
 - ☐ Exceeds performance expectations
-

Can you please explain in 3 or 4 more detailed sentences, why you think this person should be nominated for "Employee of the Month", especially as it relates to the item(s) you checked above. Please attach an additional sheet if necessary.

Bob has gone out of his way to help the Transit Department build their transit plaza. Prior to ordering and delivery of the prefab buildings he inspected all documentation to make sure that the structures would meet and/or exceed the City of Canby's building code. When unexpectedly asked to do a spur of the moment inspection prior to pouring concrete that had arrived on site early, he dropped everything and did the inspection without hesitation.

We have all appreciated the extra time, effort and quality customer service that Bob has displayed throughout this project.

Please return this form to the Department Director of the nominee.


Department Director's Signature

10/20/2005
Date

10/20/2005



Office of the Mayor

Proclamation

"Iwo Jima Remembrance Day"

WHEREAS, on February 23, 1945, this country's Armed Forces were engaged in one of the most strategic and bloodiest battles of World War II – the battle for Iwo Jima; and

WHEREAS, the Canby Veterans of Foreign Wars have deemed it fitting to erect a flagpole at the Canby Adult Center in remembrance of those who took part in this great battle; and

WHEREAS, each year the members of the Veterans of Foreign Wars Post 6057 and their fellow veterans organizations conduct a ceremony to rededicate this memorial and replace the flags on the flagpole; and

WHEREAS, the flagpole located at the Canby Adult Center is the only memorial in the City of Canby dedicated to our veterans who made such significant personal sacrifices during World War II in defense of this great nation.

NOW, THEREFORE, I, Melody Thompson, by virtue of the authority vested in me as the Mayor of the City of Canby, do hereby proclaim February 25, 2006 as

Iwo Jima Remembrance Day

and call upon individuals, schools, churches, organizations and business establishments in the City of Canby to proudly remember the sacrifices made by servicemen who fought so gallantly in this bloody and decisive battle. I further call upon all members of this community to join in commemorating this great event with the rededication of the flagpole at the Adult Center on February 25 at 10:00 A.M.

Given unto my hand this 15th day of February 2006 in the City of Canby,
Oregon.

Melody Thompson
Mayor

Term to Expire 3.31.09

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

RECEIVED
JAN 27 2006

Date: 1/23/06
Name: ROBERT W. RUBY Occupation: RETIRED ACCOUNTANT
Home Address: CANBY, OR. 97013
Employer: _____ Position: _____
Daytime Phone: _____ Evening Phone: SAME
E-Mail Address: BROGZZ@WOODBURN.NET
For which position are you applying? SAME AS PRESENT

What are your community interests (committees, organizations, special activities)?
CANBY SENIOR CENTER BOARD OF DIRECTORS, PAST PRES. of
HOPE VILLAGE HOME OWNERS

Experience and educational background: 1ST NATIONAL BANK (BLACK CO
TREAS. DEPT. (18 YRS) CLACK CO SHERIFF OFFICE (HANDLER) (LEAD)
CITY of PORTLAND TREAS. MGR. (17 1/2 YRS) VANDEEN
WELDING SUPPLY OFFICE MGR (24 YRS)

Reason for your interest in this position: CIVIC PARTICIPATION

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

Information on any special membership requirements: _____

Referred by (if applicable): RICHARD PAUL

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

THANK YOU FOR YOUR WILLINGNESS TO SERVE CANBY

Please return to: City of Canby
182 N Holly Street
PO Box 930
Canby, OR 97013

Phone: 503.266.4021 Fax: 503.266.7961

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

9-30-05

Term to Expire 2.28.09

RECEIVED

JAN 27 2006

CITY OF CANBY

January 27, 2006

Honorable Mayor Melody Thompson
City of Canby
PO Box 930
182 N. Holly Street
Canby, OR 97013

Dear Mayor Thompson:

February 28, 2006, marks the completion of my first full term as a Director of the Canby Utility Board. Over the past year, it has been my privilege to serve as the Board Chairman. This experience has been very rewarding and I have learned a great deal about the importance of public power and water.

I have truly enjoyed serving our community and wish to continue my place on the Canby Utility Board of Directors. I am respectfully requesting your consideration to be reappointed to the board for the next three-year term.

Sincerely,



Jimmy Newton

Canby, OR 97013

Term to Expire 2.28.09

RECEIVED

JAN 31 2006

CITY OF CANBY

January 30, 2006

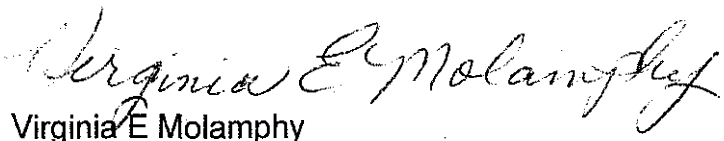
Honorable Mayor Melody Thompson
City of Canby
PO Box 930
182 N. Holly Street
Canby, OR 97013

Dear Mayor Thompson:

In March 2006, I was appointed to the Canby Utility Board of Directors to fill a vacant seat left by Shawn Carroll which will expire February 28, 2006. During my time on the Board I have gained valuable information about public power and municipal water systems and how they benefit our community. I am enjoying this experience and feel honored to serve our community.

It would be my pleasure to further serve our community by continuing my position on the Board of Directors. I am respectfully requesting your consideration to be reappointed to the Board for the next three-year term.

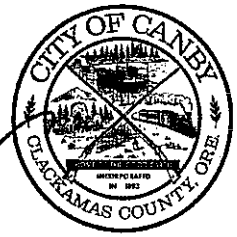
Sincerely,



Virginia E Molamphy

Canby, OR 97013

STAFF REPORT



TO: *Honorable Mayor Thompson and City Council*
FROM: *John R. Williams, Community Development & Planning Director*
DATE: *February 7, 2006*
THROUGH: *Mark C. Adcock, City Administrator*

Issue

The City has received an appeal application from Alex Krishchenko at 1214 S. Cedar Loop. Mr. Krishchenko is appealing the Planning Commission's denial of his request to add a new driveway onto SW 13th Avenue in order to construct a new single-family dwelling.

Synopsis

Mr. Krishchenko received approval from the Planning Commission to divide his lot in December 2004, but that approval contained a condition preventing any new driveways from being constructed onto 13th Avenue. In 2005 Mr. Krishchenko applied to modify that decision by eliminating the restrictive condition, but the Planning Commission denied the modification. It is that denial that Mr. Krishchenko is appealing to the City Council.

Hearing process

According to Canby Municipal Code 16.89.050(I)(2) we have scheduled a public hearing on this issue. However, the code states that:

“the Appeal shall be limited to the specific issues raised during the comment period unless the hearings body allows additional evidence or testimony concerning any other relevant issue. The hearings body may allow additional evidence if it determines that such evidence is necessary to resolve the case. The purpose of this requirement is to limit the scope of appeals by encouraging persons to be involved in the public hearing. Only in extraordinary circumstances should new issues be considered by the hearings body on an appeal.”

Therefore, the City's public notice has clearly informed all parties that this hearing is limited in scope. There have been many opportunities for public comment on this application so staff recommends the Mayor and Council conduct the hearing accordingly.

Criteria

Under CMC 16.89.050(I)(3), the City Council shall overturn the decision of the Planning Commission only when one or more of the following findings are made:

- a. That the Commission did not correctly interpret the requirements of this title, the Comprehensive Plan, or other requirements of law;
- b. That the Commission did not observe the precepts of good planning as interpreted by the Council; or
- c. That the Commission did not adequately consider all of the information which was pertinent to the case.”

Background

Mr. Krishchenko owns a 12,532 square foot parcel located at 1214 S. Cedar Loop, and proposed to partition this lot into two lots of 6,278 s.f. and 6,275 s.f. (in keeping with the R 1.5 standards). The Planning Commission found that the proposal met all requirements except access spacing standards on SW 13th Avenue, an arterial street. The standard spacing requirement on arterials is 300 feet. Although a number of existing lots on SW 13th violate this standard, the Planning Commission concluded that in light of the increased traffic expected on 13th pending completion of the Berg Parkway project, an exception to the standard was not appropriate.

Therefore, the Commission approved the partition request with the following condition:

“No lot shall directly access SW 13th Avenue. Prior to signing the final plat, the applicant shall provide proof of adequate alternate access. The proposed access shall be reviewed and approved by the City of Canby Planning Department prior to issuance of any building permits or signing of the final plat.”

The Commission’s reasoning for this decision was that there could possibly be alternative access routes, either onto Cedar Loop to the west through the applicant’s property or through the LDS parking lot to the east. The Commission wanted to allow Mr. Krishchenko to pursue these routes rather than receive an outright denial.

Following this decision, the City sold the triangular piece of property to the east of Mr. Krishchenko back to the LDS church. The property had been deeded to the City some time ago to make way for a street project, but the alignment was not used.

In 2005 Mr. Krishchenko applied to modify his original decision by removing the condition quoted above. This would have permitted him to build a new driveway directly accessing 13th Avenue. In order to approve Mr. Krishchenko’s modification the Commission would have needed to approve an exception to access spacing standards, as allowed by CMC 16.46.070. The Planning Commission did not approve the request and denied the modification.

It is this denial that Mr. Krishchenko is appealing.

Application

Mr. Krishchenko and his attorney, Kenneth Dobson, list four reasons for this appeal (see Exhibit A). Each is summarized briefly here.

1. In order to approve an access spacing exception, an applicant must demonstrate that the need is not “self-created.” The Planning Commission found that the hardship was self-created, due to Mr. Krishchenko’s partition request. However, the applicant views this another way. He believes alternative access was available through the city-owned triangular lot and states that “the current hardship was caused by the City’s sale of the right-of-way to the church and was in no way ‘self-created.’” He requests that the City Council reverse the Commission’s decision on this issue.

Analysis: Staff believes both positions are supportable. Alternative access was possibly available through the LDS parking lot, although this would have required removing parking spaces and was not part of the agreement that led to the Church dedicating the

area in the first place. Mr. Krishchenko had an opportunity to participate at the Council's hearing on the sale of this property, but the Council did not concur with his point of view at that time. Staff agrees with the Planning Commission and believes that the partition is what created the need for an exception. Therefore the need is "self-created." It should be stated that the Planning Commission has approved several access spacing exceptions on collectors and arterials (including two in 2005) in cases where applicants were dividing property and had no other access options.

2. Applicant states that, aside from the "self-created" issue, there was no substantial evidence to deny the modification. He argues that since the Planning Commission has approved other access spacing exceptions they should have approved this one.

Analysis: Staff believes there is significant testimony in the record of the original application about traffic concerns on 13th Avenue, and the Planning Commission discussed traffic safety on this road during deliberations on both the original partition application and the modification request. The Commission clearly stated that they consider access spacing decisions on a case-by-case basis; they found that due to projected increased traffic on 13th Avenue and the property's location on a curve the proposed exception was not appropriate in this case.

3. Applicant states that "good planning requires reasonable access to developable properties to maximize the efficient use of space within the Urban Growth Boundary. The Commission's failure to grant the modification contravenes this policy and creates an unusable land-locked urban parcel."

Analysis: Staff does not agree with this logic. The subdivision Mr. Krishchenko lives in was designed specifically to limit access to SW 13th Avenue while fully utilizing available land. When he purchased his lot, Mr. Krishchenko was aware that the Cedar Ridge CC&Rs prohibited further subdivision of his property. Mr. Krishchenko's original stated intent in assembling extra land was to enlarge his backyard and take over maintenance of a piece of property from the Rackleff House, not to create an additional buildable lot. Finally, access could still be obtained through the church property; the applicant has just been unsuccessful in obtaining it.

4. Applicant states that "The Planning Commission also erred in allowing Planning Commission Chairman James Brown to participate in the decision making process...It is likely that Mr. Brown's vested interest in church affairs prevented him from making an unbiased decision as to what or who created the hardship. Because Mr. Brown did not recuse himself, the decision was invalid and must be reversed."

Analysis: The City Attorney has reviewed this claim in light of city and state laws regarding conflict of interest, and finds that there is no conflict of interest in this case. The City's code (16.06.160) states that "a member of the Planning Commission shall not participate in any commission proceeding or action in which any of the following has a direct or substantial financial interest:

1. *The member or his spouse;*
2. *A brother, sister, child, parent, father-in-law or mother-in-law;*
3. *Any employee, partner, or business associate with whom he has been engaged in business within the previous two years, or any business with which he is negotiating for or has an arrangement or understanding concerning prospective*

partnership or employment."

Mr. Brown disclosed his relationship with the church at the modification request: he is a volunteer at the church and has no direct or substantial financial interest. The planning Commission considered his statement and agreed that no conflict of interest was present.

Options:

1. Uphold the Planning Commission's decision to deny the modification request. Staff believes that all of the Planning Commission's findings are supportable based on state and local laws and the evidence in the record.
2. Approve the appeal and overturn the Planning Commission's decision. Staff believes the strongest case for this relates to the "self-created" hardship issue. If the Council feels that the City's sale of the triangular property created a hardship for the applicant, it can make a finding on that issue. This would clear the way for an access spacing exception (since it is difficult right now to demonstrate that "no engineering solution" is available to obtain access to 13th Avenue) and approval of the modification request.

Exhibits:

1. Appeal application & public comments submitted prior to February 7 2006
2. Record of MOD 05-07:
 - a. December 12 2005 letter from Williams to Krishchenko
 - b. Planning Commission staff report and vicinity maps
 - c. Application materials and MLP 04-03 findings
 - d. Additional materials submitted by applicant after initial application
3. April 29 2005 letter from Williams to Krishchenko re: next step options
4. Record of MLP 04-03:
 - a. November 10, 2004 Planning Commission staff report
 - b. Application materials and "request for comments" responses
 - c. Materials submitted during comment period and/or original public hearings including Cedar Ridge CC&Rs, letters from citizens, and brief from attorney Mary W. Johnson
5. Comments received in advance of City Council's public hearing (Holbrook & Ball)

**DUE TO THE LARGE AMOUNT OF
ATTACHMENTS TO THE STAFF
REPORT FOR APP 05-01 THEY
HAVE NOT BEEN INCLUDED IN
THE PDF VERSION OF THE CITY
COUNCIL PACKET.**

**PLEASE CONTACT THE
PLANNING & BUILDING
DEPARTMENT AT 503.266.9404 OR
CITY HALL AT 503.266.4021 TO
REQUEST A COPY OF THESE
DOCUMENTS.**

February 2, 2006

Memo to: Mayor/City Council

From: John H. Kelley, City Attorney

Re: Resolution No. 917 - Ballot measure/Summary for Voter's Pamphlet for
Annexation 05-06 – Beck Annexation

Attached is Resolution No. 917. It certifies to Clackamas County elections department for the May 16, 2006 election, Annexation 05–06, application from Norman and Jenny Beck to annex 4.5 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 16, 2006.

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. 917 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. 917

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 4.5 ACRES DESCRIBED AS TAX LOT 2500 OF TAX MAP 3-1E-27C LOCATED at 1732 N. PINE 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 16, 2006 ELECTION.

WHEREAS, the Canby City Council has heretofore approved an application filed by Norman and Jenny Beck, the owners of tax lot 2500 of Tax Map 3-1E-27C, to annex 4.5 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 16, 2006 in order to appear on the ballot for the May 16, 2006 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 16, 2006 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 16, 2006 election.

This Resolution shall take effect on February 15, 2006.

ADOPTED this 15th day of February, 2006, by the Canby City Council.

Melody Thompson - Mayor

ATTEST:

Kimberly Scheafer
City Recorder, Pro-Tem

EXPLANATORY STATEMENT FOR VOTER'S PAMPHLET

MEASURE APPROVING ANNEXATION OF 4.5 ACRES INTO THE CITY OF CANBY

Measure No. _____

Word Total 384 (500 max)

This measure would approve the annexation of 4.5 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 2500 of Tax Map 3-1E-27C and is located generally in the northeast part of the City. Tax Lot 2500 is currently zoned Rural Residential Farm and Forest (RRFF-5) under County zoning. If annexation into the City is approved by the voters, the parcel would be rezoned to R-1, Low Density Residential, as required under the City's Comprehensive Land Use Plan (Comp Plan) and Zoning Map.

