



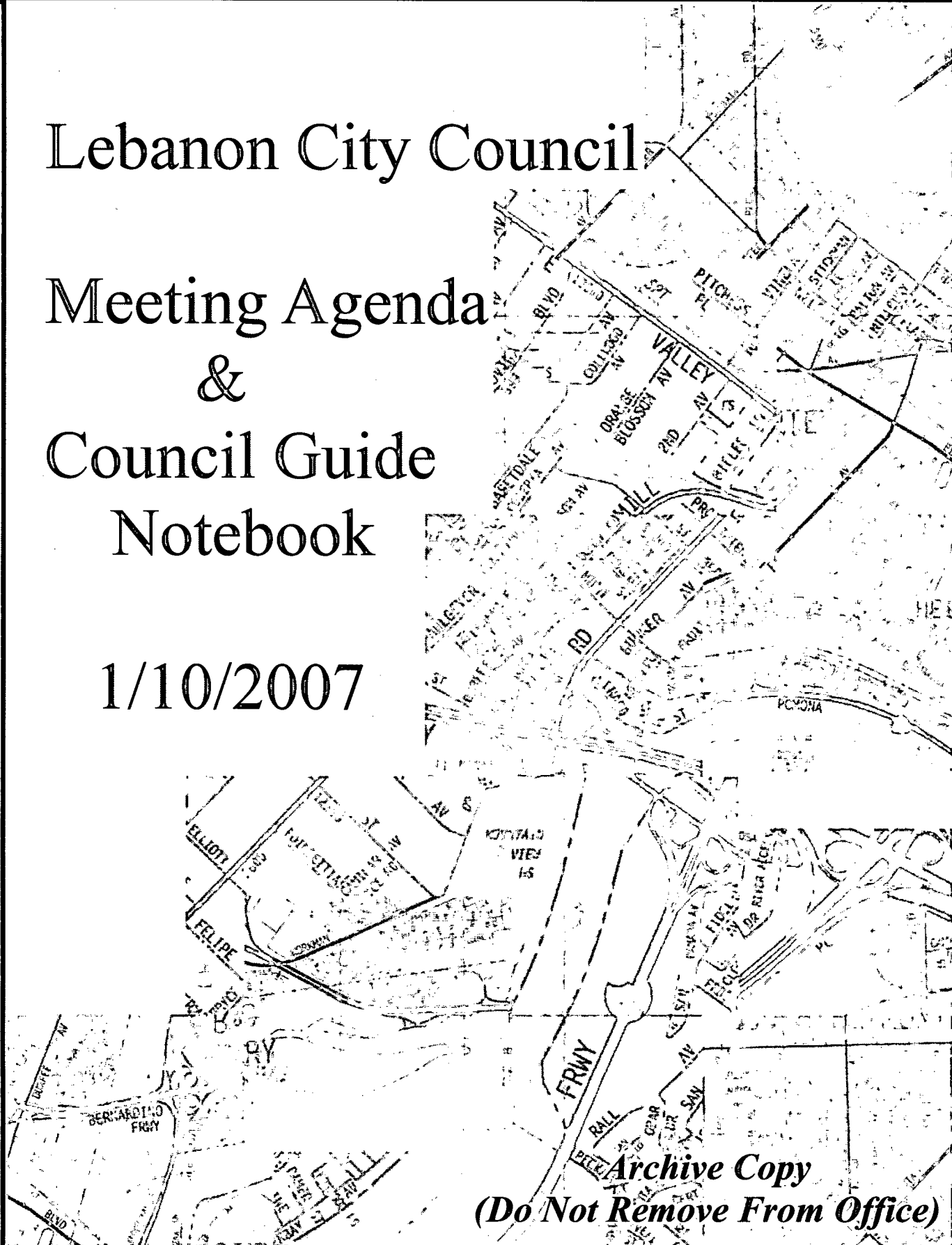
CITY OF LEBANON  
*It's easier from here.*

# Lebanon City Council

## Meeting Agenda & Council Guide Notebook

1/10/2007

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**LEBANON CITY COUNCIL MEETING**  
**Wednesday, January 10, 2007**  
*(Santiam Travel Station - 750 3rd Street)*

**A G E N D A**

**REGULAR SESSION (7:00 p.m.)**

**CALL TO ORDER REGULAR SESSION / FLAG SALUTE**

**OATH OF OFFICE (Mayor Toombs and Councilors Fisher, Fox & Elliott)**

**ELECT COUNCIL PRESIDENT**

**ROLL CALL**

**APPROVAL OF CITY COUNCIL MINUTES**

- ❖ December 13, 2006 Water System Master Plan Work Session
- ❖ December 13, 2006 Regular Session

**CONSENT CALENDAR**

- ❖ City Council Agenda – January 10, 2007
- ❖ Accept Lebanon Library-Senior Center Trust Meeting Minutes – November 14, 2006
- ❖ Accept Lebanon Senior Center Advisory Board Meeting Minutes – November 15, 2006

**ITEMS FROM COUNCIL**

**PUBLIC HEARINGS**

**1) Statutory Findings of Construction Process – Library & Police Facilities**

Presented by: Denice Lee, Library Manager  
Mike Healy, Police Chief

Approval/Denial by RESOLUTION

**2) Lebanon Transportation System Plan (TSP)**

Presented by: Jim Ruef, Public Works Director

Approval/Denial by ORDINANCE

3) **Liquor License Approval, New Owner, Shell Food Mart, 300 S. Santiam Hwy.**

Presented by: Mike Healy, Police Chief

Approval/Denial by MOTION

**LEGISLATIVE SESSION**

4) **Recreational Trails Grant Application**

Presented by: Rod Sell , Maintenance Division Manager

Approval/Denial by RESOLUTION

5) **Special Public Works Fund Financing Agreement**

Presented by: Malcolm Bowie, City Engineer

Acceptance by RESOLUTION

6) **City Manager's Report**

Presented by: John Hitt, City Manager

Discussion

**CITIZEN COMMENTS** - *Those citizens with comments concerning public matters may do so at this time. Please identify yourself before speaking and print your name and address on the sign-up sheet.*

**EXECUTIVE SESSION** - *Executive Sessions are closed to the public due to the highly confidential nature of the subject.*

*Per ORS 192.660(1)(h) To consult with legal counsel concerning legal rights and duties of the Council regarding current litigation or litigation likely to be filed.*

**ADJOURNMENT**

# *Approval of Minutes*

LEBANON CITY COUNCIL  
*Water System Master Plan Work Session Minutes*  
December 13, 2006 (5:30 p.m.)

**Council Present:** Mayor Ken Toombs and Councilors Bob Elliott, Tim Fox, Rebecca Grizzle, Ron Miller, Dan Thackaberry and Ray Weldon.

**Staff Present:** City Manager John Hitt, Public Works Director Jim Ruef, City Engineer Malcolm Bowie, Senior Engineer Rob Emmons, Environmental Specialist Darrell McLaughlin, OMI Operations Manager Brian Helliwell, Assistant to the City Manager Ginger Allen and City Clerk/Recorder Linda Kaser.

**Consultant Team:** CH2M Hill  
Galardi Consulting

*["Lebanon Water System Master Plan" was distributed to the Councilors.]*

Senior Engineer Emmons stated that Debbie Galardi was inadvertently left off of the acknowledgements. CH2M Hill Consultant Paul Berg gave an overview of the Water System Master Plan:

- . Project drivers
- . Water system overview

In response to Councilor Weldon's question, Mr. Berg stated that there are currently two storage tanks, but an additional one is recommended as part of this project. As growth increases on the east side of the river, the single pipeline connecting the two sides becomes more critical. The tank on the east side somewhat mitigates a break in the pipeline, but it would quickly become exhausted if the pipeline has a difficult-to-repair break.

- . Distribution system
- . Water demands
- . Source and treatment

There are concerns about the water quality in the Canal as compared to the River because of bridge crossings, houses located within 100 feet of the Canal and agricultural property with non-point source runoff. The City has had a good history with this, but there have been three incidents since 1984 that warranted shutting the water system down due to contamination. It would be better to move off of the Canal or off-stream to minimize those kinds of potential risks. Councilor Miller asked if there was ongoing testing of the water. Mr. Berg stated that the November 2005 source water assessment report identified 88 potential sources of contamination and ranked 73 of those as being moderate to high risk. Public Works Director Ruef stated that there is no direct continuous testing being performed. Mr. Berg added that only periodic measurements of water quality are being taken. Councilor Miller inquired to what level we should be concerned. Ruef stated that the risk can be minimized by moving upstream.

Lebanon's SDC Improvement fee is the largest component of the combined SDC fee at \$3000. per unit; the Reimbursement fee is \$17. per unit. A fairly sizable increase in the SDC Schedule was anticipated because what the CAC reviewed and recommended was based on an outdated Master Plan. The SDC rate impact would be reduced by about 0.5% with the revised SDCs.

Emmons stated that a Town Hall Meeting for public input is scheduled for January. Adoption of this Plan will come before Council in February. Ruef noted that Council will only be looking at adopting the Plan; rate increases will come before Council at a later date.

Ms. Galardi confirmed for Hitt that the bond assumptions are in the complete plan.

**Adjourned**

Mayor Toombs adjourned the work session at 6:45 p.m.

*Meeting recorded by Linda Kaser and transcribed by Donna Trippett*

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Kenneth I. Toombs, Mayor

ATTESTED:

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Linda Kaser, City Clerk/Recorder

**LEBANON CITY COUNCIL MEETING  
MINUTES  
December 13, 2006**

**Council Present:** Mayor Ken Toombs and Councilors Bob Elliott, Tim Fox, Rebecca Grizzle, Ron Miller, Dan Thackaberry and Ray Weldon.

**Staff Present:** City Manager John Hitt, Finance Director Casey Cole, Police Chief Mike Healy, Public Works Director Jim Ruef, Community Development Manager Doug Parker, City Attorney Tom McHill, Assistant to the City Manager Ginger Allen and City Clerk/Recorder Linda Kaser.

**CALL TO ORDER / FLAG SALUTE / ROLL CALL**

Mayor Toombs called the Regular Session of the Lebanon City Council to order at 7:00 p.m. in the Santiam Travel Station Board Room. Roll call was taken; all Councilors were present.

**APPROVAL OF TSP WORK SESSION & COUNCIL MINUTES – November 8, 2006**

*Councilor Grizzle moved, Councilor Miller seconded, to approve the November 8, 2006 TSP Work Session & City Council Minutes as presented. The motion passed unanimously by roll call vote.*

**CONSENT CALENDAR**

- ❖ City Council Agenda for December 13, 2006
- ❖ Accept Lebanon Library Advisory Board Meeting Minutes - October 11, 2006
- ❖ Accept Lebanon Library-Senior Center Trust Meeting Minutes - September 12, 2006
- ❖ Accept Lebanon Library-Senior Center Trust Meeting Minutes - October 10, 2006
- ❖ Accept Lebanon Parks Committee Tree Board Meeting Minutes - October 17, 2006
- ❖ Accept Senior Center Advisory Board Meeting Minutes - October 18, 2006

*Councilor Elliott moved, Councilor Fox seconded, to approve the Consent Calendar as presented. The motion passed unanimously by roll call vote.*

**CITIZEN COMMENTS** - *There were no comments.*

**ITEMS FROM COUNCIL**

Councilor Miller asked how much the lawsuit has cost the City to date. Assistant to the City Manager Allen stated that attorney billings have totaled just under \$10,000 so far; staff time has not yet been calculated.