Tax Lot 2500 is owned by Norman and Jenny Beck. The Becks have filed the 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 1732 N Pine Street, south of NE Territorial Road, west of the Logging Road Trail. The property currently contains one single family residence. Adjacent properties to the north and east are within current city limits. Adjacent properties to the south and west are located outside the current city limits. Property to the north and west are zoned for Medium Density Residential. Property to the north is zoned High Density Residential and contains the Willamette Grove Apartments. Properties to the south, east and west are all zoned Low Density Residential. Under the R-1 zoning regulations, the applicant could construct up to 18 single family lots, however in their application they indicate that, at this time, they simply want to build one additional single family residence for a family member. 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

**CITY OF CANBY
NOTICE OF CITY MEASURE ELECTION
FOR THE MAY 16, 2006 ELECTION**

NOTICE IS HEREBY GIVEN that on Tuesday, May 16, 2006, 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 4.5 ACRES INTO CITY OF CANBY.

QUESTION: SHALL 4.5 ACRES LOCATED AT 1732 N PINE STREET, SOUTH OF NE TERRITORIAL ROAD, BE ANNEXED INTO CANBY?

SUMMARY: Annexation is the legal process to bring property into the City limits. Norman and Jenny Beck have filed an application as owners of a 4.5 acre parcel, asking the City to bring it into the City limits. The legal description of the property is Tax Lot 2500 of Tax Map 3-1E-27C. The parcel is located at 1732 N Pine Street, south of NE Territorial Road, west of the Logging Road Trail. This application has previously been approved by the City Council following a public hearing on January 18, 2006. The property currently contains one single family residence. It is currently zoned Rural Residential Farm and Forest (RRFF 5) by Clackamas County. The City's Zoning Map designates the property for Low Density Residential (R-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

February 2, 2006

Memo to: Mayor/City Council

From: John H. Kelley, City Attorney

Re: Resolution No. 918 - Ballot measure/Summary for Voter's Pamphlet for
Annexation 05-07 – NetterBeck Annexation

Attached is Resolution No. 918. It certifies to Clackamas County elections department for the May 16, 2006 election, Annexation 05-07, 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 16, 2006.

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. 918

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 16, 2006 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 16, 2006 in order to appear on the ballot for the May 16, 2006 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 16, 2006 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 16, 2006 election.

This Resolution shall take effect on February 15, 2006.

ADOPTED this 15th day of February, 2006, by the Canby City Council.

Melody Thompson - Mayor

ATTEST:

Kimberly Scheafer
City Recorder, Pro-Tem

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

**CITY OF CANBY
NOTICE OF CITY MEASURE ELECTION
FOR THE MAY 16, 2006 ELECTION**

NOTICE IS HEREBY GIVEN that on Tuesday, May 16, 2006, 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 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 January 18, 2006. 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

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 which 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.

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
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 _____

NAYS _____

Melody Thompson
Mayor

ATTEST:

Kimberly Scheafer
City Recorder Pro Tem

ORDINANCE NO. 1201

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH RON ROBINSON HOME BUILDER OF CANBY, OREGON FOR THE REMODEL AT THE CANBY TRANSIT OFFICES; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Canby wishes to enlarge the existing square footage of the Transit Offices; and

WHEREAS, the cost of the remodel will be paid by the City of Canby which has budgeted said purchase for the fiscal year 2005-2006 budget; and

WHEREAS, in accordance with ORS Chapter 279 and Canby Public Purchasing Rules as set forth in Ordinance No. 1170 and Resolution No. 897, three written bids were obtained for the remodel of the Transit Offices as follows:

- | | |
|---------------------------------|-------------|
| 1. Ron Robinson Home Builder | \$21,143.00 |
| 2. Bland Construction Co., Inc. | \$22,110.00 |
| 3. E & M Construction | \$23,000.00 |

WHEREAS, Ron Robinson Home Builder of Canby, Oregon submitted the lowest quote of \$21,143.00

WHEREAS, the City Council meeting and acting as the Contract Review Board for the City of Canby has reviewed this quote, reviewed the staff report and believes it to be in the best interest of the City to enter into this contract; 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, a contract with Ron Robinson Home Builder of Canby, Oregon for the remodel at the Canby Transit offices for the quoted amount of \$21,143.00.

Section 2. In so much as it is in the best interest of the citizens of the City of Canby, Oregon to remodel the Canby Transit Offices without further delay, and to better serve the citizens of Canby, an emergency is hereby declared to exist and this ordinance shall therefore take effect immediately upon its enactment after final reading.

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on February 1st, 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 February 15th, 2006, 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 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 _____

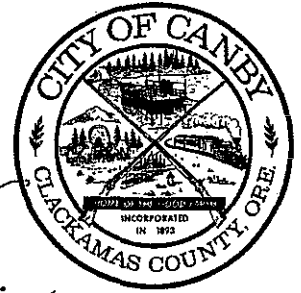
NAYS _____

Melody Thompson, Mayor

ATTEST:

Kimberly Scheafer,
City Recorder - Pro Tem

MEMORANDUM



TO: *Honorable Mayor Thompson and City Council*
FROM: *John R. Williams, Community Development & Planning Director*
DATE: *February 7, 2006*
THROUGH: *Mark C. Adcock, City Administrator*

Issue: Ordinance 1202, engineering services for SE 2nd Avenue street project.

Synopsis: This ordinance awards design and construction engineering services to Curran-McLeod, Inc., the city's contract engineering firm, in a total amount not to exceed \$62,100.

Recommendation: Staff recommends that the City Council approve Ordinance 1202, awarding the design and construction engineering contract for the SE 2nd Avenue street and utility project to Curran-McLeod, Inc.

Rationale: Curran-McLeod, Inc. has provided contract engineering services to the City for many years. Curran-McLeod has worked extensively on this project over the past three years and we can capitalize on this history to save money and time in the engineering process. The firm also has long experience in working with Clackamas County on CDBG projects such as this one.

Background: The proposed contract will be paid for by a \$260,000 CDBG grant from Clackamas County, the City's matching funds of \$95,000, and by the Sanitary Sewer SDC since we are replacing certain pipelines at the same time the street project is completed. Design engineering expenses will not exceed \$28,600 (low because much of the work has been completed previously so that the City could apply for the grant and obtain right-of-way). Construction engineering expenses will not exceed \$33,500, including \$7,500 in construction surveys and \$14,000 in inspection costs.

Options: 1. Seek more estimates for these engineering services and delay adoption of the ordinance until this information is in hand. Staff does not recommend this option because we are confident in Curran-McLeod's work and would like to move forward with the next stages of this project.

Attached: Summary report of costs, Ordinance 1202, and proposed contract.

THIS HAS BEEN REVIEWED
BY THE FINANCE DIRECTOR
W. J. [Signature]

ORDINANCE NO. 1202

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH CURRAN-MCLEOD, INC. CONSULTING ENGINEERS FOR ENGINEERING SERVICES ON THE SE 2ND AVENUE STREET AND UTILITY IMPROVEMENTS; AND DECLARING AN EMERGENCY.

WHEREAS, the CITY OF CANBY has heretofore advertised and received proposals for municipal engineering services, completed oral interviews and selected CURRAN-McLEOD, INC. for the City's Engineer of Record; and

WHEREAS, CURRAN-McLEOD, INC. has previously provided facility planning, pre-design reports, preliminary engineering and cost estimates for engineering and construction for the SE 2nd Avenue street and utility improvement project; and

WHEREAS, the CITY OF CANBY anticipates the need to complete construction of the SE 2nd Avenue street and utility improvements within calendar year 2006; 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 CURRAN-MCLEOD, INC for engineering services in an amount not to exceed \$62,100 (Attached as Exhibit "A").

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, February 15, 2006; ordered posted as required by the Canby City Charter and scheduled for second reading on Wednesday, March 1, 2006, 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 1st day of March, 2006, by the following vote:

YEAS _____ NAYS _____

Melody Thompson, Mayor

ATTEST:

Kim Scheafer, City Recorder Pro-Tem

January 24, 2006

CURRAN-McLEOD, INC.
CONSULTING ENGINEERS

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

Mr. John Williams
City of Canby
182 N. Holly Street
Canby, OR 97013

**RE: CITY OF CANBY
SE 2nd AVENUE STREET & UTILITY IMPROVEMENTS**

Dear John;

This letter is to define the scope of engineering services for the reconstruction of SE 2nd Avenue from Ivy Street to the eastern end of the roadway. The work will be completed in compliance with the requirements of the Clackamas County Community Development Block Grant program. This letter is attached as Exhibit "A" to the engineering contract between the City of Canby and Curran-McLeod, Inc.

The project has two components, the first being the street improvements that are funded with a CDBG award which were identified in the CDBG grant application. In addition, the second component of work is the replacement of sanitary sewer pipelines as identified in the 1999 Wastewater Collection System Master Plan.

The scope of engineering services is estimated below:

DESIGN PHASE ENGINEERING:

Field Design Surveys	\$3,600
Roadway Design	\$5,500
Sanitary Sewer Design	\$4,500
Storm Drainage System	\$3,500
Water System Modifications	\$2,000
Graphics, 6 sheets 1" = 20'	\$7,000
Contract Documents & Specs	\$2,500
Total Design Phase	\$28,600

Mr. John Williams
January 24, 2006
Page 2

CONSTRUCTION PHASE ENGINEERING:

Bid Process & Award	\$3,000
Construction Surveys	\$7,500
Contract Admin, 14 wks @ 4 hrs	\$5,000
Contract Insp, 10 wks @ 16 hrs	\$14,000
As-Built & Closeout	\$4,000
Total Construction Phase	\$33,500

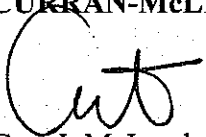
This work scope does not include acquisition of easements or negotiations of any right-of-way. The efforts for those tasks have been expended over the past several months, and the City has been invoiced for that directly. There is some additional work needed to secure the easements and right-of-way, and our office will assist as needed and continue to bill the City directly for that work.

All right-of-way efforts appear to be coming to a conclusion and construction should be able to proceed by May for completion by September 1st or earlier.

Please let me know if you have any questions or concerns. We have enclosed a contract for this work for your consideration.

Very truly yours,

CURRAN-McLEOD, INC.


Curt J. McLeod, PE

AGREEMENT FOR ENGINEERING SERVICES

This Agreement is made this ____ day of _____, 2006, by and between **CITY OF CANBY**, Oregon, hereafter referred to as the OWNER, and **CURRAN-McLEOD, INC. Consulting Engineers**, Portland, Oregon, hereafter referred to as the ENGINEER.

The OWNER intends to improve approximately 1810 lineal feet of SE 2nd Avenue from South Ivy Street to the eastern end of the roadway, including realigning the connection at South Ivy Street to align with the existing SW 2nd Avenue, as well as replace the existing sanitary sewer lines identified in the 1999 Wastewater Collection System Master Plan between South Ivy Street and South Locust Street, to serve the present and future needs of the City of Canby, and for which the ENGINEER agrees to perform the various professional engineering services for the design and construction of said improvements.

WITNESSETH

That for and in consideration of the mutual covenants and promises between the parties hereto, it is hereby agreed:

SECTION A - ENGINEERING SERVICES

The ENGINEER shall furnish engineering services to accomplish the work identified above and as more specifically identified in the January 24, 2006 correspondence attached as Exhibit A:

1. The ENGINEER will attend conferences with the OWNER, representatives of the State, or other interested parties as may be required for completion of the work previously described.
2. After the OWNER directs the ENGINEER to proceed, the ENGINEER will perform the necessary alignment determination, accomplish the detailed design of the projects, prepare construction Drawings, Specifications and Contract Documents, and prepare a final cost estimate based on the final design. It is also understood that if subsurface explorations (such as borings, soil tests, rock soundings and the like) are required, the ENGINEER will furnish coordination of said explorations without additional charge, but the costs incident to such explorations shall be paid for by the OWNER as set out in Section D hereof.

Statements of probable construction costs and detailed cost estimates prepared by the ENGINEER represent his best judgement as a design professional familiar with the Construction Industry. It is recognized, however, that neither the ENGINEER nor the OWNER has any control over the cost of labor, materials or equipment, over the Contractor's method of determining bid prices, or over competitive bidding or market conditions. Accordingly the ENGINEER cannot and does not guarantee that bids will not vary from any statement of probable construction cost or other cost estimate prepared by the ENGINEER.

3. The Contract Documents furnished by the ENGINEER under Section A-2 shall include the higher of the Davis Bacon State or State of Oregon Wage Rates, and OWNER, Clackamas County Community Development Block Grant, and state requirements as appropriate.
4. Prior to the advertisement for bids, the ENGINEER will provide for each Construction Contract, not to exceed 10 copies of detailed Drawings, Specifications, and Contract Documents for use by the OWNER, and for appropriate Federal, State, and local agencies from whom approval of the project must be obtained. The cost of such drawings, Specifications, and Contract Documents shall be included in the basic compensation paid to the ENGINEER. The OWNER pays the cost of permits and review fees as provided in Section F-2 of this Agreement.

5. The drawings prepared by the ENGINEER under the provisions of Section A-2 above shall be in sufficient detail to permit the actual location of the proposed improvements on the ground. The ENGINEER shall prepare and furnish to the OWNER without any additional compensation, three copies of a map(s) showing the general location of needed construction easements and permanent easements and the land to be acquired. Property surveys, property plats, property descriptions, abstracting and negotiations for land rights shall be provided by the OWNER, unless the OWNER requests, and the ENGINEER agrees to provide those services. In the event the ENGINEER is requested to provide such services, the ENGINEER shall be additionally compensated as set out in Section D hereof, unless this task is identified and included in the proposed scope of work herein..
6. The ENGINEER will furnish additional copies of the Drawings, Specifications and Contract Documents as required by prospective bidders, materials suppliers, and other interested parties, but may charge them for the reasonable cost of such copies. Upon award of each contract, the ENGINEER will furnish to the OWNER five sets of the Drawings, Specifications and Contract Documents for execution. The cost of these sets shall be included in the basic compensation paid to the ENGINEER. Drawings and Specifications as instruments of service are and shall remain the property of the ENGINEER whether the project for which they are made is executed or not. They are not to be used by the OWNER on other projects or extensions to this project except by agreement in writing and with appropriate compensation to the ENGINEER.
7. The ENGINEER will require prospective contractors to file an approved Pre-qualification Form with the Oregon Department of Transportation and will require a Bid Bond not to exceed 10% in the Bidding Documents to secure the Bid.
8. The ENGINEER will attend the bid opening and tabulate the bid proposals, make an analysis of the bids, make recommendations for awarding contracts for construction.
9. The ENGINEER will assist in the Preconstruction Conference, and will review and approve, for conformance with the design concept, any necessary shop and working drawings furnished by Contractors.
10. The ENGINEER will interpret the drawings and specifications to protect the OWNER against defects and deficiencies in construction on the part of the Contractor. The ENGINEER will not, however, guarantee the performance of any Contractor. Planning and design of the project and construction engineering services shall be accomplished with due diligence and in conformance with accepted standards of the practice of professional engineering.
11. The ENGINEER will provide general engineering review of the work of the contractors as construction progresses to assure conformance with the design concept. A written record of site visits during construction shall be maintained by the ENGINEER.
12. The ENGINEER will establish baselines and grades for locating the work together with a suitable number of bench marks adjacent to the work as shown in the Contract Documents.
13. The ENGINEER, as representative of the OWNER during the construction phase, shall advise and consult with the OWNER and all of the OWNER'S instructions to the Contractor shall be issued through the ENGINEER. The ENGINEER shall have the authority to act on behalf of the OWNER to the extent provided in this Agreement.
14. Unless otherwise requested by the OWNER in writing, the ENGINEER will not provide Resident Construction Inspection. The ENGINEER'S undertaking construction inspection hereunder shall not relieve the Contractor of Contractor's obligation to perform the work in conformity with the Drawings and Specifications and in a workmanlike manner; shall not make the ENGINEER an

insurer of the Contractor's performance; and shall not impose upon the ENGINEER any obligation to see that the work is performed in a safe manner.

15. The ENGINEER will review the Contractor's applications for progress and final payment and, when approved, submit same to the OWNER for payment.
16. The ENGINEER will prepare and review necessary contract Change Orders on a timely basis for consideration of approval by the OWNER.
17. The ENGINEER and a representative of the OWNER will make an inspection of the project or project element to determine the status of completion. The ENGINEER may issue a Certificate of Substantial Completion consistent with the General Conditions of the Construction Contract Documents.
18. The ENGINEER will provide the OWNER with one set of reproducible record drawings and two sets of prints at no additional cost to the OWNER. Such drawings will be based upon construction records provided by the Contractor during construction, as specifically required in the Construction Contract, and reviewed by the ENGINEER, and from the ENGINEER'S construction data.
19. If State statutes require notices and advertisements of final payment, the ENGINEER shall assist in their preparation.
20. The ENGINEER will be available for site visits to furnish engineering services and consultations necessary to correct unforeseen project operation difficulties for a period of one year after the date of Statement of Substantial Completion of the facility. The ENGINEER will assist the OWNER in performing a review of the project during the 11th month after the date of the Certificate of Substantial Completion.

SECTION B - COMPENSATION FOR ENGINEERING SERVICES

1. The OWNER shall compensate the ENGINEER for services in accordance with the following schedule:

Design Engineering (as identified in the attached letter dated January 24, 2006 exhibit A):

- Twenty Eight Thousand six hundred Dollars (\$28,600)

Construction Engineering:

- Thirty Three Thousand Five Hundred Dollars (\$33,500)

2. The compensation for the above Engineering Services shall be as follows:
 - a. Design Services shall include items A-1 through A-5.
 - b. Billings shall be submitted monthly by the ENGINEER for Design Services during the previous month. Payments shall be made for these billings within 30 days. Billings shall be based on percent of completion of Design Services. The ENGINEER will provide a

status report with the billing as requested.

- c. Construction Engineering Services and Construction Inspection shall include items A-6 through A-20 and shall be billed by the ENGINEER on an hourly basis. The total shall not exceed the budget figures under Article B.1 above without the express written authorization of the OWNER.
 - d. Where hourly rates are used, they shall be in accordance with the Standard Hourly Rate Schedule, attached herewith and referenced Exhibit B.
 - e. In the event of multiple construction contracts, the ENGINEER may negotiate revised figures under Article B.1.
3. The budget figures shown above shall not be exceeded except by express written authorization of the OWNER.
 4. Billings for Engineering Services shall be submitted in a format consistent with the payment provisions and format of the Agreement.

SECTION C - RESIDENT CONSTRUCTION INSPECTION

If the OWNER requests the ENGINEER to provide Resident Construction Inspection, the ENGINEER will, prior to the Preconstruction Conference, submit a resume of the Resident Inspector's qualifications, anticipated duties and responsibilities for approval by the OWNER. The OWNER agrees to pay the ENGINEER for such services in accordance with the "Inspector" rate schedule set out in Exhibit B. The ENGINEER will render to OWNER for such services performed hereunder during such period, the same to be due and payable by the OWNER to the ENGINEER on or before the 10th day of the following period. A separate agreement shall be negotiated for Resident Construction Inspections Services setting out estimated hours required and maximum estimated fees and charges.

SECTION D - ADDITIONAL ENGINEERING SERVICES

In addition to the foregoing being performed, the following services may be provided UPON WRITTEN AUTHORIZATION OF THE OWNER.

1. Financial feasibility or other special studies.
2. Record boundary surveys or other similar surveys, excepting surveys required to locate the construction project, or as identified in the scope of work.
3. Laboratory tests, borings, specialized geological, soil, hydraulic, or other studies recommended by the ENGINEER.
4. Record property surveys, detailed descriptions of sites, maps, drawings, or estimates related thereto; assistance in negotiating for land and easement rights.
5. Necessary data and filing maps for storm water discharge permits, water rights, adjudication, and litigation.
6. Redesigns not initiated by the ENGINEER after final Plans and Specifications have been approved by the OWNER, except redesigns to reduce the project cost to within the funds available.
7. Appearances before courts or boards on matters of litigation or hearings related to the project and

providing services as an expert witness in connection with any public hearing, arbitration proceeding, or the proceedings of a court of record.

8. Preparation of Environmental Assessments or Environmental Impact Statement (E.I.S.).
9. Performance of detailed staking necessary for construction of the project in excess of the control staking set forth in Section A-12.
10. Preparing documents for alternate bids requested by the OWNER.
11. Providing consultation concerning replacement of any work damaged by fire or other cause during construction, and furnishing professional services of the type set forth as previously mentioned in this Agreement as may be required in connection with the replacement of such work.
12. Providing professional services made necessary by the default of the Contractor in the Construction Contract.
13. Providing construction engineering and inspection services after the construction contract time has been exceeded.

Unless identified as included in the proposed scope of work herein, payment for the services specified in this Section D shall be as agreed in writing prior to commencement of the work. The ENGINEER will render to OWNER for such services an itemized bill, once each month, for compensation for services performed hereunder during such period, the same to be due and payable by OWNER to the ENGINEER within 30 days.

SECTION E - OWNER'S RESPONSIBILITIES

1. The OWNER shall provide full information regarding his requirements for the project.
2. The OWNER shall designate, when necessary, a representative authorized to act in his behalf with respect to the project. The OWNER or his representative shall examine documents submitted by the ENGINEER and shall render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of the ENGINEER'S work.
3. The OWNER shall furnish all pertinent existing mechanical, chemical or other laboratory tests, inspections and reports as required by law or the Contract Documents, and which may impact the design.
4. The OWNER shall furnish such legal, accounting and insurance counseling services as may be necessary for the project, and such auditing services as he may require to ascertain how or for what purposes the CONTRACTOR has used the moneys paid to him under the Construction Contract.
5. If the OWNER observes or otherwise becomes aware of any fault or defect in the project or non-conformance with the Contract Documents, he shall give prompt oral notice with written confirmation thereof to the ENGINEER.
6. The OWNER shall furnish information required of him as expeditiously as necessary for the orderly progress of the work.

SECTION F - SPECIAL PROVISIONS

The following is agreed to by both parties:

1. That the OWNER reserves the right to request replacement of any Resident Inspector(s) furnished by the ENGINEER or to furnish the Resident Inspector(s) from the OWNER'S own forces, subject to the approval of the ENGINEER regarding the qualifications of the Resident Inspector(s). If the OWNER furnishes the Resident Inspector(s), the OWNER agrees that the Resident Inspector(s) will be under the direction and supervision of the ENGINEER.
2. That the OWNER shall pay for advertisement for bids, building or other permits, licenses, technical review fees, etc., as may be required by local, State or Federal authorities, and shall secure the necessary land easements and rights-of-way.
3. The ENGINEER will endeavor to assure compliance of his work with applicable State and Federal requirements.
4. That insofar as the work under this Agreement may require, the OWNER shall furnish the ENGINEER all existing maps, field survey data, grades and lines of streets, pavements, and boundaries, rights-of-way, and other surveys presently available, which will be returned upon project completion. ENGINEER will provide the OWNER a copy of survey notes establishing bench marks and location of improvements.
5. That if the engineering work covered in this Agreement has not been completed on or after the expiration of a Twelve (12) month period from the date of execution of this Agreement, the OWNER or ENGINEER may, at the option of either, on written notice, request a renegotiation of Sections B, C, and D (providing for the compensation to be paid the ENGINEER for services rendered) to allow for changes in the cost of services. Such new schedule of compensation is to apply only to work performed by the ENGINEER after delivery date of such written notice.
6. That this Agreement is to be binding on the heirs, successors and assigns of the parties hereto and is not to be assigned by either party without first obtaining the written consent of the other. At least fifteen (15) days shall be allowed for such consent.
7. Attorney's fees: In the event a suit, arbitration or other legal action is required by either the OWNER or the ENGINEER to enforce any provision of this Agreement, the prevailing parties shall be entitled to all reasonable costs and reasonable attorney's fees upon litigation or upon appeal.
8. Termination
 - a. This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given (1) not less than ten (10) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) an opportunity for consultation with the terminating party prior to termination.
 - b. The Agreement may be terminated in whole or in part in writing by the OWNER for its convenience, provided that the ENGINEER is given (1) not less than ten (10) calendar days' written notice, (delivered by certified mail, return receipt requested) of intent to terminate, and (2) opportunity for consultation with the terminating party prior to termination.
 - c. If termination for default is effected by the OWNER an equitable adjustment in the price

provided for in the Agreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due to the ENGINEER at the time of termination may be adjusted to cover any additional costs to the OWNER because of the ENGINEER'S default. If termination for default is effected by the ENGINEER, or if termination for convenience is effected by the OWNER, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to the termination, in addition to termination settlement costs reasonably incurred by the ENGINEER relating to commitments which had become firm prior to the termination.

- d. Upon receipt of a termination action under paragraphs a. or b. above, the ENGINEER shall (1) promptly discontinue all affected work (unless the notice directs otherwise), and (2) deliver or otherwise make available to the OWNER reproducible data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the ENGINEER in performing this Agreement whether completed or in process.
 - e. Upon termination under paragraphs a. or b. above, the OWNER may take over the work and may award another party a contract to complete the work under this Agreement.
 - f. If, after termination for failure of the ENGINEER to fulfill contractual obligations, it is determined that the ENGINEER had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the OWNER. In such event, adjustment of the Agreement price shall be made as provided in paragraph c. of this clause.
9. The ENGINEER agrees to insure, hold harmless and indemnify the OWNER against all claims, damages, losses and costs, including costs of defense, arising out of the negligent performances of services under this Agreement. OWNER may make claim under applicable law against ENGINEER or ENGINEER'S insurance carriers for any loss, damage or cost arising out of ENGINEER'S negligent performance of services under this Agreement.
10. The ENGINEER agrees to acquire and maintain for the duration of this Agreement, Professional Liability Insurance in the nominal amount of \$1,000,000. The ENGINEER further agrees to obtain and maintain, at the ENGINEER'S expense, such insurance as will protect the ENGINEER from claims under the Worker's Compensation Act and such comprehensive general liability insurance as will protect the OWNER and the ENGINEER from all claims for bodily injury, death, or property damage which may arise from the performance by the ENGINEER or by the ENGINEER'S employees of the ENGINEER'S functions and services required under this Agreement.
11. The ENGINEER will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The ENGINEER will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin, such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; lay off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
12. ENGINEER covenants that he presently has no interest and shall not acquire interest, direct or indirect, which would conflict in any manner or degree with the performance of his services under this Agreement. Any interest on the part of the ENGINEER or his employees must be disclosed to the OWNER.

13. **INDEPENDENT CONTRACTOR.** It is agreed that ENGINEER is providing the services hereunder as an independent contractor and not as an employee of OWNER.

OWNER shall have no right to control the manner of the performance of the services, but may place restrictions on ENGINEER relating to use of OWNER'S premises. As an independent contractor, ENGINEER shall not be eligible to receive benefits otherwise provided to employees of the OWNER.

14. The records and documents with respect to all matters covered by the Agreement shall be subject at all times to inspection, review or audit by the OWNER, County, Federal or State officials so authorized by law during the performance of this contract. Required records shall be retained for a period of three (3) years after termination of this Agreement.
15. No member or delegate to the Congress of the United States and no Resident Commissioner or City Official shall be admitted to any share or part of this Agreement or to any benefit that may arise hereunder.
16. This CONTRACT shall be construed according to the laws of the State of Oregon. Any litigation between the OWNER and the ENGINEER or out of work performed under this CONTRACT shall occur, if in the state courts, in the Clackamas County Court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the District of Oregon.
17. This Agreement, including Exhibits A and B, represents the entire integrated agreement between the OWNER and the ENGINEER and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the OWNER and ENGINEER.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in duplicate on the respective dates indicated below.

OWNER:

CITY OF CANBY

BY: _____

TITLE: _____

DATE: _____

ENGINEER:

CURRAN-McLEOD, INC.

BY: _____

TITLE: _____ Secretary / Treasurer

DATE: _____

January 24, 2006

**CURRAN-McLEOD, INC.
CONSULTING ENGINEERS**

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

Mr. John Williams
City of Canby
182 N. Holly Street
Canby, OR 97013

**RE: CITY OF CANBY
SE 2nd AVENUE STREET & UTILITY IMPROVEMENTS**

Dear John;

This letter is to define the scope of engineering services for the reconstruction of SE 2nd Avenue from Ivy Street to the eastern end of the roadway. The work will be completed in compliance with the requirements of the Clackamas County Community Development Block Grant program. This letter is attached as Exhibit "A" to the engineering contract between the City of Canby and Curran-McLeod, Inc.

The project has two components, the first being the street improvements that are funded with a CDBG award which were identified in the CDBG grant application. In addition, the second component of work is the replacement of sanitary sewer pipelines as identified in the 1999 Wastewater Collection System Master Plan.

The scope of engineering services is estimated below:

DESIGN PHASE ENGINEERING:

Field Design Surveys	\$3,600
Roadway Design	\$5,500
Sanitary Sewer Design	\$4,500
Storm Drainage System	\$3,500
Water System Modifications	\$2,000
Graphics, 6 sheets 1" = 20'	\$7,000
Contract Documents & Specs	\$2,500
Total Design Phase	\$28,600

Mr. John Williams
January 24, 2006
Page 2

CONSTRUCTION PHASE ENGINEERING:

Bid Process & Award	\$3,000
Construction Surveys	\$7,500
Contract Admin, 14 wks @ 4 hrs	\$5,000
Contract Insp, 10 wks @ 16 hrs	\$14,000
As-Built & Closeout	\$4,000
Total Construction Phase	\$33,500

This work scope does not include acquisition of easements or negotiations of any right-of-way. The efforts for those tasks have been expended over the past several months, and the City has been invoiced for that directly. There is some additional work needed to secure the easements and right-of-way, and our office will assist as needed and continue to bill the City directly for that work.

All right-of-way efforts appear to be coming to a conclusion and construction should be able to proceed by May for completion by September 1st or earlier.

Please let me know if you have any questions or concerns. We have enclosed a contract for this work for your consideration.

Very truly yours,

CURRAN-McLEOD, INC.



Curt J. McLeod, PE

STANDARD HOURLY RATES

Effective March 1, 2005

Senior Principal Engineer	\$ 112.00
Principal Engineer	98.00
Project Engineer	88.00
Systems Designer	88.00
Design Technician	65.00
Graphics Technician	55.00
Word Processing	42.00
Resident Project Representative	65.00

REIMBURSABLE EXPENSES

Reproduction expenses are at cost.

Auto expenses reimbursed at 40.5¢ per mile.

Per diem expense at cost.

CURRAN-McLEOD, INC., Consulting Engineers

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

FROM: Darvin Tramel
Curt J. McLeod, P.E.
CURRAN-McLEOD, INC.

DATE: February 7, 2006

ISSUE: WASTEWATER TREATMENT PLANT
CLARIFIER COATING SYSTEM REPAIRS
ORDINANCE No. 1203

SYNOPSIS: This staff report is transmitting for Council approval of a contract for coating system repairs on the North Clarifier at the Wastewater Treatment Plant. This contract is a change order following the completion of the South Clarifier, which will allow for identical system repairs to the North Clarifier based on a per unit price as established in Ordinance No. 1199

RECOMMENDATION: That the Council approve ordinance 1203 that authorizes the Mayor and City Administrator to execute a contract with HCI Industrial & Marine Coatings, Inc. in the amount of \$36,000 for the system repairs of the Wastewater Treatment Plant North Clarifier.

RATIONALE: To maintain the serviceability of the clarifier equipment at the treatment facility and to take advantage of cost and time savings by completing the second clarifier without any additional fees associated with bid documents, set up, or increases in material and labor fees.