**PRESENTATION**

Don Fountain, PO Box 1017, Lebanon, representing Recreation for Kids and Community, stated that, as a result of losing the support of two major contributors, the Committee has chosen to suspend their efforts to the Academy Square Gyms Project. As of December 31<sup>st</sup> [2006], RKC will be disbanded; all pledges will be returned with a letter detailing the process. According to RKC's by-laws, the operations fund and monies will be turned over to the Boys and Girls Club.

Chuck Nugent, 36969 Rock Hill Drive, thanked the Committee members and their families for the sacrifices they made. He questioned how future recreational needs in this community would be met and stated that he would be happy to participate if the City forms a Committee to study this further.

Mayor Toombs thanked the Committee for their efforts.

Judy Phillips, 820 W. Rose Street, stated that she will no longer be pursuing a Skateboard Park and thanked Council for their support.

In response to Councilor Weldon's question about getting public input concerning this decision, City Manager Hitt stated that staff will come back in January with a recommended process to enable the City Council to make a final decision regarding the old gyms.

## **PUBLIC HEARINGS**

### **1) IWM, LLC / Hunter - 2440 Stoltz Hill Road**

*Mayor Toombs declared the Public Hearing open at 7:14 p.m. to consider Annexation A-06-10, Map 12-2W-15CB, Tax Lots 900 and 901, approximately 8.64 acres, Lebanon, Oregon.*

City Attorney McHill reviewed the public hearing procedures that apply to the three annexation requests being heard. He stated that staff has identified the relevant and detailed criteria beginning on Page 6 of the staff report. All testimony, arguments and evidence brought before Council must be directed toward the criteria staff has indicated or other criteria in the Comprehensive Plan or Land Use Regulations document that the witness believes will apply to the decision being made. Failure to raise an issue accompanied by statements or evidence sufficient to afford the Council and the parties an opportunity to respond precludes appeal to the Land Use Board of Appeals based upon that issue.

*Mayor Toombs asked the Council to disclose any conflicts of interest or ex parte contacts. Hearing none, he asked for the staff report.*

Parker briefed the Council on a request by the property owners to annex an approximately 8.64 acre territory comprised of two tax lots located at 2440 Stoltz Hill Road (Assessor's Map 12 - 2W-15CB, Tax Lots 900 and 901). The subject property is located on the west side of Stoltz Hill Road between Wassom and Kees Streets. Parker stated that on September 20, 2006, the Planning Commission conducted a public hearing and voted unanimously to recommend approval of this proposed annexation and zoning assignment to the City Council. At a subsequent public hearing, the Planning Commission preliminarily approved a subdivision proposal pending Council's annexation approval.

*Mayor Toombs asked if there were any questions of staff.*

In response to Councilor Elliott's question about the staff comment regarding debris on the site, Parker stated that this was rectified and will be an ongoing condition.

*Mayor Toombs asked if there were any other questions of staff. Hearing none, he asked the applicant's representative to come forward.*

Katy Schmidt, REMAX, 6272 Nelson Loop, Albany, representing Andy Foster, asked if there were any questions. There were none.



***Mayor Toombs asked if anyone would like to speak in favor of or in opposition to this annexation request. Seeing no one, he closed the Public Hearing at 7:24 p.m.***

There was Council consensus that the findings met the annexation criteria.

McHill read the title of the Ordinance.

***Councilor Elliott moved, Councilor Miller seconded, to approve A BILL FOR AN ORDINANCE ANNEXING AND ZONING PROPERTY FOLLOWING CONSENT FILED WITH THE CITY COUNCIL BY LANDOWNERS IN SAID AREA PURSUANT TO ORS 222.120 AND ORS 222.170 (File A-06-10, HUNTER ESTATES / IWM, LLC). The motion passed unanimously by roll call vote.***

## **2) RRM, LLC Annexation - Reeves Parkway**

***Mayor Toombs declared the Public Hearing open at 7:26 p.m. to consider Annexation A-06-11, Map 12-2W-3C, Tax Lot 100, 15.01 acres, Lebanon, Oregon.***

McHill stated that the same public hearing procedures also apply to this hearing. Staff has identified the relevant criteria beginning on Page 6 of the staff report. Parker stated that a Supplement consisting of the complete staff report was distributed to the Councilors. McHill noted that all testimony, arguments and evidence brought before Council must be directed toward the criteria staff has indicated or other criteria in the Comprehensive Plan or Land Use Regulations document that the witness believes will apply to the decision being made. Failure to raise an issue accompanied by statements or evidence sufficient to afford the Council and the parties an opportunity to respond precludes appeal to the Land Use Board of Appeals based upon that issue.

***Mayor Toombs asked the Council to disclose any conflicts of interest or ex parte contacts. Hearing none, he asked for the staff report.***

Parker briefed the Council on a request to annex a 15.01 acre territory located north of Reeves Parkway between the future northward extension of 5<sup>th</sup> Street and Hansard Avenue (Assessor's Map 12-2W-3C, Tax Lot 100). The property is designated as Mixed Use (C-MU) on the Comprehensive Plan Map and will be assigned a Mixed Use (Z-MU) zoning designation upon annexation; this is not a zone map amendment or a zone change. The property is currently vacant with no development proposal at this time. The site has direct access to City infrastructure and staff feels that this annexation will help to address the City's vacant lands need. Parker stated that on October 18, 2006, the Planning Commission conducted a public hearing and voted unanimously to recommend approval of this proposed annexation and zoning assignment to the City Council.

***Mayor Toombs asked if there were any questions of staff. Hearing none, he asked the applicant's representative to come forward.***

Eric Kirby, 63 E. Ash Street, the applicant's representative, stated that all annexation criteria have been met and added that the property is contiguous to City limits with all utilities available. He asked for Council's approval of this annexation request.

***Mayor Toombs asked if anyone would like to speak in favor of this annexation request.***

Mike Doyle, 611 Hansard Avenue, stated that he does not have a problem with this annexation, but feels that this property should not be assigned a Mixed Use zoning designation. He added that his property and five others on Hansard Avenue are zoned Light Industrial, which limits the amount they can sell their property for.

McHill stated that the subject property would be assigned Mixed Use because of the designation on the Comprehensive Plan map. Because Mr. Doyle's property is in the County, Hitt explained that he could propose a Comprehensive Plan map change, which would go through the City's Planning department and the Planning Commission.

*Mayor Toombs asked if anyone else would like to speak in favor of the annexation request. Seeing no one, he asked if anyone would like to speak in opposition to the annexation request. Seeing no one, he closed the Public Hearing at 7:37 p.m.*

There was Council consensus that the findings met the annexation criteria.

McHill read the title of the Ordinance.

***Councilor Miller moved, Councilor Fox seconded, to approve A BILL FOR AN ORDINANCE ANNEXING AND ZONING PROPERTY FOLLOWING CONSENT FILED WITH THE CITY COUNCIL BY LANDOWNERS IN SAID AREA PURSUANT TO ORS 222.120 AND ORS 222.170 (File A-06-11, RRMC, LLC). The motion passed unanimously by roll call vote.***

### **3) Braun Annexation - Airport Road**

*Mayor Toombs declared the Public Hearing open at 7:39 p.m. to consider Annexation A-06-12, Map 12-2W-15CA, Tax Lot 4200, 0.79 acres, Lebanon, Oregon.*

McHill stated that the same public hearing procedures also apply to this hearing. The relevant criteria are the same, with the addition of goals and policies from Comprehensive Plan Chapter 2, Natural Resources. All testimony, arguments and evidence brought before Council must be directed toward the criteria staff has indicated or other criteria in the Comprehensive Plan or Land Use Regulations document that the witness believes will apply to the decision being made. Failure to raise an issue accompanied by statements or evidence sufficient to afford the Council and the parties an opportunity to respond precludes appeal to the Land Use Board of Appeals based upon that issue.

*Mayor Toombs asked the Council to disclose any conflicts of interest or ex parte contacts. Hearing none, he asked for the staff report.*

Parker briefed the Council on a request by the property owners to annex a 0.79 acre territory located at the northwest corner of the intersection of Kees and 7<sup>th</sup> Streets (Assessor's Map 12-2W-15CA, Tax Lot 4200). The property is designated as Residential Mixed Density (C-RM) on the Comprehensive Plan Map and will be assigned a Residential Mixed Density (Z-RM) zoning designation upon annexation; this is not a zone map amendment or a zone change. There is no development proposal for the property at this time, although there is adequate infrastructure to serve development of the site. Parker stated that on October 18, 2006, the Planning Commission conducted a public hearing and voted unanimously to recommend approval of this proposed annexation and zoning assignment to the City Council.

*Mayor Toombs asked if there were any questions of staff.*

In response to Councilor Weldon's question, Parker stated that this site was not close to the property with the drainage problem.

Parker confirmed for Councilor Fox that the subject property is not within the Grand Prairie Water District.

*Mayor Toombs asked if there were any other questions of staff. Hearing none, he asked the applicant's representative to come forward.*

Eric Kirby, 63 E. Ash Street, the applicant's representative, stated that the property is contiguous to City limits with utilities readily available and added that Burkhart Creek crosses diagonally through the property. There is no development proposal at this time, but they will work with City staff to determine what types of easements or accesses are required when one is put together. He asked if there were any questions. There were none.

*Mayor Toombs asked if anyone would like to speak in favor of or in opposition to this annexation request. Seeing no one, he closed the Public Hearing at 7:45 p.m.*

There was Council consensus that the findings met the annexation criteria.

McHill read the title of the Ordinance.

*Councilor Grizzle moved, Councilor Elliott seconded, to approve A BILL FOR AN ORDINANCE ANNEXING AND ZONING PROPERTY FOLLOWING CONSENT FILED WITH THE CITY COUNCIL BY LANDOWNERS IN SAID AREA PURSUANT TO ORS 222.120 AND ORS 222.170 (File A-06-12, THOMAS BRAUN). The motion passed unanimously by roll call vote.*

## **LEGISLATIVE SESSION**

### **4) LMC Title 18 Amendments - Flood Damage Prevention**

In response to a recent review of the City's Floodplain Ordinance by FEMA staff, Parker stated that proposed Code amendments have been prepared by McHill to bring those regulations up to date. He added that the changes are minor and are considered bookkeeping updates to assure that local regulations are compliant with Federal regulations in order to maintain flood insurance coverage eligibility for the community. Failure to appropriately respond could make our community ineligible for the continued National Flood Insurance Program.

McHill read the title of the first Ordinance.