BACKGROUND: The City received four bids for the recoating project with HCI Industrial having the low bid and receiving the contract for \$36,000.

As was noted in the staff report for Ordinance No 1199: The contract was based on a "per each" price so if the contract progresses smoothly, the Council may be asked later in the spring to extend the price to complete the second clarifier also. At this time staff and I would like to ask that the contract be extended to the second clarifier

FISCAL IMPACT: This project is funded through the Wastewater Department Sewer Reserve, line item Capital Building Expense 306-318-434-7200.

THIS HAS BEEN REVIEWED
BY THE FINANCE DIRECTOR

Chaurice R. Ruffin

ORDINANCE NO. 1203

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE CHANGE ORDER NUMBER 1 WITH HCI INDUSTRIAL AND MARINE COATINGS, INC FOR COATING REPAIRS TO THE WASTEWATER TREATMENT PLANT SECONDARY CLARIFIER; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Canby has heretofore solicited and received bids for the Wastewater Treatment Plant Clarifier Coating Repairs; and

WHEREAS, bids were received and opened on December 13, 2005 at 2:00 pm in the Canby Planning Department Conference Room with the low responsive bid being that of HCI Industrial & Marine Coatings, Inc; and

WHEREAS, the Canby City Council finds that OAR 137-047-0800(1)(a)(B)(i) allows contract amendments without additional competition to add additional services within the scope of the original bid process when the price was based on unit prices and the price of the additional services is not increased; and

WHEREAS, the Canby City Council, acting as the City's Contract Review Board, met on Wednesday, January 4, 2006, and awarded a construction contract to HCI Industrial & Marine Coatings, Inc; and

WHEREAS, the Canby City Council met on Wednesday, January 18, 2006, and approved execution of a contract with HCI Industrial & Marine Coatings, Inc;

WHEREAS, the Canby City Council met on Wednesday, February 15, 2006 and considered reports and recommendations on Change Order Number 1, including the recommendation of the Wastewater Treatment Plant Supervisor that Change Order Number 1 be approved; now therefore

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. The Mayor and City Administrator are hereby authorized and directed execute, and declare in the name of the City of Canby and on its behalf, the attached Change Order Number 1 with HCI Industrial & Marine Coatings, Inc. A copy of a Change Order Number 1 with HCI Industrial & Marine Coatings, 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, February 15, 2006; ordered posted as required by the Canby City Charter and scheduled for second reading on Wednesday, March 1, 2006, 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 Pro-Tem

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 1st day of March, 2006, by the following vote:

YEAS _____

NAYS _____

Melody Thompson
Mayor

ATTEST:

Kimberly Scheafer
City Recorder Pro-Tem

CHANGE ORDER NO. 1

Date: February 6, 2006

OWNER'S Project No. --- ENGINEER'S Project No. 1463

Project **WASTEWATER TREATMENT PLANT
CLARIFIER COATING REPAIRS**

CONTRACTOR **HCI INDUSTRIAL & MARINE COATINGS**

Contract For: Clarifier Recoating Contract Date: January 30, 2006

To **HCI INDUSTRIAL & MARINE COATINGS**
CONTRACTOR

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

CITY OF CANBY
OWNER

By _____

Dated _____

Nature of Changes

1. Add recoating of the north secondary clarifier per the unit bid price of thirty six thousand dollars per clarifier.

TOTAL CHANGE ORDER \$36,000.

Exhibit "A"

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

Contract Price Prior to This Change Order \$ 36,000.00

Net (Increase) (~~Decrease~~) Resulting from this Change Order \$ 36,000.00

Current contract Price Including This Change Order \$ 72,000.00

Contract Time Prior to This Change Order 30
(Days or Date)

Net (Increase) (~~Decrease~~) Resulting from This Change Order 30
(Days)

Current Contract Time Including This Change Order 60
(Days or Date)

The Above Changes Are Approved:

CURRAN-McLEOD, INC.

ENGINEER

By

Dated

The Above Changes Are Accepted:

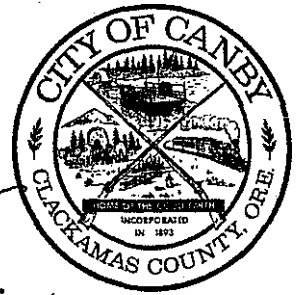
HCI Industrial & Marine Coatings, Inc

CONTRACTOR

By

Dated

MEMORANDUM



TO: *Honorable Mayor Thompson and City Council*
FROM: *John R. Williams, Community Development & Planning Director*
DATE: *February 7, 2006*
THROUGH: *Mark C. Adcock, City Administrator*

Issue: Ordinance 1204, engineering services for Hazel Dell Pump Station.

Synopsis: This ordinance awards design and construction engineering services to Curran-McLeod, Inc., the city's contract engineering firm, in a total amount not to exceed \$32,800.

Recommendation: Staff recommends that the City Council approve Ordinance 1204, awarding the design and construction engineering contract for the Hazel Dell Pump Station to Curran-McLeod, Inc.

Rationale: Curran-McLeod, Inc. has provided contract engineering services to the City for many years. The firm created our sanitary sewer collections system master plan and is very familiar with this project. They have provided design and construction engineering services for the Hazel Dell Way street and utility project that this project will connect with.

Background: The proposed contract will be paid for by the City's Sanitary Sewer SDC fund. This project has been anticipated and funds are available. The Urban Renewal District has agreed to provide "up-front" funding for construction costs, if needed, but such support is not needed for this current contract.

Options: 1. Seek more estimates for these engineering services and delay adoption of the ordinance until this information is in hand. Staff does not recommend this option because we are confident in Curran-McLeod's work and would like to move forward with the next stages of this project.

Attached: Summary report of costs, Ordinance 1204, and proposed contract.

THIS HAS BEEN REVIEWED
BY THE FINANCE DIRECTOR
Chauve Seyal

February 6, 2006

CURRAN-McLEOD, INC.
CONSULTING ENGINEERS

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

Mr. John Williams,
Community Development & Planning Director
City of Canby
170 NW 2nd Avenue
Canby, OR 97013

**RE: CITY OF CANBY
HAZEL DELL PUMPING STATION ENGINEERING**

Dear John;

Attached is an engineering contract for the design and construction of what is now called the Hazel Dell Pumping Station, previously the Redwood Pumping Station. This is the station that will serve the Burden 2 development and adjoining properties.

Engineering costs for the station are based on purchasing a packaged station sole sourced from Pump Tech. The City has taken action to sole source similar stations in the past and part of our engineering task will be to provide John Kelley with the information he needs for the Council to again approve a sole source contract for the equipment. The installation will still be provided by a local contractor and will be bid competitively.

The engineering costs are estimated as follows:

Sizing & Site Location	\$ 600
Design Survey	1,200
Site work design	2,000
Mechanical design	2,500
Collection sewer, 400' of 10" PVC	2,000
Force Main, 700' of 6" PVC	2,000
Electrical Design	4,000
Contract Documents	1,000
Graphics, estimated 5 sheets	3,600
DEQ Submittal & Approval	400
TOTAL DESIGN PHASE	\$19,300
Bid Award	\$1,000
Construction Staking	2,000
Contract Administration	4,000
Field Inspection	4,000
O & M Manual	2,500
TOTAL CONSTRUCTION PHASE	\$13,500

Mr. John Williams
February 6, 2006
Page 2

In addition to these costs the City will also need to pay a technical activity fee to DEQ for review and approvals.

Let me know if you have any questions.

Very truly yours,

CURRAN-McLEOD, INC.

A handwritten signature in black ink, appearing to read "Curt", with a stylized flourish at the end.

Curt J. McLeod, P.E.

cc: Roy Hester

ORDINANCE NO. 1204

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH CURRAN-MCLEOD, INC. CONSULTING ENGINEERS FOR ENGINEERING SERVICES ON THE HAZEL DELL WAY PUMPING STATION PROJECT; AND DECLARING AN EMERGENCY.

WHEREAS, the CITY OF CANBY has heretofore advertised and received proposals for municipal engineering services, completed oral interviews and selected CURRAN-MCLEOD, INC. for the City's Engineer of Record; and

WHEREAS, CURRAN-MCLEOD, INC. has previously provided facility planning, pre-design reports, preliminary engineering and cost estimates for engineering and construction for the Hazel Dell Way Pumping Station project; and

WHEREAS, the CITY OF CANBY anticipates the need to complete construction of the Hazel Dell Way Pumping Station project within calendar year 2006; 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 CURRAN-MCLEOD, INC for engineering services in an amount not to exceed \$32,800 (Attached as Exhibit "A").

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, February 15, 2006; ordered posted as required by the Canby City Charter and scheduled for second reading on Wednesday, March 1, 2006, 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 1st day of March, 2006, by the following vote:

YEAS _____ NAYS _____

Melody Thompson, Mayor

ATTEST:

Kim Scheafer, City Recorder Pro-Tem

AGREEMENT FOR ENGINEERING SERVICES

This Agreement is made this ____ day of _____, 2006, by and between **CITY OF CANBY**, Oregon, hereafter referred to as the OWNER, and **CURRAN-McLEOD, INC. Consulting Engineers**, Portland, Oregon, hereafter referred to as the ENGINEER.

The OWNER intends to install a wastewater pumping station including approximately 400 feet of collection sewer and 700 feet of force main on SE 1st Avenue per the Collection System Master Plan to serve the present and future needs of the City of Canby, and for which the ENGINEER agrees to perform the various professional engineering services for the design and construction of said improvements.

WITNESSETH

That for and in consideration of the mutual covenants and promises between the parties hereto, it is hereby agreed:

SECTION A - ENGINEERING SERVICES

The ENGINEER shall furnish engineering services to accomplish the work identified above and as more specifically identified in the January 9, 2006 correspondence attached as Exhibit A and Engineering scope correspondence dated February 6, 2006 attached as exhibit B:

1. The ENGINEER will attend conferences with the OWNER, representatives of the State, or other interested parties as may be required for completion of the work previously described.
2. After the OWNER directs the ENGINEER to proceed, the ENGINEER will perform the necessary alignment determination, accomplish the detailed design of the projects, prepare construction Drawings, Specifications and Contract Documents, and prepare a final cost estimate based on the final design. It is also understood that if subsurface explorations (such as borings, soil tests, rock soundings and the like) are required, the ENGINEER will furnish coordination of said explorations without additional charge, but the costs incident to such explorations shall be paid for by the OWNER as set out in Section D hereof.

Statements of probable construction costs and detailed cost estimates prepared by the ENGINEER represent his best judgement as a design professional familiar with the Construction Industry. It is recognized, however, that neither the ENGINEER nor the OWNER has any control over the cost of labor, materials or equipment, over the Contractor's method of determining bid prices, or over competitive bidding or market conditions. Accordingly the ENGINEER cannot and does not guarantee that bids will not vary from any statement of probable construction cost or other cost estimate prepared by the ENGINEER.

3. As applicable, the Contract Documents furnished by the ENGINEER under Section A-2 shall include the State of Oregon Prevailing Wage Rates, and OWNER, and state requirements as appropriate.
4. Prior to the advertisement for bids, the ENGINEER will provide for each Construction Contract, not to exceed 10 copies of detailed Drawings, Specifications, and Contract Documents for use by the OWNER, and for appropriate Federal, State, and local agencies from whom approval of the project must be obtained. The cost of such drawings, Specifications, and Contract Documents shall be included in the basic compensation paid to the ENGINEER. The OWNER pays the cost of permits and review fees as provided in Section F-2 of this Agreement.

5. The drawings prepared by the ENGINEER under the provisions of Section A-2 above shall be in sufficient detail to permit the actual location of the proposed improvements on the ground. The ENGINEER shall prepare and furnish to the OWNER without any additional compensation, three copies of a map(s) showing the general location of needed construction easements and permanent easements and the land to be acquired. Property surveys, property plats, property descriptions, abstracting and negotiations for land rights shall be provided by the OWNER, unless the OWNER requests, and the ENGINEER agrees to provide those services. In the event the ENGINEER is requested to provide such services, the ENGINEER shall be additionally compensated as set out in Section D hereof, unless this task is identified and included in the proposed scope of work herein..
6. The ENGINEER will furnish additional copies of the Drawings, Specifications and Contract Documents as required by prospective bidders, materials suppliers, and other interested parties, but may charge them for the reasonable cost of such copies. Upon award of each contract, the ENGINEER will furnish to the OWNER five sets of the Drawings, Specifications and Contract Documents for execution. The cost of these sets shall be included in the basic compensation paid to the ENGINEER. Drawings and Specifications as instruments of service are and shall remain the property of the ENGINEER whether the project for which they are made is executed or not. They are not to be used by the OWNER on other projects or extensions to this project except by agreement in writing and with appropriate compensation to the ENGINEER.
7. The ENGINEER will require prospective contractors to file an approved Pre-qualification Form with the Oregon Department of Transportation and will require a Bid Bond not to exceed 10% in the Bidding Documents to secure the Bid.
8. The ENGINEER will attend the bid opening and tabulate the bid proposals, make an analysis of the bids, make recommendations for awarding contracts for construction.
9. The ENGINEER will assist in the Preconstruction Conference, and will review and approve, for conformance with the design concept, any necessary shop and working drawings furnished by Contractors.
10. The ENGINEER will interpret the drawings and specifications to protect the OWNER against defects and deficiencies in construction on the part of the Contractor. The ENGINEER will not, however, guarantee the performance of any Contractor. Planning and design of the project and construction engineering services shall be accomplished with due diligence and in conformance with accepted standards of the practice of professional engineering.
11. The ENGINEER will provide general engineering review of the work of the contractors as construction progresses to assure conformance with the design concept. A written record of site visits during construction shall be maintained by the ENGINEER.
12. The ENGINEER will establish baselines and grades for locating the work together with a suitable number of bench marks adjacent to the work as shown in the Contract Documents.
13. The ENGINEER, as representative of the OWNER during the construction phase, shall advise and consult with the OWNER and all of the OWNER'S instructions to the Contractor shall be issued through the ENGINEER. The ENGINEER shall have the authority to act on behalf of the OWNER to the extent provided in this Agreement.

14. Unless otherwise requested by the OWNER in writing, the ENGINEER will not provide Resident Construction Inspection. The ENGINEER'S undertaking construction inspection hereunder shall not relieve the Contractor of Contractor's obligation to perform the work in conformity with the Drawings and Specifications and in a workmanlike manner; shall not make the ENGINEER an insurer of the Contractor's performance; and shall not impose upon the ENGINEER any obligation to see that the work is performed in a safe manner.
15. The ENGINEER will review the Contractor's applications for progress and final payment and, when approved, submit same to the OWNER for payment.
16. The ENGINEER will prepare and review necessary contract Change Orders on a timely basis for consideration of approval by the OWNER.
17. The ENGINEER and a representative of the OWNER will make an inspection of the project or project element to determine the status of completion. The ENGINEER may issue a Certificate of Substantial Completion consistent with the General Conditions of the Construction Contract Documents.
18. The ENGINEER will provide the OWNER with one set of reproducible record drawings and two sets of prints at no additional cost to the OWNER. Such drawings will be based upon construction records provided by the Contractor during construction, as specifically required in the Construction Contract, and reviewed by the ENGINEER, and from the ENGINEER'S construction data.
19. If State statutes require notices and advertisements of final payment, the ENGINEER shall assist in their preparation.
20. The ENGINEER will be available for site visits to furnish engineering services and consultations necessary to correct unforeseen project operation difficulties for a period of one year after the date of Statement of Substantial Completion of the facility. The ENGINEER will assist the OWNER in performing a review of the project during the 11th month after the date of the Certificate of Substantial Completion.

SECTION B - COMPENSATION FOR ENGINEERING SERVICES

1. The OWNER shall compensate the ENGINEER for services in accordance with the following schedule:

Design Engineering (as identified in the attached letter dated February 6, 2006 Exhibit B):

- Nineteen Thousand three hundred Dollars (\$19,300)

Construction Engineering:

- Thirteen Thousand Five Hundred Dollars (\$13,500)

2. The compensation for the above Engineering Services shall be as follows:
 - a. Design Services shall include items A-1 through A-5.

- b. Billings shall be submitted monthly by the ENGINEER for Design Services during the previous month. Payments shall be made for these billings within 30 days. Billings shall be based on percent of completion of Design Services. The ENGINEER will provide a status report with the billing as requested.
 - c. Construction Engineering Services and Construction Inspection shall include items A-6 through A-20 and shall be billed by the ENGINEER on an hourly basis. The total shall not exceed the budget figures under Article B.1 above without the express written authorization of the OWNER.
 - d. Where hourly rates are used, they shall be in accordance with the Standard Hourly Rate Schedule, attached herewith and referenced Exhibit C.
 - e. In the event of multiple construction contracts, the ENGINEER may negotiate revised figures under Article B.1.
- 3. The budget figures shown above shall not be exceeded except by express written authorization of the OWNER.
 - 4. Billings for Engineering Services shall be submitted in a format consistent with the payment provisions and format of the Agreement.

SECTION C - RESIDENT CONSTRUCTION INSPECTION

If the OWNER requests the ENGINEER to provide Resident Construction Inspection, the ENGINEER will, prior to the Preconstruction Conference, submit a resume of the Resident Inspector's qualifications, anticipated duties and responsibilities for approval by the OWNER. The OWNER agrees to pay the ENGINEER for such services in accordance with the "Inspector" rate schedule set out in Exhibit C. The ENGINEER will render to OWNER for such services performed hereunder during such period, the same to be due and payable by the OWNER to the ENGINEER on or before the 10th day of the following period. A separate agreement shall be negotiated for Resident Construction Inspections Services setting out estimated hours required and maximum estimated fees and charges.

SECTION D - ADDITIONAL ENGINEERING SERVICES

In addition to the foregoing being performed, the following services may be provided UPON WRITTEN AUTHORIZATION OF THE OWNER.

- 1. Financial feasibility or other special studies.
- 2. Record boundary surveys or other similar surveys, excepting surveys required to locate the construction project, or as identified in the scope of work.
- 3. Laboratory tests, borings, specialized geological, soil, hydraulic, or other studies recommended by the ENGINEER.
- 4. Record property surveys, detailed descriptions of sites, maps, drawings, or estimates related thereto; assistance in negotiating for land and easement rights.
- 5. Necessary data and filing maps for storm water discharge permits, water rights, adjudication, and litigation.

6. Redesigns not initiated by the ENGINEER after final Plans and Specifications have been approved by the OWNER, except redesigns to reduce the project cost to within the funds available.
7. Appearances before courts or boards on matters of litigation or hearings related to the project and providing services as an expert witness in connection with any public hearing, arbitration proceeding, or the proceedings of a court of record.
8. Preparation of Environmental Assessments or Environmental Impact Statement (E.I.S.).
9. Performance of detailed staking necessary for construction of the project in excess of the control staking set forth in Section A-12.
10. Preparing documents for alternate bids requested by the OWNER.
11. Providing consultation concerning replacement of any work damaged by fire or other cause during construction, and furnishing professional services of the type set forth as previously mentioned in this Agreement as may be required in connection with the replacement of such work.
12. Providing professional services made necessary by the default of the Contractor in the Construction Contract.
13. Providing construction engineering and inspection services after the construction contract time has been exceeded.

Unless identified as included in the proposed scope of work herein, payment for the services specified in this Section D shall be as agreed in writing prior to commencement of the work. The ENGINEER will render to OWNER for such services an itemized bill, once each month, for compensation for services performed hereunder during such period, the same to be due and payable by OWNER to the ENGINEER within 30 days.

SECTION E - OWNER'S RESPONSIBILITIES

1. The OWNER shall provide full information regarding his requirements for the project.
2. The OWNER shall designate, when necessary, a representative authorized to act in his behalf with respect to the project. The OWNER or his representative shall examine documents submitted by the ENGINEER and shall render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of the ENGINEER'S work.
3. The OWNER shall furnish all pertinent existing mechanical, chemical or other laboratory tests, inspections and reports as required by law or the Contract Documents, and which may impact the design.
4. The OWNER shall furnish such legal, accounting and insurance counseling services as may be necessary for the project, and such auditing services as he may require to ascertain how or for what purposes the CONTRACTOR has used the moneys paid to him under the Construction Contract.
5. If the OWNER observes or otherwise becomes aware of any fault or defect in the project or non-conformance with the Contract Documents, he shall give prompt oral notice with written confirmation thereof to the ENGINEER.

6. The OWNER shall furnish information required of him as expeditiously as necessary for the orderly progress of the work.

SECTION F - SPECIAL PROVISIONS

The following is agreed to by both parties:

1. That the OWNER reserves the right to request replacement of any Resident Inspector(s) furnished by the ENGINEER or to furnish the Resident Inspector(s) from the OWNER'S own forces, subject to the approval of the ENGINEER regarding the qualifications of the Resident Inspector(s). If the OWNER furnishes the Resident Inspector(s), the OWNER agrees that the Resident Inspector(s) will be under the direction and supervision of the ENGINEER.
2. That the OWNER shall pay for advertisement for bids, building or other permits, licenses, technical activity fees, etc., as may be required by local, State or Federal authorities, and shall secure the necessary land easements and rights-of-way.
3. The ENGINEER will endeavor to assure compliance of his work with applicable State and Federal requirements.
4. That insofar as the work under this Agreement may require, the OWNER shall furnish the ENGINEER all existing maps, field survey data, grades and lines of streets, pavements, and boundaries, rights-of-way, and other surveys presently available, which will be returned upon project completion. ENGINEER will provide the OWNER a copy of survey notes establishing bench marks and location of improvements.
5. That if the engineering work covered in this Agreement has not been completed on or after the expiration of a Twelve (12) month period from the date of execution of this Agreement, the OWNER or ENGINEER may, at the option of either, on written notice, request a renegotiation of Sections B, C, and D (providing for the compensation to be paid the ENGINEER for services rendered) to allow for changes in the cost of services. Such new schedule of compensation is to apply only to work performed by the ENGINEER after delivery date of such written notice.
6. That this Agreement is to be binding on the heirs, successors and assigns of the parties hereto and is not to be assigned by either party without first obtaining the written consent of the other. At least fifteen (15) days shall be allowed for such consent.
7. Attorney's fees: In the event a suit, arbitration or other legal action is required by either the OWNER or the ENGINEER to enforce any provision of this Agreement, the prevailing parties shall be entitled to all reasonable costs and reasonable attorney's fees upon litigation or upon appeal.
8. Termination
 - a. This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given (1) not less than ten (10) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) an opportunity for consultation with the terminating party prior to termination.
 - b. The Agreement may be terminated in whole or in part in writing by the OWNER for its convenience, provided that the ENGINEER is given (1) not less than ten (10) calendar days' written notice, (delivered by certified mail, return receipt requested) of intent to terminate,

and (2) opportunity for consultation with the terminating party prior to termination.

- c. If termination for default is effected by the OWNER an equitable adjustment in the price provided for in the Agreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due to the ENGINEER at the time of termination may be adjusted to cover any additional costs to the OWNER because of the ENGINEER'S default. If termination for default is effected by the ENGINEER, or if termination for convenience is effected by the OWNER, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to the termination, in addition to termination settlement costs reasonably incurred by the ENGINEER relating to commitments which had become firm prior to the termination.
 - d. Upon receipt of a termination action under paragraphs a. or b. above, the ENGINEER shall (1) promptly discontinue all affected work (unless the notice directs otherwise), and (2) deliver or otherwise make available to the OWNER reproducible data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the ENGINEER in performing this Agreement whether completed or in process.
 - e. Upon termination under paragraphs a. or b. above, the OWNER may take over the work and may award another party a contract to complete the work under this Agreement.
 - f. If, after termination for failure of the ENGINEER to fulfill contractual obligations, it is determined that the ENGINEER had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the OWNER. In such event, adjustment of the Agreement price shall be made as provided in paragraph c. of this clause.
9. The ENGINEER agrees to insure, hold harmless and indemnify the OWNER against all claims, damages, losses and costs, including costs of defense, arising out of the negligent performances of services under this Agreement. OWNER may make claim under applicable law against ENGINEER or ENGINEER'S insurance carriers for any loss, damage or cost arising out of ENGINEER'S negligent performance of services under this Agreement.
10. The ENGINEER agrees to acquire and maintain for the duration of this Agreement, Professional Liability Insurance in the nominal amount of \$1,000,000. The ENGINEER further agrees to obtain and maintain, at the ENGINEER'S expense, such insurance as will protect the ENGINEER from claims under the Worker's Compensation Act and such comprehensive general liability insurance as will protect the OWNER and the ENGINEER from all claims for bodily injury, death, or property damage which may arise from the performance by the ENGINEER or by the ENGINEER'S employees of the ENGINEER'S functions and services required under this Agreement.
11. The ENGINEER will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The ENGINEER will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin, such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; lay off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

12. ENGINEER covenants that he presently has no interest and shall not acquire interest, direct or indirect, which would conflict in any manner or degree with the performance of his services under this Agreement. Any interest on the part of the ENGINEER or his employees must be disclosed to the OWNER.
13. INDEPENDENT CONTRACTOR. It is agreed that ENGINEER is providing the services hereunder as an independent contractor and not as an employee of OWNER.
- OWNER shall have no right to control the manner of the performance of the services, but may place restrictions on ENGINEER relating to use of OWNER'S premises. As an independent contractor, ENGINEER shall not be eligible to receive benefits otherwise provided to employees of the OWNER.
14. The records and documents with respect to all matters covered by the Agreement shall be subject at all times to inspection, review or audit by the OWNER, County, Federal or State officials so authorized by law during the performance of this contract. Required records shall be retained for a period of three (3) years after termination of this Agreement.
15. No member or delegate to the Congress of the United States and no Resident Commissioner or City Official shall be admitted to any share or part of this Agreement or to any benefit that may arise hereunder.
16. This CONTRACT shall be construed according to the laws of the State of Oregon. Any litigation between the OWNER and the ENGINEER or out of work performed under this CONTRACT shall occur, if in the state courts, in the Clackamas County Court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the District of Oregon.
17. This Agreement, including Exhibits A, B and C, represents the entire integrated agreement between the OWNER and the ENGINEER and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the OWNER and ENGINEER.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in duplicate on the respective dates indicated below.

OWNER:

CITY OF CANBY

BY: _____

TITLE: _____

DATE: _____

ENGINEER:

CURRAN-McLEOD, INC.

BY: _____

TITLE: Secretary / Treasurer

DATE: _____

January 9, 2006

CURRAN-McLEOD, INC.
CONSULTING ENGINEERS

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

Mr. John Williams,
Community Development & Planning Director
City of Canby
170 NW 2nd Avenue
Canby, OR 97013

**RE: CITY OF CANBY
REDWOOD PUMPING STATION CONSTRUCTION**

Dear John;

We have prepared an estimate of the construction effort required to provide sanitary sewer service to SE 1st Avenue and the Hazel Dell area of the Pioneer Industrial Park. The existing sanitary sewer on SE 1st Avenue terminates at the western boundary of what was the original Zimmer property. The Sanitary Sewer Master Plan has identified the need for a new pump station at the low point on SE 1st Avenue and identifies this station as the Redwood Pump Station as it discharges into the Redwood interceptor.

The pump station needs to be located at the lowest point of SE 1st Avenue, which, if located on the south side of 1st Avenue, would be on the Guisinger property (3 1E 34 TL 600), or alternatively, could be on the Burden property across the street on the north side of 1st Avenue. The site should be a minimum of 25 foot square and either in the right-of-way or immediately adjacent. If Canby utility elects to place a transformer at the site, the width should be increased to 30 feet by 25 deep.

The station is anticipated to be a prefabricated fiberglass enclosure with duplex submersible pumps, 6" force main and 10" gravity sewers. The pumps, wet well structure and all valves will be below grade with a fiberglass electrical panel being the only item visible above grade. The electrical enclosure is approximately 4 foot square and 54" tall and will have an electrical meter pedestal and area lighting pole. We anticipate providing an outlet to accommodate a portable generator and manual transfer switch (MTS).

If the City elects to install a permanent generator, a second electrical enclosure would be required as well as a skid mounted generator with environmental enclosure. A permanent generator and automatic transfer switch would add approximately \$30,000 to the estimate below.

Water service to the site may not be available until the 12" mainline is extended down SE 1st Avenue. Also, we would not anticipate fencing the site.

Although it has been many years since the City purchased a new pump station, the City previously standardized on a sole source provider of pumping equipment and pump stations using Hydromatic equipment. The City has numerous Hydromatic stations and most recently the City replaced the pumping equipment at the Safeway Station with new Hydromatic equipment.

The original sole source provider was Hydronics in Milwaukee. They have subsequently changed their name to Pump Tech and still operate out of the same facility. We recommend the City continue to use the sole source option available to them under the state statutes. If John Kelley feels a new determination should be made by the Council, we can easily provide new justification and statutory references. The material cost of the sole source portion would be approximately \$55,000.

The scope of work will include 400 feet of 10" gravity collection line from the pump station to the stub out at Hazel Dell Way, the pump station including installation, and approximately 700 feet of 6" force main to the existing 12" sanitary sewer on SE 1st Avenue near Sequoia Parkway. An estimate of cost is as follows:

Redwood Sanitary Pumping Station
Engineer's Estimate
January 2006

1	Mobilization Bond & Insurance	LS	\$6,000
2	Temporary Traffic Control	LS	2,500
3	Erosion & Sediment Control	LS	1,000
4	Common Ex & Select BFL	60 CY	2,500
5	Site Improvements	LS	10,000
6	Pumping Station w/ MTS	LS	65,000
7	1 Phase Electrical Service	LS	25,000
8	¾" Water Service w/ SDC fee	LS	5,000
9	6" Force Main w/ Select Bfl	700 LF	21,000
10	10" Gravity Sewer w/ Select Bfl	400LF	18,000
11	Sanitary manhole, 8-12' deep	2 each	8,000
12	AC Trench Repair	500 LF	4,000
13	Site Restoration	LS	2,500
14	Engr & Contingency	15%	29,500
	TOTAL ESTIMATED COST		\$200,000

We did not include any cost for the land. If development occurs along 1st Avenue the land will be partially within the required dedication of ROW. If the land is purchased, we would expect the cost to be minimal.

Mr. John Williams
January 9, 2006
Page 3

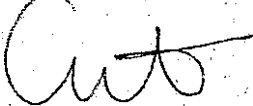
All costs could be eligible for SDC funding although some improvements could also be allocated to the abutting properties as a component of development, including the base size gravity sewer and power line extension. The SDC has a total of \$249,000 allocated for this project based on the 1999 Master Plan and inflation adjustments through June 2005.

The station can be provided in approximately 10 to 12 weeks after approval of shop drawings. Engineering can be completed in 45 to 60 days. We will still need to go through an advertisement for the construction so the overall project will take approximately 6 to 8 months, although, this timeline could be accelerated by a month or two if needed.

Let me know if you have any questions.

Very truly yours,

CURRAN-McLEOD, INC.



Curt J. McLeod, P.E.

cc: Darwin Tramel

February 6, 2006

CURRAN-McLEOD, INC.
CONSULTING ENGINEERS

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

Mr. John Williams,
Community Development & Planning Director
City of Canby
170 NW 2nd Avenue
Canby, OR 97013

**RE: CITY OF CANBY
HAZEL DELL PUMPING STATION ENGINEERING**

Dear John;

Attached is an engineering contract for the design and construction of what is now called the Hazel Dell Pumping Station, previously the Redwood Pumping Station. This is the station that will serve the Burden 2 development and adjoining properties.

Engineering costs for the station are based on purchasing a packaged station sole sourced from Pump Tech. The City has taken action to sole source similar stations in the past and part of our engineering task will be to provide John Kelley with the information he needs for the Council to again approve a sole source contract for the equipment. The installation will still be provided by a local contractor and will be bid competitively.