*Councilor Elliott moved, Councilor Grizzle seconded, to approve A BILL FOR AN ORDINANCE AMENDING CHAPTER 18.08, DEFINITIONS, OF THE LEBANON MUNICIPAL CODE CONCERNING FLOOD PREVENTION CONTROL. The motion passed unanimously by roll call vote.*

McHill read the title of the second Ordinance.

*Councilor Fox moved, Councilor Elliott seconded, to approve A BILL FOR AN ORDINANCE AMENDING CHAPTER 18.16, ADMINISTRATION, OF THE LEBANON MUNICIPAL CODE CONCERNING FLOOD PREVENTION CONTROL. The motion passed unanimously by roll call vote.*

McHill made an amendment to the third Ordinance: *Section 4. All other definitions contained in Chapter 18.24, unless deleted or amended by this ordinance, shall remain in effect.* He read the title of the third Ordinance.

***Councilor Grizzle moved, Councilor Elliott seconded, to approve as amended A BILL FOR AN ORDINANCE AMENDING CHAPTER 18.24, BASE FLOOD AREAS, OF THE LEBANON MUNICIPAL CODE CONCERNING FLOOD PREVENTION CONTROL. The motion passed unanimously by roll call vote.***

Corrections were also made to the first two Ordinances:

First Ordinance: *Section 4. All other definitions contained in Chapter 18.08, unless deleted or amended by this ordinance, shall remain in effect.*

Second Ordinance: *Section 4. All other definitions contained in Chapter 18.16, unless deleted or amended by this ordinance, shall remain in effect.*

There were no objections to the corrections.

## **5) Certification of November 2006 City Election**

City Clerk Kaser distributed the certified November 7<sup>th</sup> [2006] election results from the Linn County Elections Department and stated that the newly elected officials would be sworn in at the January 10, 2007 meeting upon Council's acceptance of these results.

***Councilor Miller moved, Councilor Grizzle seconded, to certify the election results. The motion passed unanimously by roll call vote.***

Parker observed that the election figures indicate that the Council Ward redistricting was appropriate and prudent.

## **6) Establishing Banking with Wells Fargo**

Finance Director Cole explained that the City, along with several other local jurisdictions, prepared an RFP for banking services to get the best rates for the banking services needed. Wells Fargo was selected by the group based on the best prices for their various services. Cole asked for Council's approval to move forward with the transition from Key Bank to Wells Fargo.

In response to Councilor Grizzle's question, Cole stated that the City would save approximately \$200. per month with Wells Fargo; these rates are guaranteed for five years.

McHill read the title of the Resolution.

***Councilor Elliott moved, Councilor Fox seconded, to approve A RESOLUTION AUTHORIZING THE ESTABLISHMENT OF BANKING SERVICES WITH WELLS FARGO BANK. The motion passed unanimously by roll call vote.***

## **7) City Administrator's Report**

Hitt provided a brief report on the following:

*City Bond* - Due to technical reasons, the City bond cannot be issued until next March or April; this should be on the Council agenda for February or March. An RFQ, scheduled to go out tomorrow, will begin the process of seeking the most qualified architect to begin design work for the new police station and library; Council will approve that final selection. Shortly thereafter, public notice for a Council public hearing to consider the project delivery method will be advertised. It was felt that it is appropriate to go with the Construction Manager General Contractor method based on discussions with other cities and nationally known firms who engage in doing public safety buildings. They felt that some of the advantages of this method are that a contractor would be selected based upon qualifications and would provide us a guaranteed maximum price. This guaranteed price would assure the City, as well as the tax payers, that we would not exceed the price, meeting the requirements of the bond and of the levy. Most importantly, the architect and contractor would be able to balance both the scope and the cost of the design very early in the process, ultimately saving money versus going out with a complete design and then a construction bid.

Councilor Grizzle questioned whether the City would be able to show preference for companies that have done similar projects. Hitt stated that advantages of the RFQ process and the CMGC method include looking at those two key components: qualifications and experience.

*City Tax Revenues* – The City has just received the initial property tax revenues. The General Fund revenues were a little less than last year when the three URDs were greater.

*IS/GIS Relocation* - IS/GIS will be relocated to the Brooks Insurance building.

*Academy Square Gyms Presentation Follow-Up* - A packet of background and related information was distributed for review in preparation for moving forward.

***Mayor Toombs called for a recess to go into Executive Session and noted that the regular order of business will resume after the Executive Session.***

## **EXECUTIVE SESSION**

*Per ORS 192.660(1)(e) To conduct deliberations with persons designated by the Council to negotiate real property transactions.*

## **LEGISLATIVE SESSION**

### **8) Intergovernmental Agreement - Connect Oregon Grant**

Public Works Director Ruef stated that the total cost estimate for the Connect Oregon Project is just under 2.4 million dollars with funds from the City's URD of approximately \$480,000. Staff recommends that Council authorize the Mayor and Recorder to sign the Intergovernmental Agreement.

***Councilor Miller moved, Councilor Thackaberry seconded, to approve the Intergovernmental Agreement. The motion passed unanimously by roll call vote.***

**CITIZEN COMMENTS** - *There were no comments.*

**ADJOURNMENT**

Mayor Toombs adjourned the meeting at 8:35 p.m.

*Meeting recorded by Linda Kaser and transcribed by Donna Trippett*

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Kenneth I. Toombs, Mayor

ATTESTED:

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Linda G. Kaser, City Clerk/Recorder

# CONSENT CALENDAR

# LEBANON PUBLIC LIBRARY-SENIOR CENTER TRUST

Senior Center Conference Room

November 14<sup>th</sup>, 2006

## MINUTES

**BOARD MEMBERS PRESENT:** Linda Darling, Bob Elliott, Joyce Weatherly, Lori McNulty, Thelma Toombs, Phyllis Wimer **Staff:** Denice Lee, Kindra Oliver

**ABSENT:** Remona Simpson, Sheri Miller

### 1. Call to Order

Linda Darling called the meeting to order.

### 2. Minutes - September 12<sup>th</sup> & October 10<sup>th</sup>, 2006

*Lori moved, Bob seconded for approval of the September 12<sup>th</sup> & October 10<sup>th</sup>, 2006 meeting minutes. All in favor. Motion passed unanimously.*

### 3. Treasurer's Report

Phyllis said that there wasn't any activity for the month and the ending balance is \$11,488.40.

The Department of Justice (DOJ) sent us a bill for \$30 because our annual report from 4/30/06 lacked appropriate documentation.

*Bob moved, Thelma seconded, to pay the DOJ invoice. All in favor. Motion passed unanimously.*

*Thelma moved, Joyce seconded, to accept the Treasurer's Report. All in favor. Motion passed unanimously.*

### 4. Passage of Bond Measure 22-64

Denice announced that the bond measure passed, 58% in support and 39% in opposition. There were not very many undervotes, which means that we got the information out to the people so they could make an informed decision. We have a group looking into the bond process and the timeline for getting the building projects off the ground. We want the community to be involved with the process.

Joyce asked if we should contact the people who were originally involved with the Library - Senior Center efforts years ago. Denice thought that we may want to wait a bit to make that decision after we know what type of working group(s) we'll need.

Denice said we will need to start thinking about grant writing for materials and various projects for the Library. This is a good opportunity to update the Library's collection and get more books on the shelves.



The group thought we should recognize the Political Action Committee (PAC) by putting their name on a plaque and possibly engraving the donors that helped with the campaign onto the donor wall.

*Joyce moved, Bob seconded, to put the names of PAC members on a plaque next to the display wall. All in favor. Motion passed unanimously.*

The group will discuss recognition of campaign donors at the December meeting.

**5. Updates**

Library:

Denice is working on the RFP for the building project. She added that she and a few others would like to start touring new library facilities.

Senior Center:

None

**6. Continuing Business**

None

**8. New Business**

Group consensus was to invite John Hitt to the December meeting to get an update on the timeline and thank him for his efforts and forward thinking.

**9. Items from Floor**

None

**10. Adjournment**

*Joyce moved, Lori seconded for adjournment. All in favor. Motion passed unanimously.*

**Next Board meeting: Tuesday, December 12, 2006 at the Senior Center.**



**Senior Center**  
65 B Academy  
Lebanon OR 97355  
(541) 258-4919 fax (541) 258-4956  
[www.ci.lebanon.or.us](http://www.ci.lebanon.or.us)

**ADVISORY BOARD MEETING  
November 15<sup>th</sup>, 2006**

**MINUTES**

Members present: Bob Elliott, Remona Simpson, Fran Bonnarens, Alice Unger, Lori McNulty, Kindra Oliver

Guest: Kristy Murphy, COG; Priscilla Wade

Absent: Tori Hartman, Bonnie Prince, Cleora Wymore, Mac McNulty, Frances West

**1) WELCOME:**

Remona welcomed everyone and opened the meeting. We had Kristy Murphy from COG join us to talk about the Meals-on-Wheels program and Remona's sister, Priscilla Wade, was visiting from New York.

**2) MINUTES:**

Lori moved, Fran seconded to accept the minutes from the October 18<sup>th</sup>, 2006 meeting. All in favor. Motion passed unanimously.

**3) CHAIRPERSON'S REPORT:**

Remona stated that she was very proud of the citizens of Lebanon for passing the Police and Library facility bond measure and the Fire Department bond measure. She is excited about the direction that Lebanon is heading.

**4) REPORTS:**

Meal Site:

Kristy Murphy, COG, said the Meals-on-Wheels/Meal Site program provides meals to anyone 60 years of age or older in 12 dining rooms throughout Linn, Benton and Lincoln counties. In FY 05-06 Lebanon served 41,599 meals, more than any of the other sites within the three counties.

The last couple of years the Meals-on-Wheels/Meal Site have taken big hits in budget reductions due to state and federal funding. In anticipation of future budget cuts they have formed an ad hoc committee to determine how to meet the needs of the growing senior population. They are taking a proactive approach because 2, 5-10 years down the road they aren't going to have full funding for this program. The hope is to get the community involved

to help support the program or help to find more resources. For example, Waldport recently started running their meal site on Wednesdays by getting food donated from local businesses and volunteers making the meals.

Although Lebanon serves more meals per year than the other sites, we have only 28 volunteers. We always need more volunteers. Kristy said she is making presentations to service organizations this month to spread awareness and encourage community support.

It was suggested that Kristy contact the Lebanon Greeter to have her include Meals-on-Wheels information with the rest of the items she distributes to new residents.