The engineering costs are estimated as follows:

Sizing & Site Location	\$ 600
Design Survey	1,200
Site work design	2,000
Mechanical design	2,500
Collection sewer, 400' of 10" PVC	2,000
Force Main, 700' of 6" PVC	2,000
Electrical Design	4,000
Contract Documents	1,000
Graphics, estimated 5 sheets	3,600
DEQ Submittal & Approval	400
TOTAL DESIGN PHASE	\$19,300
Bid Award	\$1,000
Construction Staking	2,000
Contract Administration	4,000
Field Inspection	4,000
O & M Manual	2,500
TOTAL CONSTRUCTION PHASE	\$13,500

Mr. John Williams
February 6, 2006
Page 2

In addition to these costs the City will also need to pay a technical activity fee to DEQ for review and approvals.

Let me know if you have any questions.

Very truly yours,

CURRAN-McLEOD, INC.

A handwritten signature in black ink, appearing to read "Curt", with a stylized flourish at the end.

Curt J. McLeod, P.E.

cc: Roy Hester

STANDARD HOURLY RATES

Effective January 1, 2005

Senior Principal Engineer	\$ 112.00
Principal Engineer	98.00
Project Engineer	88.00
Design Manager	88.00
Design Technician	72.00
Graphics Technician	50.00
Word Processing	42.00
Resident Project Representative	60.00

REIMBURSABLE EXPENSES

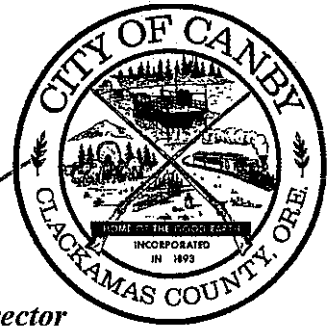
Reproduction expenses are at cost.

Travel expenses reimbursed at 41¢ per mile.

Per diem expense at cost.

MEMORANDUM

TO: *Honorable Mayor Thompson and City Council*
FROM: *John R. Williams, Community Development & Planning Director*
DATE: *January 31, 2006*
THROUGH: *Mark C. Adcock, City Administrator*



Issue: Cooperative agreements with ODOT for both the 99E/Territorial and S. Berg Parkway projects.

Synopsis: The proposed agreements specify roles and responsibilities for these two road projects. They are required by ODOT.

Recommendation: Staff recommends the City Council authorize the mayor to execute Cooperative Improvement Agreements with ODOT for the "Pacific Highway at Territorial Road" and "Berg Parkway Extension" projects.

Rationale: ODOT is contributing the lion's share of funding to each of these projects and the proposed agreements are required prior to any funds being expended. Staff has reviewed the agreements to ensure they are compatible with our funding availability and legal requirements.

Background: The 99E/Territorial agreement places all project responsibilities and funding with ODOT except for the following items: right-of-way acquisition (complete), city permits, future maintenance of the west leg of Territorial Road, and power to operate the traffic light and railroad crossing.

The Berg Parkway extension agreement places much more responsibility on the city. Basically, the agreement states that ODOT is providing us with \$1,231,650 and almost all responsibilities relating to the project are ours, including design engineering, construction engineering, right-of-way acquisition, project management, bid preparation, award, and supervision, and maintenance. It specifies timelines for project completion and sets construction standards. ODOT's main responsibility is maintenance of the traffic signal on 99E and related equipment.

Attached: Proposed agreements for each project.

Finance Department Review: *Approved 2/6/06*



Oregon

Theodore R. Kulongoski, Governor

Department of Transportation

Region 1
123 NW Flanders
Portland, OR 97209-4037
(503) 731-8200
FAX (503) 731-8259

TO: John Williams
Planning Director
City of Canby
170 NW 2nd
Canby, OR 97013

FROM: Devorah Hannah
ODOT – Region 1
Contracts and Agreements Unit
123 NW Flanders St.
Portland, OR 97209

DATE: January 30, 2006

SUBJECT: Cooperative Improvement Agreement,
ODOT Misc. Contracts & Agreement #22454
Pacific Hwy @ Territorial Rd

Attached are 5 bound copies and 1 informational copy of the subject proposed agreement. Please sign and return all bound copies to me at 123 NW Flanders, Portland, Or 97209. (Please Note: It's legally required that you sign AND date the attached documents or the execution of the agreement cannot be completed and the documents will be returned to you.)

The unbound copy may be retained for your reference until Salem Contracts Unit sends you an original signed, executed agreement. **(Please note: the blue coverings are not to be removed; they indicate that each bound contract is complete and identical.)**

If you have any questions, I can be reached at (503) 731-8277.

Thank you.

Devorah Hannah
Agreement Specialist.
Region 1, Contracts and Agreements Unit

COOPERATIVE IMPROVEMENT AGREEMENT
Pacific Hwy E at Territorial Road

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "ODOT"; and the City of Canby, acting by and through its elected officials, hereinafter referred to as "City"; and Clackamas County, acting by and through its elected officials, hereinafter referred to as "County".

RECITALS

1. Pacific Highway East, OR 99E, is a part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission. Territorial Road, to the west of OR 99E, is a part of the city street system under the jurisdiction and control of City, hereinafter referred to as west Territorial; and, to the east of OR 99E, is a part of the county road system under the jurisdiction and control of County, hereinafter referred to as east Territorial.
2. By the authority granted in ORS 190.110, 366.572 and 366.576, ODOT may enter into cooperative agreements with counties, cities and units of local governments for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.
3. By the authority granted in ORS 810.210, ODOT is authorized to determine the character or type of traffic control devices to be used, and to place or erect them upon state highways at places where ODOT deems necessary for the safe and expeditious control of traffic. No traffic control devices shall be erected, maintained, or operated upon any state highway by any authority other than ODOT, except with its written approval. Traffic signal work on this Project will conform to the current ODOT standards and specifications.

NOW THEREFORE, the premises being in general as stated in the foregoing recitals, it is agreed by and between the parties hereto as follows:

TERMS OF AGREEMENT

1. Under such authority, ODOT, City and County agree to the construction of highway improvements at the intersection of OR 99E and Territorial Road for improvement of safety on public highways. Said improvements shall include construction of a new signal at the intersection of Territorial and the highway as well as widening the highway to include standard median width; widen roadway of east Territorial Road approximately 500 feet from the highway and west Territorial Road approximately 620 feet from the highway to City and

County standards; install a new railroad signal at the railroad crossing on west Territorial Road; change the grade of the highway and Territorial Roads east and west to ensure greater compatibility with the railroad crossing; construct sidewalks on west Territorial Road beyond the railroad crossing to Project limits; and construct drainage system improvements for Project roadway improvements, hereinafter referred to as "Project". The location of the Project is approximately as shown on the sketch map attached hereto, marked Exhibit A, and by this reference made a part hereof.

2. The Project will be financed at an estimated cost of \$2,708,000 in funds available to the state. ODOT Obligation, paragraph 2 and City Obligations, paragraphs 2, 3 and 4 identify certain costs which are not Project costs. The estimate for the total Project cost is subject to change. ODOT shall be responsible for any Project costs beyond the estimate.
3. This Agreement shall become effective on the date all required signatures are obtained and shall remain in effect for the purpose of ongoing maintenance and power responsibilities for the useful life of the facilities constructed as part of the Project. The Project shall be completed within 5 calendar years following the date of final execution of this Agreement by both parties.

ODOT OBLIGATIONS

1. ODOT shall, at Project expense, conduct the necessary preliminary engineering and design work required to produce final plans, specifications and cost estimates for Project; obtain all required permits for the highway and east and west Territorial Roads, except for the drainage permits for west Territorial Rd.; perform all construction engineering including all required materials testing and quality documentation; utility coordination; public involvement; right of way appraisal and purchase, except for the sidewalk improvements on west Territorial Road; technical inspection, and project manager services for the administration of the contract for Project; prepare contract and bidding documents; advertise and award all contracts; pay all contractor costs, provide project management services; and other necessary functions for sole administration of the construction contract entered into for this Project.
2. ODOT shall be responsible for the design of the drainage facilities needed to meet the requirements of the Project roadway improvements. This includes drainage improvements for the portion of the Project on east and west Territorial. Said improvements may connect with existing drainage facilities owned by City. Any additional drainage facilities on east or west Territorial Road that ODOT determines to be in excess of the jurisdictional requirements for the Project roadway improvements shall be the responsibility of the City and/or County, including design, construction, cost, and maintenance.

Agreement No. 22, 454

City of Canby and Clackamas County

3. ODOT shall address all construction, access, inspection and maintenance aspects for the railroad signal on west Territorial Road by separate agreement with the railroad.
4. ODOT shall, prior to advertising for contract bids, forward to City and County copies of all plans and specifications for all Project improvements within City and County right of way for their review and concurrence.
5. ODOT shall purchase right of way on behalf of City and County where necessary for the completion of Project improvements on east and west Territorial Road. Whenever practical, ODOT shall purchase right of way in either City or County's name as appropriate. Right of way shall only be purchased for roadway purposes from back of curb to back of curb; right of way purchased for drainage facilities on east and west Territorial Road will be for the road surface requirements only. ODOT shall, upon completion of the Project, relinquish to the City and County all right of way and easements obtained or purchased in the name of these agencies.
6. ODOT shall design and construct the Project on OR 99E to ODOT standards and to City and County requirements on Territorial Road.
7. ODOT shall maintain the asphaltic concrete pavement surrounding the vehicle detector loops installed in the highway in such a manner as to provide adequate protection for said detector loops.
8. ODOT shall be responsible for signing, inspection, signal turn-on and timing, except for the railroad signal. Upon completion of the Project ODOT shall assume ownership of Project traffic signal equipment and shall be responsible for maintenance costs for the project signal. Power costs shall be City's responsibility. Maintenance of attached illumination on signal, if any, shall be ODOT's responsibility; all power costs shall be the City's responsibility.
9. ODOT shall perform roadway maintenance within ODOT jurisdiction, which includes operations from back of roadway curb to back of roadway curb within the limits of the Project. Said ODOT roadway maintenance shall also include maintenance of roadway striping and signing.
10. ODOT shall be responsible for resolving any conflicts on the Project with private utilities, to be relocated or reconstructed at the utility's expense.
11. ODOT shall retain all utility and access permitting authority along OR 99E within the Project limits.
12. ODOT hereby grants the City or County permission to access ODOT right of way for the purpose of maintaining Project-related storm water drainage systems, street trees, tree wells, and sidewalks.

Agreement No. 22, 454

City of Canby and Clackamas County

13. ODOT's Project Manager for this Project is Rick Keene, 123 N.W. Flanders Street, Portland, OR 97209, (503)731-3289, or assigned designee upon individual's absence.

CITY OBLIGATIONS

1. City hereby grants ODOT, and/or its contractor, the right to enter onto and occupy City right of way within the Project limits for the performance of field work, Project construction and signal installation, as well as future maintenance of the traffic signal, traffic loop detectors, connections, and equipment.
2. City shall provide, at its own expense, all city-required permits for the completion of Project.
3. City shall provide, at no cost to Project, cost estimates of drainage requirements for areas outside Project limits, plan review and traffic investigation data. City shall be responsible for the cost of construction of any drainage facilities that ODOT determines to be in excess of the minimum needs for the Project roadway improvements. City shall, at no cost to Project, be responsible for the costs for the right of way, design and construction for such additional drainage improvements. City shall, at its own expense, maintain Project drainage facilities located within City-owned right of way.
4. City shall, at no expense to the Project, provide City-owned right of way as needed for the Project. City will provide documentation to ODOT to assure that right of way was acquired in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
5. City shall be responsible for 100 percent of maintenance on west Territorial Road. City shall also be responsible for 100 percent of the power costs for the traffic signal at the intersection of Territorial and the highway. Power costs for the railroad signal shall be City's responsibility through a separate agreement with the railroad.
6. City shall, upon completion of the Project and at its own expense, maintain the pavement surrounding the vehicle detector loops installed in the City roads in such a manner as to provide adequate protection for said detector loops. Failure to do so may result in ODOT requiring City to repair or replace any damaged loops at City expense. Future City roadwork activities involving the detector loops may also result in the same ODOT requirements. City shall also adequately maintain the pavement markings and signing installed in accordance with current ODOT standards.
7. City, by execution of this Agreement, gives its consent as required by ORS 373.030(2) and ORS 105.760 to any and all changes of grade within the City limits in connection with or arising out of the Project covered by the Agreement.

Agreement No. 22, 454
City of Canby and Clackamas County

8. City's Project Manager for this project is John Williams, Community Development and Planning Director, 182 N Holly St. PO Box 930, Canby, OR 97013, (503) 266-4021.

COUNTY OBLIGATIONS

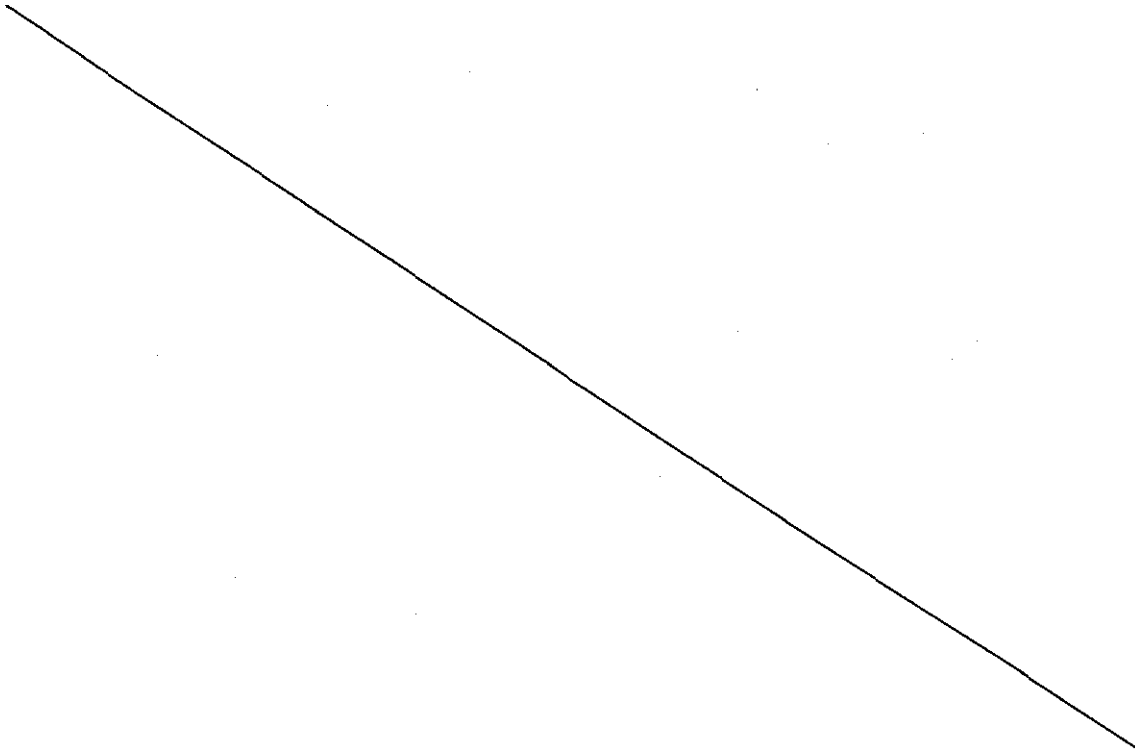
1. County hereby grants ODOT, and/or its contractor, the right to enter onto and occupy County right of way within the Project limits for the performance of field work, Project construction and signal installation, as well as future maintenance of the traffic signal, traffic loop detectors, connections, and equipment.
2. County shall assist ODOT in acquiring any permits required for east Territorial Rd. Said permits shall be obtained at Project expense.
3. County shall provide, at no cost to Project, plan review and traffic investigation data.
4. Right of way and/or easements required for construction of Project will be the responsibility of ODOT to obtain at Project expense. After completion of the Project, County shall accept the right of way ODOT purchased in behalf of County where necessary for the completion of the Project on east Territorial Road.
5. County shall be responsible for 100 percent of maintenance on east Territorial Road.
6. County shall, upon completion of the Project and at its own expense, maintain the pavement surrounding the vehicle detector loops installed in the County roads in such a manner as to provide adequate protection for said detector loops. Failure to do so may result in ODOT requiring County to repair or replace any damaged loops at County expense. Future County roadwork activities involving the detector loops may also result in the same ODOT requirements. County shall also adequately maintain the pavement markings and signing installed in accordance with current ODOT standards.
7. County acknowledges the effect and scope of ORS 105.755 and agrees that all acts necessary to complete construction of the Project which may alter or change the grade of existing county roads are being accomplished at the direct request of the County.
8. County's Project Manager for this project is Joseph Marek, Clackamas Co. Traffic Engineer, 9101 SE Sunnybrook Blvd., Clackamas, OR 97015, (503) 353-4705.

GENERAL PROVISIONS

1. This Agreement may be terminated by mutual written consent of the parties.
2. ODOT may terminate this Agreement effective upon delivery of written notice to City and County, or at such later date as may be established by ODOT, under any of the following conditions:
 - a. If City or County fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If City or County fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from ODOT fails to correct such failures within 10 days or such longer period as ODOT may authorize.
 - c. If ODOT fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow ODOT, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - d. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or ODOT is prohibited from paying for such work from the planned funding source.
3. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.
4. If City or County fails to maintain facilities in accordance with the terms of this Agreement, ODOT, at its option, may maintain the facility and bill City or County, seek an injunction to enforce the duties and obligations of this Agreement or take any other action allowed by law.
5. This Agreement and attached exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of ODOT to enforce any provision of this Agreement shall not constitute a waiver by ODOT of that or any other provision.

Agreement No. 22, 454
City of Canby and Clackamas County

IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year hereinafter written.



This Project is in the 2004-2007 Statewide Transportation Improvement Program, (Key #12904) that was approved by the Oregon Transportation Commission on November 17, 2003 (or subsequently approved by amendment to the STIP).

The Oregon Transportation Commission on June 18, 2003, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations. Day-to-day operations include those activities required to implement the biennial budget approved by the Legislature, including activities to execute a project in the Statewide Transportation Improvement Program.

Agreement No. 22, 454
City of Canby and Clackamas County

On November 10, 2004, the Director of the Oregon Department of Transportation approved Subdelegation Order No. 2, in which the Director delegates to the Deputy Director, Highways the authority to approve and sign agreements over \$75,000 when the work is related to a project included in the Statewide Transportation Improvement Program or in other system plans approved by the Oregon Transportation Commission, or in a line item in the biennial budget approved by the Director.

City of Canby, by and through its elected officials

By _____
Mayor

Date _____

By _____
Recorder

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By _____
City Counsel

Date _____

Clackamas County, by and through its Board of Commissioners

By _____
Commissioner

Date _____

By _____
Recording Secretary

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By _____
County Counsel

Date _____

STATE OF OREGON, by and through its Department of Transportation

By _____
Deputy Director, Highways

Date _____

APPROVAL RECOMMENDED

By _____
Region Manager

Date _____

By _____
Interim Technical Services Manager,
Chief Engineer

Date _____

By _____
State Traffic Engineer

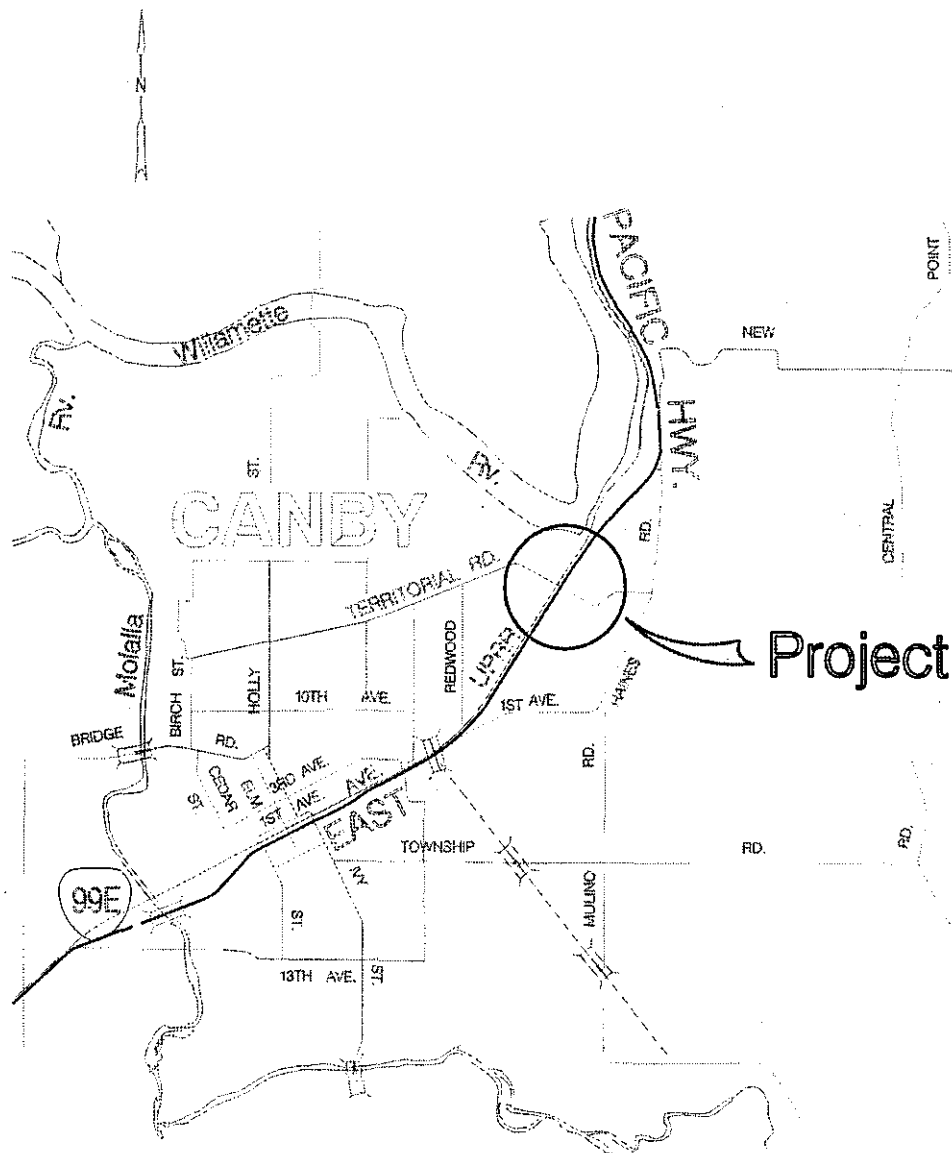
Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By _____
Assistant Attorney General

Date _____

EXHIBIT A
Misc. Contract & Agreement No. 22,454
99E @ Territorial Road





Oregon

Theodore R. Kulongoski, Governor

Department of Transportation

Region 1
123 NW Flanders
Portland, OR 97209-4037
(503) 731-8200
FAX (503) 731-8259

TO: John Williams
Planning Director
City of Canby
170 NW 2nd
Canby, OR 97013

FROM: Devorah Hannah
ODOT – Region 1
Contracts and Agreements Unit
123 NW Flanders St.
Portland, OR 97209

DATE: January 30, 2006

SUBJECT: Cooperative Improvement Agreement,
ODOT Misc. Contracts & Agreement #23,009
Berg Parkway Extension

Attached are 4 bound copies and 1 informational copy of the subject proposed agreement. Please sign and return all bound copies to me at 123 NW Flanders, Portland, Or 97209. (Please Note: It's legally required that you sign AND date the attached documents or the execution of the agreement cannot be completed and the documents will be returned to you.)

The unbound copy may be retained for your reference until Salem Contracts Unit sends you an original signed, executed agreement. **(Please note: the blue coverings are not to be removed; they indicate that each bound contract is complete and identical.)**

If you have any questions, I can be reached at (503) 731-8277.

Thank you.

Devorah Hannah
Agreement Specialist.
Region 1, Contracts and Agreements Unit

**2002 OREGON TRANSPORTATION INVESTMENT ACT AGREEMENT
Berg Parkway Extension (City of Canby)**

THIS AGREEMENT is made and entered into by and between THE STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "ODOT," and City of Canby, acting by and through its elected officials, hereinafter referred to as "City."

RECITALS

1. Pacific Highway East, Oregon Route 99E, hereinafter known as 99E, is a part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission.
2. The 2002 Oregon Transportation Investment Act Program, hereinafter referred to as the "2002 OTIA Program", provides funding for preservation and modernization projects chosen by the Oregon Transportation Commission.
3. The Oregon Transportation Commission selected the projects to be funded under the 2002 OTIA Program at its July 24, 2002 meeting. This selection included City's Project, Berg Parkway Extension (City of Canby), as described in Exhibit A.
4. By the authority granted in ORS 190.110, 366.572 and 366.576, state agencies may enter into cooperative agreements with counties, cities, and units of local government for the performance of any or all functions and activities that a party to the Agreement, its officers, or agents have the authority to perform.
5. By the authority granted in ORS 810.210, State is authorized to determine the character or type of traffic control devices to be used, and to place or erect them upon state highways at places where State deems necessary for the safe and expeditious control of traffic. No traffic control devices shall be erected, maintained, or operated upon any state highway by any authority other than State, except with its written approval. Any traffic signal work on this Project will conform to the current State standards and specifications.
6. ODOT and City entered into agreement No. 5786 on July 18, 1978 concerning the installation and maintenance of signalization on Berg Parkway and 99E. That agreement shall remain in full force and effect with maintenance and electrical responsibilities remaining the same.

NOW THEREFORE, the premises being in general as stated in the foregoing recitals, it is agreed by and between the parties hereto as follows:

TERMS OF AGREEMENT

1. City shall make modernization improvements on Berg Parkway from 99E that extend 1600 feet to SW 13th Avenue. Said improvements include widening of street surface, sidewalks, Key No. 14528

pedestrian improvements, bike lanes and markings on both sides of the street, possible signal relocation and possible revised right turn lane from 99E to Berg Parkway, hereinafter referred to as "Project." A sketch map showing the location and approximate limits of the Project is shown in Exhibit A, and a Project description and budget are shown in Exhibit B, both of which are attached hereto and by this reference made a part hereof.

2. The total estimated cost of the Project is \$1,368,500. The budget is shown on Exhibit B.
3. 2002 OTIA Program funds shall be limited to \$1,231,650. City shall be responsible for all costs in excess of the 2002 OTIA Program funded amount for this Project.
4. This Agreement shall become effective on the date all required signatures are obtained and shall be completed according to the schedule outlined in City Obligations 4. Only work begun after the effective date of this Agreement is eligible for reimbursement with OTIA funds.
5. The funds available under the 2002 OTIA Program are State Highway Funds. To be eligible for reimbursement under the 2002 OTIA Program, expenditures must comply with the requirements of Article IX, Section 3a of the Oregon Constitution.
6. City and ODOT have a joint obligation to ensure timely expenditure of 2002 OTIA Program monies and comply with the provisions of the bonds that finance the 2002 OTIA Program.

CITY OBLIGATIONS

1. City, or its consultant, shall conduct the necessary engineering and design work required to produce final plans, specifications and cost estimates; obtain all right-of-way, if any, required for Project in compliance with ORS 35.510, ORS 35.346, and the State of Oregon Right of Way Manual; obtain all required permits; arrange for all utility relocations or reconstruction, if any, required for Project in compliance with the standards in City Obligations 15; perform all construction engineering, including all required materials testing and quality documentation; prepare all bid documents; advertise and award all contracts; provide project management services; and other necessary functions for administration of the contract.
2. The Project shall be developed in conformance with City's standards. If City has not adopted standards of its own, the Project shall be developed in conformance with the current edition of *A Policy on Geometric Design of Highways and Streets* by the American Association of State Highway and Transportation Officials (AASHTO).
3. Any right of way purchased for Project for proposed turn lane on 99E or any other construction impacting or abutting 99E shall be purchased by City in ODOT's name.
4. Any modification to the traffic signal on 99E must be made in accordance with ODOT standards. City shall submit signal design plans to ODOT for review and approval prior to

Agreement No.23,009
City of Canby

construction. City's, or its consultant's, electrical inspectors shall possess a current State Certified Traffic Signal Inspector certificate, in order to inspect electrical installations on state highways. The State District Permitting Office shall verify this requirement prior to construction.

5. City shall provide ODOT with sufficient information to complete a project prospectus so that ODOT can track Project using ODOT's automated management system.
 - a. City shall submit documentation to ODOT's Project Liaison that shows City has met Project key milestones. The Project key milestones, dates, and required documentation are shown below:

Environmental: April 1, 2007

Documentation: Letter from City documenting that the milestone has been met.

Right of Way Acquisition: April 1, 2007

Documentation: Letter from City's legal counsel certifying that 1) the right-of-way needed for the Project has been obtained and 2) right-of-way acquisition has been completed in accordance with those certain right-of-way requirements contained in City Obligations, Part 1, of this Agreement.

Permits: April 1, 2007

Documentation: Letter from City indicating that all required Permits have been obtained prior to advertisement for construction bids.

Final Plans / Biddable Engineering Documents: May 1, 2007

Documentation: A copy of completed Project plans, specifications and cost estimates.

Contract Advertisement and Award: June 2007

Documentation: Notice to proceed (1st notice).

Construction Completion: November 30, 2007

Documentation: A letter from City indicating that all required construction work is satisfactorily completed and open to traffic (2nd notice).

Project Completion: December 31, 2007

Documentation: Letter from City indicating that the Project is complete and accompanied by City's final billing to ODOT (3rd notice).

- b. If the City does not meet a Project milestone date within one month of the date specified in City Obligations 4.a., reimbursement of City's Project expense shall be changed to one-half of the rate specified in ODOT's Obligations 1, until such time as the Project has completed the milestone and Project is back on schedule.

Agreement No.23,009
City of Canby

- c. Immediately upon missing a milestone date, City and ODOT shall establish a Project review team including City's Project Liaison and ODOT's Project Liaison, at a minimum, and may include such other members as are deemed necessary. The Project review team shall determine (a) if failure to complete the milestone in question will jeopardize successful completion of Project, (b) what steps must be taken by City to ensure successful completion of Project, and (c) revise the Project schedule, if changes are required.
 - d. In the event that the Project schedule itemized in City Obligations 4.a. is revised pursuant to City Obligation 4.c, the City's Project Liaison and ODOT's Project Liaison shall reduce the revision to writing. The City's Project Liaison and ODOT's Project Liaison shall incorporate the revised schedule into the intergovernmental Agreement by entering into a formal amendment to this Agreement.
 - e. When the Project is back on schedule according to the milestones set out in City Obligations 4.a., including a revised schedule adopted by formal amendment, City shall receive any funds withheld by ODOT under the provisions of ODOT's Obligations 1.b.
- 6. City shall present invoices for the eligible, actual costs incurred by City on behalf of the Project directly to State's Project Liaison for review and approval. Such invoices shall be submitted in the form as shown on Exhibit C, OTIA Progress Billing, attached hereto and by this reference made a part hereof. Invoices will identify the Project and Agreement number, and shall itemize and explain all expenses for which reimbursement is claimed. Invoices shall be presented for periods of not greater than one month, based on actual expenses incurred, and must clearly specify the percentage of completion of the Project.
 - 7. City shall submit a billing at the time City documents that the Construction Completion milestone, as set out in City Obligations 4, is complete. The billing will indicate total Project costs incurred to date, whether there are unresolved claims, and the anticipated timeline for resolving claims and closing the Project.
 - 8. City shall be responsible for any and all costs of Project which are not covered by OTIA funds, including costs of the Project when the maximum amount of OTIA funds obligated under this Agreement have been expended.
 - 9. City agrees to comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530 and 279B.270, which hereby are incorporated by reference.
 - 10. City shall perform the service under this Agreement as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement including, but not limited to, retirement

Agreement No.23,009
City of Canby

contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.