Senior Center:

- The lights on the back of the S.C. building have been replaced with higher wattage fixtures to help light up the back parking lot. The cost was approximately \$600.
- Pacific Power should be here in the next couple of weeks to install the light pole for the front parking lot.
- Kindra spoke at a Senior Symposium this week, which was sponsored by Century Fields. There were representatives from all local care facilities who each got a few minutes to talk about their facilities. There were also three speakers, one who spoke about elder law, one on Lifeline and one on Medicare. Century Fields is planning to host more symposiums in the future as well, which is definitely a great thing to offer our seniors.
- Kindra talked to a representative for the Class of 1986 regarding the \$506 they raised for the Library and Senior Center. The gal indicated that the match request went to Walmart's corporate office and that she hadn't heard anything back from them yet. She said she would notify us and get us the donation once she gets confirmation from Walmart.
- Occupational Safety & Hazard Association (OSHA) came through the Senior Center for a complimentary inspection and compiled a list of items that needed some work, such as minor electrical issues, securing all shelving, installing two additional lighted "exit" signs and a few other minor things. Everything on the list has been taken care of and we are in full compliance with OSHA requirements. The electricians were here for quite awhile so the bill will probably be a bit high.
- Charles Grissman donated a large screen television to the Senior Center.
- We had almost 1,200 Dial-a-Bus rides for the month of October. So, the addition of our new part-time driver and more hours are being well received by our riders. Below are some DAB stats:

<u>Month</u>	<u>2006</u>	<u>2005</u>	
October	1,187	721	(additional part-time driver as of 10/1/06)
September	812	740	
August	813	754	

- We had 2,408 people at the Senior Center in October, which doesn't include weekend and after-hour rentals. Approximately 250 visits were from participants of the Lebanon Senior Police Academy that was held at the Senior Center throughout the

month of October. There are also more LBCC classes this term which added to the count.

- We had lots of people come to the Senior Center for the flu clinic on November 9<sup>th</sup>, including people who hadn't been to the Senior Center before.
- Our Thanksgiving Banquet is tomorrow and we anticipate approximately 120 people. This is the second year in a row that Cambridge Terrace of Albany has sponsored the event - Thank you!!!
- Activities for December include:
  - December 7<sup>th</sup>, 12:30 - Winter Dessert (Cascade Performing Arts)
  - December 8<sup>th</sup>, 12:00 to 4:00 - Holiday Crafts
  - December 19<sup>th</sup>, 8:00 a.m. to 4:00 p.m. - Red Cross Blood Drive
  - December 21<sup>st</sup>, 11:30 - Holiday Potluck (waiting to hear back from Pete & Ann Marie to perform)

**CONTINUING BUSINESS:**

- None

**NEW BUSINESS:**

- None.

**ITEMS FROM THE FLOOR:**

- Lori said she gave Deanna some Thanksgiving crosswords for the tables at the Thanksgiving Banquet.
- Remona commented that the group will need to discuss Advisory Board member recruitments at the next meeting.

**ADJOURNMENT:**

There being no further business, Lori moved and Fran seconded to adjourn the meeting.

Next Meeting: **Wednesday, December 20<sup>th</sup>, 10:00 a.m.**

# Agenda Item 1

## LEBANON CITY ATTORNEY

80 East Maple Street ■ Lebanon, Oregon 97355 ■ Phone: (541) 258-3194 ■ Fax: (541) 258-7575

### MEMORANDUM

**DATE:** January 4, 2007

**To:** Mayor and Council

**FROM:** Thomas McHill, Lebanon City Attorney

**RE:** Hearing on Findings for Determination of Method of Project Delivery for New Public Library, Information Services and Police Station

As you know, the voters of Lebanon have approved the bond to build new facilities to house the Lebanon Police Department, Information Services and the Lebanon Public Library. Under Oregon law, there are now some options for your consideration in determining an appropriate method of constructing the new facilities.

Under a traditional approach, also known as the "low-bid" or "design-bid-build" approach, the City would enter into several contracts to construct the project. Contracts would be between the City and an architect to design the project, and a separate contract between the City and a contractor to construct the project as designed by the architect. Once the design is complete, the City and the architect put the design out for competitive bid by interested contractors. For this public project, the lowest responsible and responsive bidder will usually be the successful bidder.

Or, the City could hire a construction manager to coordinate the project as the agent of the City, which requires a contract between those two parties, with additional contracts between the City and an architect to design the project, and a third contract between the City and a contractor, or a series of contractors to build the project as designed by the architect.

A third approach, and the approach that is being recommended and submitted by staff for your consideration, is the Construction Manager/General Contractor approach (the "CMGC" model). This approach retains the contractor through a request for proposal prior to or during the design phase to review the architect's design work and to advise the City and the architect regarding the constructability and practicality of alternative design approaches, value engineering and other possible cost savings, cost estimating, scheduling, approaches to subcontracting and other important early decisions to be made in the project. Under this approach, the City and the contractor, either at a predetermined point during design or upon completion of design, agree on the contract price (the Guaranteed Maximum Price, or "GMP"), the schedule and other design-dependent provisions of the final construction project. This approach has been increasingly used in Oregon and was the method of delivery employed by the Lebanon Community School District in its recent bond work to build and remodel schools.

The CMGC method is viewed as an alternative method of delivering construction projects. Oregon law, then, requires that the Council, sitting as the Local Contract Review

Board, conduct a hearing and adopt appropriate findings to approve this alternative approach. Staff has made the appropriate notice in a publication of statewide circulation that the Council will conducting a hearing on January 10, 2007 to consider the proposed findings that are incorporated in the submitted Resolution for your consideration. Staff recommends your approval of the findings and the Resolution as the CMGC approach allows the use of an RFP to construct the facilities. This should allow at least the following advantages over the traditional approach:

1. Faster project completion because the contractor will be selected prior to the completion of the project design. This also allows the contractor's experience to be used early in the project. This should reduce construction delays and change orders.
2. Project costs are reduced. By using the design-build concepts of CMGC, the City should be able to take advantage of the packaging of services which usually will lower design costs considerably. Value engineering can be used to make sure that the project stays on budget. In addition, the inherent flexibility of the process allows the City to more easily change the design and scope of the work as necessary to meet the project budget.
3. More discretion is allowed in contractor selection. The RFP process to pick contractors should allow more detailed review of the contractors' experience and work history to rank qualifications better.
4. Partnering is encouraged. Under the traditional approach, the contractor may be the last member of the team to be added. Under the CMGC approach, early involvement of the contractor allows the City and the contractor, along with the architect, to build a better relationship and hopefully avoid adversarial situations later in the project.
5. No reduction of competition. The RFP process is not a sole source procurement where only one company has been singled out for award. Rather, the RFP process is open to the same companies that would have participated in the traditional low bid method. In addition, because the City should strive to consistently apply uniform evaluation criteria, the opportunity for favoritism in contract award can be significantly reduced.

Therefore, the Staff and Administration recommend approval of the Resolution after the Council has conducted the appropriate public hearing.

A RESOLUTION CONSIDERING PROPOSED ) Resolution No. \_\_\_\_\_  
 FINDINGS, APPROVING FINDINGS, APPROVING )  
 "CONTRACT MANAGER GENERAL CONTRACTOR" ) for 2007  
 PROJECT DELIVERY AS EXEMPTION FROM )  
 PUBLIC BIDDING PER ORS CHAPTER 279C )

Whereas, the City Council of the City of Lebanon has conducted a public hearing, pursuant to the provisions of ORS 279C.335, as a contracting agency, on the 10<sup>th</sup> day of January, 2007; and

Whereas, the City determines that said hearing provided an opportunity for the taking of oral and written testimony; and

Whereas, the City finds that notice was given for said public hearing, at least 14 days prior to such hearing, and that said notice was published in a trade newspaper of general statewide circulation; and

Whereas, the City has considered the proposed findings drafted by the contracting agency, and

Whereas, the City hereby considers and approves the alterative contracting method of Contract Manager General Contractor ("CMCG") to be used in this project, the City of Lebanon's Police Station, Public Library and Court Facilities Construction Project, making the further findings as set forth below;

NOW, THEREFORE, THE CITY OF LEBANON RESOLVES AS FOLLOWS:

Section 1. The City Council, having reviewed the records and files herein, and considering the testimony provided by interested persons at the hearing conducted herein, the proposed findings of the Contracting Agency, makes the following findings:

- A. "Construction Manager/General Contractor" (CM/GC) means a form of Procurement that results in a Public Improvement Contract for a Construction Manager/General Contractor to undertake project team involvement with design development; constructability reviews; value engineering, scheduling, estimating and subcontracting services; establish a Guaranteed Maximum Price to complete the Contract Work; act as General Contractor; hold all subcontracts, self-perform portions of the Work as may be allowed by the Authorized Agency under the CM/GC Contract; coordinate and manage the building process; provide general Contractor expertise; and act as a member of the project team along with the Authorized Agency, architect/engineers and other Consultants. CM/GC also refers to a Contractor under this form of Contract, sometimes known as the "Construction Manager at Risk."



The construction of the public facilities which will house the City Library, the City Police Department, Informational Services and the Municipal Court will require unusual coordination between the buildings to preserve a campus-like atmosphere and continuity of style which the Council has identified as important to the community identification of the construction project. For this reason, and others herein, the use of alternative bidding methods such as the Construction Manager/General Contractor method of delivery, will enhance the coordination of this construction project.

- B. The criteria which is used in the evaluation of the proposed findings is found in the provisions of ORS 279C.330, "Findings" defined. As used in ORS 279C.335, 279C.345 and 279C.350, "findings" means the justification for a contracting agency conclusion that includes, but is not limited to, information regarding:
- (1) Operational, budget and financial data;
  - (2) Public benefits;
  - (3) Value engineering;
  - (4) Specialized expertise required;
  - (5) Public safety;
  - (6) Market conditions;
  - (7) Technical complexity; and
  - (8) Funding sources.
- C. The construction of the public improvements herein has significant schedule ramifications, such that concurrent design and construction are necessary in order to meet critical deadlines and to shorten the overall duration of construction. The City Council has considered operational and financial data which shows that significant savings can be a result of early completion of the project, as well as less disruption to public facilities as a result of shortened construction periods.
- D. The public improvements for this project are estimated to cost approximately 19.8 million dollars. Funding is being supplied through the issuance of bonds as approved by the voters of the City of Lebanon.
- E. The CM/GC method of delivery allows for early contractor input during the design process and is expected to contribute to significant cost savings. In addition, the CM/GC method will allow for value engineering, building systems analysis, Life Cycle Costing analysis and construction planning which will lead to cost savings. In reaching the conclusion that this project should be exempted from traditional approaches, the City Council finds that there is a need for specialized construction expertise due to technical challenges in the construction of a public library and a city jail which is met by the use of the alternative method of project delivery.

- F. Because of the nature of this project in the construction of a multiple purpose facility, the City Council finds that the construction project presents significant technical complexities that are best addressed by a collaborative or team effort between the City, design professional and Contractor, in which the Contractor will assist in addressing specific project challenges through pre-construction services. The City finds that there is a need for Contractor input on issues such as public safety, coordination of construction and schedules, delivery of an early budget or Guaranteed Maximum Price (GMP), financing and the requirement of complex phasing in this project. The CM/GC delivery system allows for the early involvement of the Contractor to facilitate delivery of the project.
- G. The use of the CM/GC project delivery system for this project is unlikely to encourage favoritism or to substantially diminish competition for the construction of the project. The City expects to attract competitive proposals for this project.
- H. For the factors identified in the findings adopted by this resolution, the exemption of this Contract Manager/General Contractor project delivery system should result in substantial cost savings to the public considering the type, cost, amount of the contract, number of persons available to bid and the other factors considered herein.