11. All employers, including City, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. City shall ensure that each of its subcontractors complies with these requirements.
12. City will maintain Project improvements on City right of way at the same level as other similar facilities owned by City.
13. All other maintenance and electrical cost responsibilities at the intersection of Berg Parkway and 99E shall remain the same as agreed to in Agreement No. 5,786, executed July 18, 1978, which remains in full force and effect: City is responsible for all electrical costs for the signals and attached illumination at intersection and ODOT is responsible for all signal timing and the cost and performance of all maintenance on signals at Berg Parkway and 99E.
14. City shall, upon completion of the Project and at its own expense, maintain the pavement surrounding the vehicle detector loops installed in the City roads intersecting 99E in such a manner as to provide adequate protection for said detector loops. Failure to do so may result in ODOT requiring City to repair or replace any damaged loops at City expense. Future City roadwork activities involving the detector loops may also result in the same ODOT requirements. City shall also adequately maintain, on said City street intersecting 99E, the pavement markings and signing installed in accordance with current ODOT standards.
15. City agrees that the Project will be on the public right of way and will serve general transportation needs.
16. Utility relocation or reconstruction may or may not be an eligible Project expense according to the following standard:
 - a. The expense is an eligible expense if the owner of the utility facility possesses a property right for its location on the public right of way.
 - b. The expense is not an eligible expense if the owner of the utility facility does not possess a property right for its location, but the facility exists on the public right of way solely under the permission of the City or other road authority, whether that permission is expressed or implied, and whether written or oral.
17. City certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within City's current appropriation or limitation of the current budget. City further agrees that they will only

submit invoices to ODOT for reimbursement on work that has been performed and paid for by City.

18. City shall, to the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, indemnify, defend, save, and hold harmless the State of Oregon, Oregon Transportation Commission and its members, and the Oregon Department of Transportation and its officers and employees, from all claims, suits or actions of any nature arising out of activities of City, its consultant, its contractor, its officers, subcontractors, agents, or employees under this Agreement.
18. Notwithstanding the foregoing defense obligations under paragraph 17 above, neither City nor any attorney engaged by City shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at any time at its election assume its own defense and settlement in the event that it determines that City is prohibited from defending the State of Oregon, or that City is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue any claims it may have against City if the State of Oregon elects to assume its own defense.
19. City's Project Liaison for this Agreement is John Williams, Community Development and Planning Director, City of Canby, 170 NW 2nd, Canby, OR 97013
20. City's Project Liaison is granted the authority to initiate formal amendments to this Agreement in coordination with ODOT's Project Leader when revisions to the Project schedule are deemed necessary by the project review team.
21. City shall place signs that identify Project as "*Another Project Funded by 2002 Oregon Transportation Investment Act*" (ODOT approved design). City may affix additional signage that identifies local funds used for the Project.
22. City agrees that it will call attention to the Project and help make it visible to the public.
23. City agrees to provide progress information to ODOT and photographs in a suitable format for posting on the OTIA web site maintained by ODOT and to provide appropriate links from City's web sites to the OTIA web site.

ODOT OBLIGATIONS

- 1a. ODOT shall reimburse City 90 percent of eligible, actual costs incurred up to the maximum amount of OTIA funds committed for the Project specified in Terms of Agreement 3, provided that City is meeting the Project milestones set out in City Obligations 4.a. Under

Agreement No.23,009
City of Canby

no conditions shall ODOT's total obligation exceed \$1,231,650, including all expenses. When reimbursement is requested, City shall submit Exhibit C, which is attached hereto and by this reference made a part hereof

- b. In the event that City has not met a Project milestone, ODOT shall change its rate of reimbursement to City to one-half of the rate specified in ODOT Obligations, Paragraph 1.a. until such time as Project is back on schedule.
 - c. When the Project is back on schedule, according to the milestones set out in City Obligations 4.a., including a revised schedule adopted by formal amendment per City Obligations 4.d., ODOT shall pay City any funds withheld by ODOT under the provisions of ODOT Obligations 1.b.
 - d. ODOT agrees to comply with the provisions of ORS 293.462 with regard to timely payment.
2. ODOT certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within ODOT's current appropriation or limitation of current biennial budget.
 3. ODOT's Project Liaison for this Agreement is Rick Keene, 123 N.W. Flanders Street, Portland, OR 97209, (503)731-3289.
- ODOT's Liaison shall:
- a. Receive any notices provided by City under this Agreement.
 - b. Review and process for payment all eligible, actual Project costs incurred within 30 days of the date of receipt of City's invoices by ODOT.
 - c. Advise City at City's request on matters affecting the Project.
 - d. ODOT's Project Liaison is granted the authority to enter into and execute formal amendments to this Agreement when revisions to the Project schedule are deemed necessary by the project review team.
4. ODOT shall review the documentation provided by City to ensure that the Project undertaken by City is the Project approved by the Oregon Transportation Commission at its July 24, 2002 meeting.
 5. ODOT shall not be required to approve City's selection of contractors, right-of-way purchase, or engineering design documents, except as the Project design affects the state highway system or as required by the conditions of approval adopted by the Oregon Transportation Commission.

Agreement No.23,009
City of Canby

6. ODOT shall maintain a web site for the 2002 OTIA Program listing Project status and accomplishment information for City's Project.
7. ODOT hereby grants the City permission to access ODOT right of way for Project construction and ongoing maintenance responsibilities if needed for the Project.
8. As agreed to in the terms of prior Agreement No. 5786, upon completion of the Project and satisfactory signal turn on, ODOT shall assume ownership and complete jurisdiction and control of the operation of the traffic signal equipment installed on the intersections with 99E. ODOT is responsible for both the cost and performance of maintenance associated with the signals and attached illumination. Additionally, ODOT shall assume ownership of the proposed pedestrian walkway on 99E and shall maintain walkway and markings.
9. ODOT shall maintain the asphaltic concrete pavement surrounding the vehicle detector loops installed in the 99E portion of the Project in such a manner as to provide adequate protection for said detector loops.
10. Should there be modifications to the existing signal on 99E, ODOT's Region 1 Electrical Crew shall, at Project expense, perform the signal equipment environmental testing, field testing, and turn-on in accordance with the current ODOT procedures.
11. Traffic signal timing shall be the responsibility of ODOT. All modifications shall follow guidelines set forth in the current Manual on Uniform Traffic Control Devices and Oregon Supplements, and the current ODOT Traffic Signal Policy and Guidelines.

GENERAL PROVISIONS

1. This Agreement may be terminated by mutual consent of the parties.
2. ODOT may terminate this Agreement effective upon delivery of written notice to City, or at such later date as may be established by ODOT, under any of the following conditions:
 - a. If City fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If City fails to perform any of the other provisions of this Agreement or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from ODOT fails to correct such failures within 10 days or such longer period as ODOT may authorize.
 - c. If ODOT fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow ODOT, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.

Agreement No.23,009
City of Canby

- d. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or if ODOT is prohibited from paying for such work from the planned funding source.
3. If ODOT terminates this Agreement for the reasons described in General Provisions 2.a. or 2.b. above, City must reimburse ODOT for all Oregon Transportation Investment Act funds expended. If City fails to reimburse ODOT, ODOT may withhold City's proportional share of State Highway Fund distribution necessary to reimburse ODOT for costs incurred by such City breach.
4. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.
5. City acknowledges and agrees that ODOT, the Secretary of State's Office of the State of Oregon, and their duly authorized representatives shall have access to the books, documents, papers, and records of City which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts during the course of the Project and for a period of three years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by ODOT.
6. This Agreement and attached exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year hereinafter written.

The Oregon Transportation Commission on June 18, 2003, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations. Day-to-day operations include those activities required to implement the biennial budget approved by the Legislature, including activities to execute a project in the Statewide Transportation Improvement Program.

SIGNATURE PAGE TO FOLLOW

Agreement No.23,009
City of Canby

On November 10, 2004, the Director of the Oregon Department of Transportation approved Subdelegation Order No. 2, in which the Director delegates to the Deputy Director, Highways the authority to approve and sign agreements over \$75,000 when the work is related to a project included in the Statewide Transportation Improvement Program or in other system plans approved by the Oregon Transportation Commission or in a line item in the biennial budget approved by the Director.

**CITY OF CANBY, by and through its
elected officials**

By _____
Mayor
Date _____

By _____
Recorder

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____
City Counsel

Date _____

City Contact: John Williams,
Planning Director
City of Canby
170 NW 2nd
Canby, OR 97013

**STATE OF OREGON, by and through
its Department of Transportation**

By _____
Deputy Director, Highways

Date _____

APPROVAL RECOMMENDED

By _____
Interim Technical Services Manager, Chief
Engineer

Date _____

By _____
Region 1 Manager

Date _____

By _____
District 2B Manager

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____
Assistant Attorney General

Date _____

EXHIBIT A
M. C. & A. 23,009
OTIA II – Berg Parkway Extension

OTIA
BERG PARKWAY
CANBY, OREGON

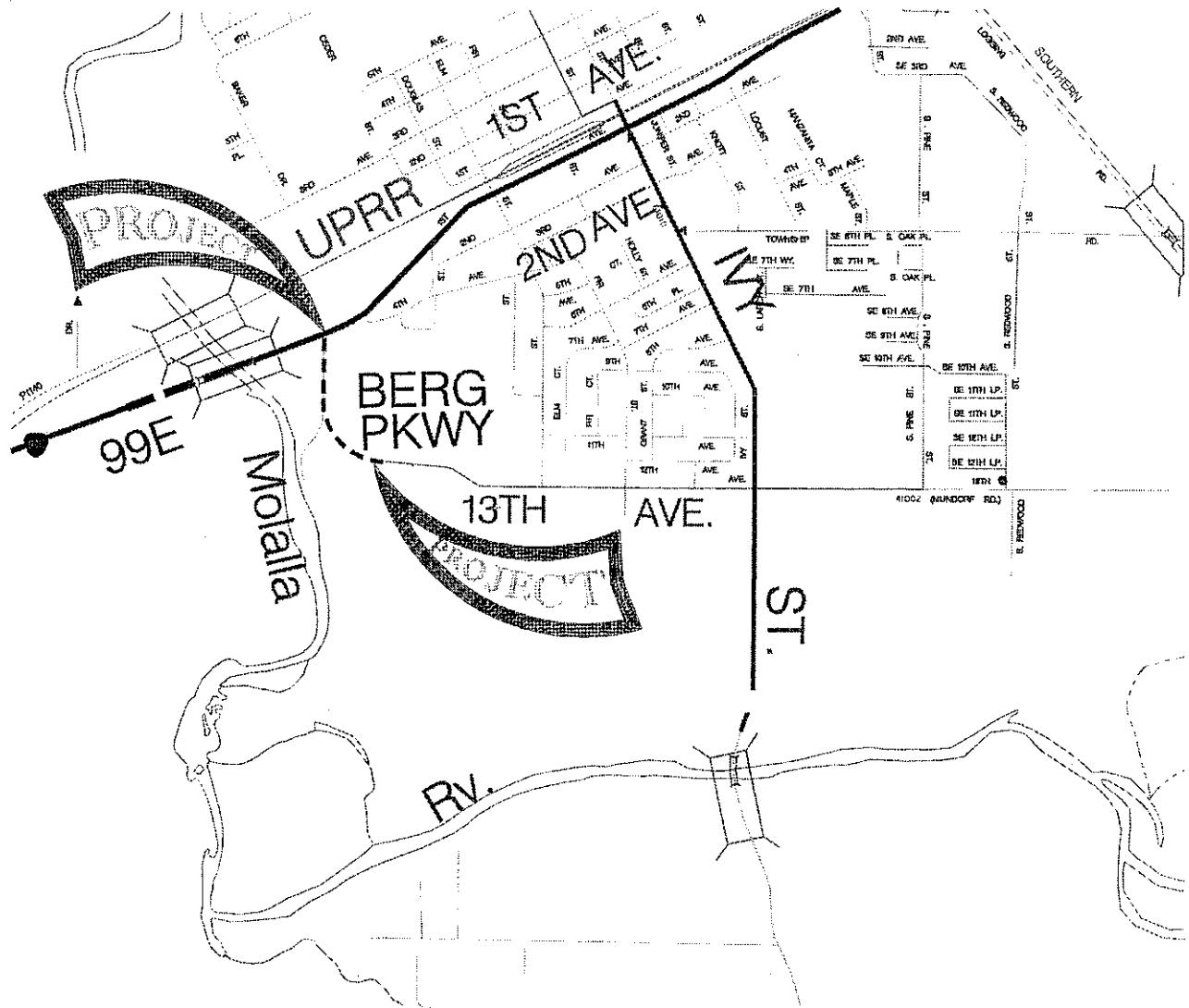


EXHIBIT B

M. C. & A. 23,009

OTIA II – Berg Parkway (City of Canby) Extension

PROJECT DESCRIPTION: Project will extend Berg Parkway from its current terminus approximately 0.2 miles south of OR 99E to 0.3 miles west of Elm Street. This 0.2 mile extension will be constructed to three-lane arterial adequacy standards, with sidewalks and bike lanes on both sides of the street. This will match the existing 40-foot street improvements on SW 13th Avenue. In addition, an overlay project is required on SW 13th Avenue to handle the additional traffic that will be generated by the new street connection.

Project Cost Estimate		Project Financing	
Preliminary engineering & design	\$100,000	City Contribution	\$136,850 - 10%
Right-of-way purchase	\$300,000		
Construction	\$968,500	OTIA	\$1,231,650 - 90 %
Total	\$1,368,500	Total	\$1,368,500 - 100%

OTIA COMMITTEE REQUIRED NO SPECIAL CONDITIONS

EXHIBIT C
M. C. & A. 23,009-OTIA II – Berg Parkway Extension
Oregon Transportation Investment Act (OTIA)
Progress Billing Form

City: _____
 Project: _____
 Agreement No: _____
 Billing Period: _____ to _____

	Costs Incurred This Period	Costs Billed Previously	Total Cost To Date	Participation Rate	Total Amount Claimed	Prior Total Claimed	Amount Claimed This Period	Percent Complete This Phase
Planning								
Engineering Design								
Right of Way								
Construction								
Total								

By submission of this request City certifies that, in accordance with the laws of the State of Oregon and under the conditions of approval for the Project identified above, actual costs claimed have been incurred and are eligible pursuant to the Intergovernmental Agreement between City and ODOT. Also, no other claims have been presented to, or payment made by, the State of Oregon for those costs claimed for reimbursement.

 City Project Liaison

 Date

(for ODOT use)

I have reviewed the above Project and related costs and in my opinion, subject to audit, the costs reflect the progress to date and are eligible for reimbursement in the amount of \$ _____.

 ODOT Project Liaison

 Date

DIRECTOR'S MONTHLY REPORT
CANBY ADULT CENTER
January '06

CENTER INFORMATION

January was quiet. We had very little weekend usage. The Gators swim team had a large event and used our building the weekend of the 21st & 22nd.

We received two very nice donations this month, \$2,000 from the Northwest Van Council and \$4,000 from Canby Kiwanis. We also received another \$1,000 donation to our annual appeal. That brings our total annual appeal revenue to \$11,812.50.

Our clients have been very cooperative in filling out the green registration forms. We are nearly done with that task for the year. I would like to add a special thanks to Trista Eleen, who has volunteered so many hours to Share the Warmth and the registration project. She has been a huge help to us.

The City Parks Dept. pressure washed all the walkways around the building as well as the patio. It really spruced things up and took care of some slippery places. Next, we hope to find a service group to scrub down the inside patio fence where the mold is taking over.

I attended the Contractor's meeting in Gladstone this month. Nearly all other centers have experienced a drop in congregate dining. We discussed ways to encourage the Boomers to use our centers. Tai Chi here seems to be attracting younger seniors. We will have a meeting in April with information from Milwaukie Center on their soup & sandwich alternative. Many younger seniors prefer lighter noon meals.

I also attended the C.E.O.C. (Community Emergency Operations Center) meeting. Disaster policies are being gathered from members and assembled into a file. In case of a disaster, the file (at the fire station) would help determine what level of response was needed.

Also, the Center will be staging a fire drill within the next two months. Todd Gary from the fire dept. will help us with staging, etc.