Section 2. Therefore, based upon the factors considered herein, the City Council approves and adopts the above findings and hereby declares that the project identified herein for the construction of the Lebanon Police Department, Lebanon Public Library, Lebanon Municipal Court and the Lebanon Information Systems Construction Project is and shall be exempt from the public bidding process for the construction of said public improvements. The City Council further directs the contracting agency, the City of Lebanon and its staff to employ the "Construction Manager/General Contract" Project Delivery System, pursuant to the provisions of Oregon Revised Statute chapter 279C for the design and construction said Public Improvements.

Section 3. This resolution shall be effective immediately upon its passage.

Passed by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_ against by the Lebanon City Council on this 10<sup>th</sup> day of January, 2007.

\_\_\_\_\_  
Kenneth I. Toombs, Mayor

ATTEST:

\_\_\_\_\_  
Linda Kaser, City Clerk/Recorder

A PUBLIC HEARING TO CONSIDER APPROVING "CONTRACT  
MANAGER GENERAL CONTRACTOR AS AN EXEMPTION FROM  
PUBLIC BIDDING PER ORS 279C

1. MAYOR: Now is the time and place for a public hearing to consider whether the City of Lebanon will approve the Construction Manager/General Contractor alternative contracting method for the construction of the City of Lebanon's Police station, Public Library and Court Facilities Projects, per ORS 279C.330. I declare the Public Hearing Open at 1:08 PM.

2. MAYOR: "At this time, I will ask our City Attorney to review the legal matters surrounding this public hearing

3. Mayor: "At this point, I will ask the City Manager for a staff report concerning this matter.

4. Mayor: (after staff presentation) Are there any questions from the City Council?

5. Mayor: (After Questions) I will now ask if there is any member of the public present who would like to speak in favor of the proposed contracting method or the proposed resolution? Please come forward and state your name and address for the record.

6. Mayor: (After those favoring speak) Is there anyone present who would like to speak in opposition to the proposed contracting method or proposed resolution.? Please come forward and state your name and address for the record.

7. Mayor: "I now declare the Public Hearing closed at 1:21 pm. All further discussion will be among and between the City Council and the City staff. At this time I will ask the Council if there are any questions of the staff.

8. City Council: Questions

9. Mayor: "If there are no further questions, I will ask the City Attorney to read the title of the proposed Resolution.

10. City Council: Makes Motion.

11. Mayor: "Is there any discussion on the motion?"

12. City Council: Discusses

13. Mayor: "I will ask the City Clerk to take a roll call vote.

14. City Clerk: (Takes vote)

15. Mayor: I declare the Resolution passed .

# Agenda Item 2

**CITY OF LEBANON**  
**MEMORANDUM**

**TO:** Jim Ruef, Director of Public Works      **DATE:** January 3, 2007  
**FROM:** Rob Emmons, Senior Engineer *RE*  
**CC:** Malcolm Bowie, City Engineer  
**SUBJECT:** Transportation System Plan – City Council Public Hearing

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This memo summarizes the history, identifies the purpose, outlines public process used to develop the City of Lebanon's Transportation System Plan (TSP) and make a staff recommendation to the City Council.

**Background**

The City of Lebanon originally undertook the process to complete the TSP in 1999. The project was substantially delayed due to our original consultant's lack of progress and funding difficulties. Work resumed on the TSP during the summer of 2003 with the financial and technical assistance of the Oregon Department of Transportation (ODOT). As part of that work effort, the TSP went through the public adoption process but fell short of being adopted. The major stumbling block was the alignment of Reeve's Parkway. The alignment was shown to travel outside of the Urban Growth Boundary (UGB) in the northwest portion of the City.

Work resumed on the TSP in 2004 with the continued financial assistance of ODOT. This latest work effort sought to correct deficiencies identified during the public adoption process. These included developing alternatives for Reeve's Parkway as it traveled outside of the UGB in the northwest portion of the City and updating the employment and population projections to be consistent with the newly adopted Lebanon Comprehensive Plan.

**Purpose**

The City of Lebanon TSP identifies planned transportation facilities and services needed to support planned land uses as identified in the Lebanon Comprehensive Plan in a manner consistent with the Transportation Planning Rule (OAR 660-012) and the Oregon Transportation Plan. Preparation and adoption of this TSP provides the following benefits:

- Ensures adequate planned transportation facilities to support planned land uses for the next 20 years.
- Provides guidance and predictability for the siting of new streets, roads, highway improvements and other planned transportation improvements.
- Helps reduce the cost and maximize the efficiency of public investment in transportation facilities and services by coordinating land use and transportation decisions.

# Exhibit "A"

## Changes to the TSP as recommended by City Staff

- General Comments:
  - Update Figures as needed to reflect the correct intersection alignment of Highway 20 and Weldwood intersection.
- Section 1:
  - Page 1-1, the first sentence in the last paragraph states, “The TPR requires that alternative travel modes be given equal consideration with the automobile, and that reasonable effort be applied to the development and enhancement of the alternative modes in providing the future transportation system.” Replace that sentence with, “The TPR aims to improve the livability of urban areas by promoting changes in land use patterns and the transportation system that make it more convenient for people to walk, bicycle and use transit, and drive less to meet their daily needs. Accordingly the TPR requires that alternative travel modes be given consideration along with the automobile, and that reasonable effort be applied to the development and enhancement of the alternative modes in providing the future transportation system.”
- Section 3:
  - Figure 3-4 – Change the intersection symbol at the intersection of Russell Drive and Highway 20 from signalized to unsignalized.
  - Figure 3-8 – Remove the existing bike lanes shown on Harrison Street and 12<sup>th</sup> Street from Harrison to Highway 34.
  - Figure 3-7 – Remove the sidewalk shown on 9<sup>th</sup> Street north of Airport Road and on Crowfoot Road between 5<sup>th</sup> Street and South Main. Add sidewalk on Crowfoot from South Main east to the city limits.
- Section 4:
  - Figure 4-4 – Remove the sidewalk shown on 9<sup>th</sup> Street north of Airport Road and on Crowfoot Road between 5<sup>th</sup> Street and South Main. Add sidewalk on Crowfoot from South Main east to the city limits.
  - Figure 4-4 – Add sidewalk on Park Street from Elmore St. to the canal
  - Figure 4-5 – Remove the existing bike lanes shown on Harrison Street and 12<sup>th</sup> Street from Harrison to Highway 34. Also, change the legend from Existing Bicycle Path to Existing Bicycle Lane/Path.
- Section 5:
  - Figure 5-2 - Change the Legend for “Creek” to “Creek Crossing”
- Section 6:
  - Figure 6-2 – Combine Projects 15 and 6 into one Parkway project. Update Table 6-7 & 7-3 to reflect the combined projects
  - Figure 6-2 – The extension of Williams to Industrial Way was recommended in Section 5 and was inadvertently left off the list of recommended projects in Chapter 6. This project will be added.
  - Figure 6-2 – Extend the limits of Project 3 to Airport Road to correspond with the description in the legend.
  - Update the Neighborhood Refinement Plan subsection on page 6-6 to make the Russell Drive Neighborhood Plan an addenda to the TSP.
  - Update the footnote on Table 6-8 to indicate that sidewalks on arterials will be 6 feet wide and 5 feet wide on collector and residential streets. Also, update the Bicycle Plan subsection on page 6-20 to reflect 6 feet sidewalks on arterials and 5 feet sidewalks on collectors and residential streets.



Errata Sheet  
for the  
Draft TSP Document dated October 2006

Changes to the TSP as recommended in Work Session #1 on 11-8-06

- Section 3:
  - Update the Air Facilities deficiencies on pages 3-34 & 37 to reflect the new 2006 Lebanon State Airport Layout Plan.
- Section 4:
  - Figure 4-2: Update the legend so that the V/C ratios match existing speed limits more closely.
  - Update the Air Transportation subsection to acknowledge the new 2006 Airport Layout Plan existing deficiencies which could become more pronounced in the no-build alternative.
- Section 5:
  - Figure 5-1: Adjust the location of the Parkway to match the location shown on Figure 5-2.
- Section 6:
  - Switch the location of Figure 6-1 and 6-2. Show the Functional Classification 6-1 after the Preferred Alternative 6-2.
  - Update the Air Facilities Plan on page 6-22 to reflect the new 2006 Lebanon State Airport Layout Plan.

Changes to the TSP as recommended in Work Session #2 on 11-29-06

- Section 1:
  - Add air transportation to Goal 2 Multimodal Transportation System
- Section 3:
  - Figure 3-3 – Change the existing functional classification of Airway Road north of Oak Street to a local road designation.
  - Figure 3-8 – Show the extension of 12<sup>th</sup> Street from Airport to Kees and indicate that it has existing bike lanes from Oxford (private street) to Kees.
- Section 4:
  - Figure 4-3 – Add a signal at the intersection of Weldwood and Highway 20 and evaluate its 2027 level of service under No-Build conditions. Update Table 4-3 accordingly.
  - Figure 4-5 – Change the designation of Airway Road north of Oak Street to a local roadway.
  - Figure 4-5 – Show the extension of 12<sup>th</sup> Street from Airport to Kees and show that it has existing bike lanes from Oxford (private street) to Kees.
- Section 6:
  - Figure 6-1 – Change the future functional classification of Airway Road north of Oak Street from a collector to a local roadway.

# Exhibit "B"



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

1140 Willagillespie Rd., Ste. 13

Eugene, OR 97401-6727

(541) 686-7807

Fax: (541) 686-7808

www.lcd.state.or.us



December 14, 2006

Mr. Doug Parker  
Community Development Director  
City of Lebanon  
853 Main Street  
Lebanon, Or 97355-3200

RE: December 12, 2006 city response to DLCD letter of December 5, 2006 regarding Draft Lebanon Transportation System Plan (October 2006) Local File Number FPU-06-02(TSP-06-01); DLCD File 003-06

Dear Doug,

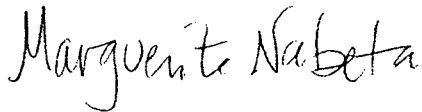
The department has reviewed the clarifications provided in response to our recommendations. We are pleased that you found many of the department suggestions were of value and assisted you in making refinements. The portions of the plan amended to include department recommendations and the clarifications explaining how the city has achieved Goal 12 compliance have successfully answered our initial review and recommendations. The exception is the development of the transportation funding plan portion in Section 7. It appears that the refinements requested are well on the way to completion, and all looks like it will meet compliance when it is finished. Send the draft final upon completion and the department recommendation will have been met.

We are looking forward to continued work with you in other forums. We know that our joint goal is to find ways together to ensure that public transportation facilities maintain or enhance the quality of your community-while not unnecessarily impacting rural resource lands or causing inefficiencies in public expenditures. The department is also interested in updates to our model codes in regard to "green streets" standards. Do keep us involved in those efforts.

Page 2  
Oregon Department of Land  
Conservation and Development  
December 14, 2006

Thank you very much for your quick turnaround. If you have questions, please call me at 541-687-7807.

Sincerely,



Marguerite Nabeta  
S. Willamette Valley Representative

Cc: Mara Ulloa  
Eric Jacobson  
John DeTar/ODOT  
Erik Andersson/Gov Ofc



**CITY OF LEBANON**  
**Community Development/Planning**  
853 Main Street  
Lebanon, Oregon 97355-3200

**MEMORANDUM**

**December 12, 2006**

**TO:** Marguerite Nabeta,  
Department of Land Conservation and Development  
South Willamette Valley Regional Representative  
1140 Willagillespie Road, Suite 13  
Eugene, Oregon 97401-6727

**FROM:** Doug Parker, Community Development Manager  
Phone: 541-258-4252; Fax: 541-258-4955  
Email Address: dparker@ci.Lebanon.or.us

**SUBJECT:** Reply to DLCD Letter of December 5, 2006, regarding Draft Lebanon Transportation System Plan (October 2006) – Local File Number FPU-06-02 (TSP-06-01); DLCD File 003-06

Dear Marguerite:

The City thanks DLCD for its Letter of December 5, 2006, regarding the October 2006 draft Lebanon Transportation System Plan (LTSP). The Department's letter helped clarify a number of issues, and enabled the City to make refinements to the LTSP. Some of the key refinements are attached to this memorandum. Also, please find the attached December 8, 2006, letter from the Lebanon Fire District addressing the DLCD Letter of December 5, 2006.

In the following paragraphs, the City addresses the six numbered items of your December 5<sup>th</sup> Letter. Therein the City explains its response to each of the items.

**Item #1 (page 1) Planned Facilities:**

The City has deleted the words "recommended" from the Tables and Figures in Section 6, and the word "proposed" from Table 7-3 in Section 7. These deletions will be effected in the adopted LTSP. Therefore, this TPR requirement to include planned needed transportation facilities is explicitly satisfied.

**Item #2 (page 2) State Highway Designations:**

As noted on page 6-3 of the LTSP, the City of Lebanon has an OTC designated Special Transportation Area (STA) consisting of portions of Highways 34, and 20, focused in the Downtown area including the City's emerging civic center around Academy Square at the intersection of Highways 20 and 34 north of the Downtown area. This Oregon Highway Plan (OHP) requirement for the City's TSP is thus fully satisfied. If it is later determined by the City, in conjunction with ODOT and DLCD, that other special highway segment designations need to be made, the LTSP may be amended to include such designations. In 2001, as part of the City's Land

Use Regulation Amendments (LURA) project (TGM Agreement # 18165) to implement the TPR, the City prepared other proposed special transportation area designations, but was advised to not adopt them at the local level by ODOT staff since these other designations had not yet been adopted by the State (OHP), and would not be adopted in the foreseeable future. Nonetheless, the City still has the applicable 2001 LURA draft provisions for other special transportation areas that could readily be brought forward, updated, and adopted should the City in concurrence with ODOT and DLCD decide that this is now appropriate. Furthermore, it is worth noting that ODOT staff has consistently been closely involved with every step of the preparation of the LTSP since 2001, including the detailed review of all drafts since at least 2003.

**Item#3 (page 2) Downtown Street Standard:**

DLCD staff notes that the TSP does not contain a typical street cross section for Highway 20 in the Downtown area (Main Street from Oak Street to Vine Street). This area is totally built out with sidewalk abutting buildings. Consequently, the only pragmatic and cost effective modifications to the road itself would entail minor pedestrian accommodations and streetshed enhancements such as those in the advisory Downtown Lebanon Transportation Enhancements study (2000 TGM Quick Response project, by Crandall Arambula). Likewise, the primary recommendations contained in the Crandall Arambula study have already been implemented during 2001 - 2003 via an Oregon Housing & Community Services CIF Project (# 130), and an OTIA funded project.

In response to the DLCD suggestion that such a cross section be included in the TSP, it is the City's finding that by making reference in the TSP to the advisory role of the Crandall Arambula study, sufficient guidelines for any future improvements of Main Street (Highway 20), in the Downtown area are already in place. Nevertheless, the City has added enhanced language to its reference to the Crandall Arambula study in the LTSP.

Also, please note that the STA and the Downtown area covered by the Crandall Arambula study have some overlap on Main Street, but large portions of the STA are NOT in the Downtown area and were intentionally not part of the Crandall Arambula study.

**Item #4 (page 2f) Local Street Standard:**

DLCD staff suggests that the standards for local streets in the TSP do not satisfy OAR 660-012-0045 (7). The City concludes that the standards in the TSP do indeed fully satisfy the above noted TPR requirements, by offering an alternative that provides even greater protection of resource lands and greater cost effectiveness in both the short and long terms. In addition, public safety is at the forefront of the City's standards (please see attached copy of the December 8, 2006, letter from the Lebanon Fire District).

The City's current (1991) local residential street standard calls for a 60-foot right-of-way (ROW) with a 32 foot wide roadway and curb side sidewalks. The revised local street standard, as described in this TSP, includes standards for two local street types: (1) a 28 foot wide pavement width within a 50 foot right of way, and (2) a 34 foot wide pavement width within a 56 foot wide right of way. The 34 foot wide local residential street within a 56 foot right of way represents a 6.7% reduction in over all right of way width from the current local street standard. The 28 foot wide pavement width within a 50 foot right of way represents a 16.7% reduction in over all right of way width from the current local street standard. On average, new subdivisions constructed in the

City tend to implement a combination of both standards, with a preference to date shown by developers to minimize the ROWs and hence land area consumed by streets and a concomitant savings in construction costs. In addition to reducing the overall right of way width, the street standards also call for set back sidewalks that facilitate the addition of a beauty or planter strip and the addition of street trees as called for in the City of Lebanon Street Tree Policy. The separated planter strip and street trees enhance pedestrian safety and neighborhood livability, and thus promote such general TPR objectives as improving the livability of urban areas by promoting changes in land use patterns and the transportation system that make it more convenient for people to walk, bicycle and drive less to meet their daily needs (OAR 660-012-0000).

Thus, as mandated in the TPR, the City has reduced the amount of right-of-way for local streets by 6.7% for a 34 foot street, and 16.7% for a 28 foot street. This is a significant step toward achieving the objectives noted in OAR 660-012-0045 (7): *"reduce the cost of construction, provide for more efficient use of urban land, provide for emergency vehicle access while discouraging inappropriate traffic volumes and speeds, and which accommodate convenient pedestrian and bicycle circulation."*

Furthermore, the City finds that the TPR contains no requirements that local jurisdictions must adopt in their TSP the specific local street standard suggested for consideration by the DLCD letter. It is the City's understanding that a variety of methodologies and standards may be used by the cities and counties of the State to achieve the goals of the TPR, and that no one standard is appropriate for jurisdictions of differing sizes and circumstances. Rather, jurisdictions may select different routes to accomplish the common goals presented in the TPR. The City of Lebanon has voluntarily included standards and provisions that go beyond that required by the TPR for a City of its size (12,950 in the 2000 Census, and an estimated population in July 2005 of 13,834). The City of Lebanon continues to explore alternatives to achieve the goals of the TPR. For example, provisions for "green streets" will be in the new development code (in process) and public infrastructure improvements standards, and the City is working currently with developers on a large project that hopefully will include such concepts as "bioswales." In conclusion, the TSP is in full compliance with OAR 660-012-0045 (7).

**Item # 5 (page 4) Transit:**

As suggested by DLCD staff, the City has integrated a discussion of Vanpools into Section 6, along with a reference that that the Santiam Travel Station (the City's renovated Historic Rail Road Depot) has for several years been a designated facility and site for multimodal transportation in the Downtown area. Therefore, this DLCD staff suggestion for revisions to the TSP's Transit subsection is explicitly satisfied.

**Item # 6 (page 4) Funding Plan:**

As suggested by DLCD staff, the City has integrated a more in depth discussion of needed pedestrian improvements into Section 6, along with further details on funding mechanisms into Section 7. Therefore, these revisions to Sections 6 and 7 of the TSP explicitly satisfy the requirements of OAR 660-012-0040.



# Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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www.lcd.state.or.us

December 5, 2006



Mr. Rob Emmons, PE, Senior Engineer  
City of Lebanon  
583 Main Street  
Lebanon, OR 97355

Re: Draft Lebanon Transportation System Plan October 2006)  
Local File TSP-06-01; DLCDC File 003-06

Dear Robert:

Thank you for providing the department with the opportunity to review the City's Draft Transportation System Plan (TSP) and earlier requesting our participation on the city's technical advisory committee. We appreciate the work the City has done over the past several years and think you have done a very good job of addressing the important transportation issues facing the City in the coming years. We have reviewed the TSP for compliance with Statewide Planning Goal 12 and the Transportation Planning Rule (TPR) and have the following comments for you to consider and address through the adoption process. Please enter this letter into the record of the first hearing for this action.

## **1. Transportation System Plan – Planned or Recommended Facilities**

The Transportation Planning Rule (OAR 660-012) (TPR) requires local governments to plan for needed transportation facilities. The Transportation System Plan chapter (Ch. 6) appears to meet the requirement by identifying needed transportation facilities. However, several of the Figures and Tables include the word "Recommended." For example, Figure 6-2 is titled "Road Plan Recommended Projects," and Table 6-8 is titled "Recommended Pedestrian System Improvements."

Use of the word "recommended" in an adopted TSP is awkward since it creates the possibility for confusion about whether a particular facility is "planned" or just "recommended." Are these planned or recommended? If they are planned, I suggest deleting the word "recommended" from the tables and figures in Chapter 6, as well as delete the word "Proposed" from the list of transportation improvements in the funding element (Table 7-3).



## **2. State Highway Segment Designations**

The TPR requires local TSPs to be coordinated and consistent with the state TSP (OAR 660-012-0015). Applicable state TSPs include the Oregon Transportation Plan (OTP) and the Oregon Highway Plan (OHP). The TSP states on p. 6-5 that ODOT has designated portions of US 20 and OR 34 as a Special Transportation Area (STA). While the STA designation appears to have been made and coordinated with ODOT, it does not appear that other highway segment designations have been made as called for in the OTP and OHP. Our department will assist in coordinating that clarification with ODOT. If needed, the TSP should be amended to include these potential other designations.

## **3. Arterial Street Standards – Downtown**

Hwy. 20 through downtown Lebanon, including the couplet, is classified as an arterial street and is a state facility. The TSP includes Typical Cross Sections for various street classifications, including what are referred to as Parkway Arterial and Arterial (pp. 6-8 and 6-9). Neither of these cross sections is typical of the downtown couplet which has been referenced as a STA (p. 6-5). Detailed designs for the downtown streets were prepared through a TGM Quick Response Project by Crandall Arambula in 2000. This work is referenced elsewhere in the TSP, but does not appear to have been incorporated into adopted street sections or planned improvements for the downtown streets. We understand the downtown arterial streets are built out, but we believe it would be beneficial for the TSP to be more specific about the typical street sections for these streets, if there are remaining standards that need to be coordinated with ODOT in order to guide planned improvements and future decisions related to the function of the downtown streets as multi-modal, pedestrian-friendly shopping streets. This would assist the City in its further efforts to enhance the downtown streetscape in the future.

## **4. Local Street Standards**

The TPR requires local governments to adopt “standards for local streets and accessways that minimize pavement width and total right-of-way consistent with the operational needs of the facility. The intent of this requirement is that local governments consider and reduce excessive standards for local streets and accessways in order to reduce the cost of construction, provide for more efficient use of urban land- and in the case of Lebanon, reducing the need for additional urbanization of agricultural industry resource lands, provide for emergency vehicle access while discouraging inappropriate traffic volumes and speeds, and which accommodate convenient pedestrian and bicycle circulation.” OAR 660-012-0045(7).

The TSP indicates that the City’s local street standards adopted in 1991 (pre TPR) include two local street types – a 28’ wide local street within a 50’ right-of-way (ROW)

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intended for cul-de-sacs with a design capacity of 200 vehicles per day, and a 32' foot local street within a 60' ROW with a design capacity of 1,200 vehicles per day.

The proposed TSP and implementing ordinances appear to include standards for two local street types – a 28' wide pavement width within a 50' ROW with parking on one side, and a 34' wide pavement width within a 56' ROW with parking on both sides (p. 6-11, proposed Development Code Table 14-2, p. 7).

We understand this can be a controversial subject in some cities. However, we believe it is an important component of designing safe and livable neighborhoods. In order to implement the Land Conservation and Development Commission's (LCDC) policy direction on this issue, the department has worked extensively with local governments and emergency service providers to come up with workable solutions. The department's recommendations for local streets are contained in two publications that have been distributed to local governments and are available on the department's website. The Model Development Code and User's Guide for Small Cities (p. 3-40) and the Neighborhood Street Design Guidelines both contain useful information and recommendations on this topic and are available at <http://www.oregon.gov/LCD/TGM/publications.shtml>.

Based upon this research and these publications, the department's position is that 34' wide streets with parking on both sides is excessive for a typical residential street in a low- to moderate-density residential neighborhood. We do not believe more than 28', or perhaps a maximum of 30', is necessary for this type of street. We appreciate that the City has adopted a lesser standard (28' wide) that allows for parking on one side. Nevertheless, we believe most developers do not want to limit parking to one side of the street and that this requirement is a barrier to implementing narrower street standards. We agree it may be desirable to adopt a local street standard of 32' or 34' for important through streets and other local streets designed to serve high-density development and to carry relatively high volumes of traffic. However, local streets intended to serve lower volumes of traffic do not need to be 34' wide or have parking limited one side.

We appreciate that the City has discussed this issue previously and that emergency service providers have some concerns with narrower streets. However, many local governments in Oregon have implemented solutions that address these concerns. For example, Willamette Valley cities such as Corvallis (28' wide local residential streets with parking on both sides) and Salem (30' wide local streets with parking on both sides) have adopted standards that address this TPR requirement. Some cities have required mid-block no parking zones with curb extensions/bulb outs adjacent to fire hydrants to ensure emergency service providers are provided with locations to access their equipment and the adjacent homes. We encourage you to consider and address this issue through the adoption process. Eric Jacobson is available from our department to attend work sessions with the planning commission prior to the first hearing and also the hearing scheduled for December 20, 2006 to discuss this issue. We realize that it should have been addressed at

the technical advisory committee but were unable to provide staffing at that appropriate time in the city's process.

## **5. Transit**

The City has done a very good job in addressing transit-related issues. We recommend that the transit plan (pp. 6-16 – 6-18) include a discussion of vanpools as a type of commuter service to Corvallis and Albany that could be coordinated with transit providers in those communities and may be a precursor to more formalized intercity transit.

The discussion of transit-supportive facilities on pp.6-17 and 18 is very good and identifies several important first steps that can be taken to set the stage for implementation of more mature commuter and intracity transit in the future. We encourage the City to clarify in the TSP whether the facilities and service mentioned such as park-and-ride lots and Dial-a-Ride service, in the downtown area are ideas to be implemented over the planning period or only suggestions to be considered. The plan should clearly identify the renovated train depot as the transit center.

## **6. Funding Plan**

The TPR requires local governments to include a transportation financing program that includes a list of planned facilities, a general estimate of the timing for planned facilities, rough cost estimates, and an assessment of existing and possible new mechanisms to fund the planned facilities, where funding mechanisms can be described in terms of general guidelines or local policies (OAR 660-012-0040). It is important to clearly identify a private developer's responsibility for provision of such facilities.

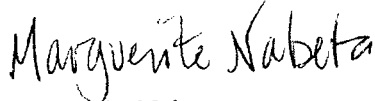
The list of planned transportation improvements (Table 7-3) does not appear to include cost estimates for all of the planned facilities identified in Chapter 6. For example, Chapter 6 identifies pedestrian system improvements (Table 6-8), bicycle facilities (Table 6-9), and even identified actions the City could take to support transit in the future (p. 6-16 – 6-18) such as a park-and-ride lot.. These other needed facilities or supporting actions do not appear to be included in the list of planned transportation facilities.

The discussion of financing needs and sources on pp. 7-6 and 7-7 does not appear to assess possible and new mechanisms in sufficient detail or include general guidelines or policies about the type of local funding actions the city may pursue in the future to implement the planned facilities. It is not clear what the role of the urban renewal district is in provided local funding or reference other documents that would include this information. Other locations for this information include a comprehensive plan policy directing the development of a regularly updated capitol improvement plan. The TSP should be amended to include additional information on the types of funding actions that may be needed to implement the TSP.

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Thank you again for the opportunity to review the City's Draft TSP. We would like to continue to coordinate with you throughout the adoption process and provide any needed technical assistance or advice. Please call either myself at (541) 686-7807 or Eric Jacobson at (503) 373-0050 x265 if you have any questions.

Sincerely,



Marguerite Nabeta,  
S. Willamette Valley Regional Representative

cc: John deTar, ODOT Region 2  
Eric Jacobson, DLCD  
Mara Ulloa  
Erik Andersson, ERT Coordinator

**A BILL FOR AN ORDINANCE ADOPTING)  
THE 2007 LEBANON TRANSPORTATION )  
SYSTEM PLAN**

**ORDINANCE BILL NO. \_\_\_\_\_  
FOR 2007  
ORDINANCE NO. \_\_\_\_\_**

WHEREAS, the State of Oregon provides for the required establishment of local Transportation System Plans which coordinate a network of transportation facilities adequate to serve state, regional and local transportation needs; and

WHEREAS, the City of Lebanon, by virtue of the Oregon Administrative Rules, Chapter 660 and Oregon Revised Statutes, Chapter 197 is required to establish its own Transportation System Plan; and

WHEREAS, the City of Lebanon has established a Technical Advisory Committee and a Citizen Advisory Committee for the purposes of providing expertise and citizen involvement in establishing the Transportation System Plan; and

WHEREAS, the City Council of the City of Lebanon finds that there were conducted joint meetings of the City Council and the Lebanon Planning Commission together with the public on November 8, 2006 and November 29, 2006; and

WHEREAS, the City Council has considered the recommendation of the Lebanon Planning Commission after its public hearing on December 20, 2006; and

WHEREAS, a final draft copy of the Transportation System Plan has been available to the general public for public review and comment since November 1, 2006; and

WHEREAS, the City Council has conducted its own public hearing on January 10, 2007, considering the recommendations of the Technical Advisory Committee, the Citizen Advisory Committee and the testimony at the public hearing, along with any other public comment concerning the Transportation System Plan; and

WHEREAS, the City Council makes the findings listed in the ordinance as well as adopting the findings and reasoning adopted by the City of Lebanon Planning Commission and attached as Exhibit "A"; and

WHEREAS, the City Council finds that appropriate, adequate and legal notice has been given as prescribed by law to the citizens of the City of Lebanon.

**NOW, THEREFORE, THE PEOPLE OF THE CITY OF LEBANON DO ORDAIN  
AS FOLLOWS:**

**Section 1.** The City of Lebanon hereby adopts the Lebanon Transportation System Plan, which is attached hereto as Exhibit "B", and incorporated herein by this reference.

**Section 2.** The City Council for the City of Lebanon finds that the proposed Lebanon Transportation System Plan complies with the requirements of Oregon Administrative Rule 660-012-0015 and 660-012-0020 for the following reasons:

- A. The Plan ensures adequate planned transportation facilities to support planned land uses for the next 20 years;
- B. The Plan provides certainty and predictability for the siting of new streets, roads, highway improvements and other planned transportation improvements;
- C. The Plan provides predictability for land development;
- D. The Plan helps reduce the cost and maximizes the efficiency of public spending on transportation facilities and services by coordinating land use and transportation decisions.

**Section 3.** The City Council further finds that the Transportation System Plan is created by considering, coordinating with and applying the following principles:

- A. Statewide Planning Goals as follows: one (Citizen Involvement), two (Land use planning), six (Air, Water and land Resources Quality), nine (Economic Development), eleven (Public Facilities and Services), twelve (Transportation), thirteen (Energy Conservation) and fourteen (Urbanization);
- B. The 1992 Oregon Transportation Plan;
- C. The 1999 Oregon Highway Plan;
- D. The 2002-2005 Statewide Transportation Improvement Program;
- E. 1995 Oregon Bicycle and Pedestrian Plan;
- F. 2001 Oregon Rail Plan;
- G. Freight Moves the Oregon Economy plan of 1999;
- H. Western Transportation Trade Network report of 1999;
- I. 1997 Oregon Public Transportation Plan;
- J. 1995 Oregon Transportation Safety Action Plan;
- K. Transportation Planning Rule as required by Oregon Administrative Rules Chapter 660-012; and
- L. Access Management Rules of Oregon Administrative Rules chapter 734-051.

**Section 4.** The City Council also finds and determines that the Transportation System Plan coordinates and considers local and regional plans and policies by taking into consideration the following:

- A. Willamette Valley Transportation Strategy (1995);
- B. US 20/OR 34 Interim Corridor Strategy of 1998;
- C. Linn county Comprehensive Plan and Transportation System Plan of 1999;
- D. City of Lebanon/Linn county Urban Growth Management Agreement;
- E. Lebanon Land Use Regulations, including the Comprehensive Plan, Zoning Ordinance and draft land use regulation amendments which were adopted by the Council as amendments to its Comprehensive Plan on December 10, 2003;
- F. The City's Transportation Master Plan, adopted in 1991; and
- G. Downtown Lebanon Transportation Enhancements study of 2000.

**Section 5.** By considering and reviewing the above studies, materials and recommendations, the Lebanon Transportation System Plan, adopted herein, does establish a system of transportation facilities and services adequate to meet identified local transportation needs, it is consistent with regional Transportation System Plans and adopted elements of the state of Oregon's Transportation System Plan. This Transportation System Plan has been coordinated with affected state and federal agencies, local governments, special districts (where applicable) and private providers of transportation services in the community. The Transportation System Plan, further, adequately makes provision for the requirements of these considerations by using experts, considering the recommendations of citizen and technical advisory committees, the recommendations of the Lebanon Planning Commission and public comment, review and testimony.

Passed by the Lebanon City Council by a vote of \_\_\_\_\_ for and \_\_\_\_\_ against this \_\_\_\_\_ day of January, 2007.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Recorder

Exhibit "A"



**PROPOSED FINDINGS -- that address Relevant Criteria**

**Finding #1, Addressing Criteria from Statewide Planning Goal 12:**

As evidenced below, the proposed Lebanon Transportation System Plan fulfills and is in compliance with **Statewide Planning Goal 12** because it satisfies all of the relevant requirements of **Statewide Planning Goal 12** based on the Findings listed in the right column.

<b>GOAL 12: TRANSPORTATION OAR 660-015-0000(12)</b>	
<b>To provide and encourage a safe, convenient and economic transportation system.</b>	
<b>Goal 12 Requirements (Criteria)</b>	<b>Findings</b>
<b>A transportation plan shall:</b>	
(1) consider all modes of transportation including mass transit, air, water, pipeline, rail, highway, bicycle and pedestrian;	The Lebanon TSP (LTSP) includes discussions of mass transit, air, water, pipeline, rail, highway, bicycle and pedestrian, along with that of issues relating cars and trucks. Therefore, the LTSP satisfies this Goal 12 requirement to consider all transportation modes.
(2) be based upon an inventory of local, regional and state transportation needs;	<b>Section 3</b> of the LTSP contains an inventory of current facilities, and <b>Section 4</b> contains an inventory of future conditions, deficiencies, and needs. Hence, the LTSP satisfies this Goal 12 requirement of being based upon an inventory of local, regional and state transportation needs.
(3) consider the differences in social consequences that would result from utilizing differing combinations of transportation modes;	<b>Section 5</b> of the LTSP analyzes different system alternatives for meeting the established needs. By including discussions of the full range of multi-modal transportation available to the community, the differing social consequences that would result from utilizing different combinations of transportation modes have been considered. Therefore, the LTSP satisfies this Goal 12 requirement to consider differing social consequences.
(4) avoid principal reliance upon any one mode of transportation;	By including strong discussions of and provisions for the various components of a multi-modal transportation system (e.g., pedestrians, bicycling, transit, pooling, rail, air, etc.), principal reliance upon any one mode of transportation has been avoided (e.g., <b>Sections 6 &amp; 7</b> ), and thus this Goal 12 requirement is satisfied by the LTSP.
(5) minimize adverse social, economic and environmental impacts and costs;	<b>Section 5</b> of the LTSP analyzes different system alternatives for meeting the established needs. By including discussions of the full range of multi-modal transportation available to the community, the adverse social, economic and environmental impacts and costs have been considered. For example, the provisions of the preferred alternative ( <b>Section 6</b> ) reduce ROWS for local streets, reducing construction costs, and impacts upon the environment by consuming less land, avoiding unnecessary UGB expansions, reducing travel time and costs within a more compact community. Therefore, the LTSP satisfies this Goal 12 requirement to minimize adverse social, economic and environmental impacts and costs.
(6) conserve energy;	The finding directly above involves minimizing energy consumed in both the short term during construction of the system and in utilizing the system over the long term. Consequently, the LTSP satisfies this Goal 12 requirement to conserve energy.

<p>(7) meet the needs of the transportation disadvantaged by improving transportation services;</p>	<p><b>Section 5</b> of the LTSP analyzes different system alternatives for meeting the established needs. By including discussions of the full range of multi-modal transportation available to the community, and the provisions of the preferred alternative (<b>Section 6</b>) for mass transit, pedestrians, bicycling, and pr are clearly beneficial to those who may be transportation disadvantaged. Therefore, the LTSP satisfies this Goal 12 requirement to meet the needs of the transportation disadvantaged by improving transportation services.</p>
<p>(8) facilitate the flow of goods and services so as to strengthen the local and regional economy; and</p>	<p><b>Section 5</b> of the LTSP analyzes different system alternatives for meeting the established needs. By including discussions of the full range of multi-modal transportation available to the community, and the provisions of the preferred alternative (<b>Section 6</b>) include discussions and provisions for freight and air transportation as well as improved access to the community for commercial and industrial needs. Hence, the LTSP satisfies this Goal 12 requirement to facilitate the flow of goods and services so as to strengthen the local and regional economy.</p>
<p>(9) conform with local and regional comprehensive land use plans.</p>	<p>The LTSP and the 2004 Lebanon Comprehensive Plan (LCP) were developed simultaneously so that the two plans would be completely consistent (see <b>Section 1</b> of the LTSP). Additionally, as noted in <b>Section 2</b> of the LTSP, regional plans were taken into account as the LTSP was developed. Accordingly, the LTSP satisfies this Goal 12 requirement conforming with local and regional comprehensive land use plans.</p>
<p>Each plan shall include a provision for transportation as a key facility.</p>	<p>The 2004 LCP includes an entire chapter (#8) devoted to transportation as a key facility, and the LTSP provides additional depth to this key community facility. Hence this Goal 12 requirement is satisfied by the LTSP and 2004 LCP.</p>

**Finding #2, Addressing Criteria from the State's Transportation Planning Rule -- OAR 660-012 (Division 12 Transportation Planning):**

As evidenced below, the proposed Lebanon Transportation System Plan fulfills and is in compliance with the **State's Transportation Planning Rule (OAR 660-012)** because it satisfies all of the relevant requirements of **Transportation Planning Rule (OAR 660-012)** based on the Findings listed in the right column.

TPR SECTION	FINDINGS
<b>OAR 660-012-0020 Elements of Transportation System Plans</b>	<b>TPR Compliance is Demonstrated in the following TSP SECTION(s) [in October 2006 Draft] and Other Documents</b>
(1) A TSP shall establish a coordinated network of transportation facilities adequate to serve state, regional and local transportation needs.	Entire TSP
(2) The TSP shall include the following elements:	
(a) A determination of transportation needs as provided in OAR 660-012-0030;	3, 4, 5
(b) A road plan for a system of arterials and collectors and standards for the layout of local streets and other important non-collector street connections. Functional classifications of roads in regional and local TSPs shall be consistent with functional classifications of roads in state and regional TSPs and shall provide for continuity between adjacent jurisdictions. The standards for the layout of local streets shall provide for safe and convenient bike and pedestrian circulation necessary to carry out OAR 660-012-0045(3)(b). New connections to arterials and state highways shall be consistent with designated access management categories. The intent of this requirement is to provide guidance on the spacing of future extensions and connections along existing and future streets which are needed to provide reasonably direct routes for bicycle and destrian travel. The standards for the layout of local streets shall address:	6 and LDC <sup>1</sup>
(A) Extensions of existing streets;	6
(B) Connections to existing or planned streets, including arterials and collectors; and	6
(C) Connections to neighborhood destinations.	6
(c) A public transportation plan which:	[4- and 6]
(A) Describes public transportation services for the transportation disadvantaged and identifies service inadequacies;	4 7 6
(B) Describes intercity bus and passenger rail service and identifies the location of terminals;	4 & 6
(C) For areas within an urban growth boundary which have public transit service, identifies existing and planned transit trunk routes, exclusive transit ways, terminals and major transfer stations, major transit stops, and park-and-ride stations. Designation of stop or station locations may allow for minor adjustments in the location of stops to provide for efficient transit or traffic operation or to provide convenient pedestrian access to adjacent or nearby uses.	Not Applicable (NA) [See discussion in 4]
(D) For areas within an urban area containing a population greater than 25,000 persons, not currently served by transit, evaluates the feasibility of developing a public transit system at buildout. Where a transit system is determined to be feasible, the plan shall meet the requirements of paragraph (2)(c)(C) of this rule.	Not Applicable (NA)
(d) A bicycle and pedestrian plan for a network of bicycle and pedestrian routes throughout the planning area. The network and list of facility improvements shall be consistent with the requirements of ORS 366.514;	4 & 6

<sup>1</sup> LDC = Lebanon Development Code that is currently in Draft

(e) An air, rail, water and pipeline transportation plan which identifies where public use airports, mainline and branchline railroads and railroad facilities, port facilities, and major regional pipelines and terminals are located or planned within the planning area. For airports, the planning area shall include all areas within airport imaginary surfaces and other areas covered by state or federal regulations;	4 & 6 [& new LDC]
(f) For areas within an urban area containing a population greater than 25,000 persons a plan for transportation system management and demand management;	NA
(g) A parking plan in MPO areas as provided in OAR 660-012-0045(5)(c);	NA
(h) Policies and land use regulations for implementing the TSP as provided in OAR 660-012-0045;	8; LDC
(i) For areas within an urban growth boundary containing a population greater than 2500 persons, a transportation financing program as provided in OAR 660-012-0040.	7
(3) Each element identified in subsections (2)(b)–(d) of this rule shall contain:	
(a) An inventory and general assessment of existing and committed transportation facilities and services by function, type, capacity and condition:	3, 6
(A) The transportation capacity analysis shall include information on:	3, 4
(i) The capacities of existing and committed facilities;	
(ii) The degree to which those capacities have been reached or surpassed on existing facilities; and	
(iii) The assumptions upon which these capacities are based.	
(B) For state and regional facilities, the transportation capacity analysis shall be consistent with standards of facility performance considered acceptable by the affected state or regional transportation agency;	3, 4
(C) The transportation facility condition analysis shall describe the general physical and operational condition of each transportation facility (e.g., very good, good, fair, poor, very poor).	3, 4
(b) A system of planned transportation facilities, services and major improvements. The system shall include a description of the type or functional classification of planned facilities and services and their planned capacities and levels of service;	4, 6
(c) A description of the location of planned facilities, services and major improvements, establishing the general corridor within which the facilities, services or improvements may be sited. This shall include a map showing the general location of proposed transportation improvements, a description of facility parameters such as minimum and maximum road right of way width and the number and size of lanes, and any other additional description that is appropriate;	4, 5, 6
(d) Identification of the provider of each transportation facility or service.	3
<b>OAR 660-012-0015 Preparation and Coordination of Transportation System Plans</b>	
(3) Cities and counties shall prepare, adopt and amend local TSPs for lands within their planning jurisdiction in compliance with this division:	4, 5, 6
(a) Local TSPs shall establish a system of transportation facilities and services adequate to meet identified local transportation needs and shall be consistent with regional TSPs and adopted elements of the state TSP;	[ODOT staff has consistently been closely involved with every step of the preparation of the LTSP since 2001, including the detailed review of all drafts since at least 2003.]
(b) Where the regional TSP or elements of the state TSP have not been adopted, the city or county shall coordinate the preparation of the local TSP with the regional transportation planning body and ODOT to assure that regional and state transportation needs are accommodated.	
(4) Cities and counties shall adopt regional and local TSPs required by this division as part of their comprehensive plans. Transportation financing programs required by OAR 660-012-0040 may be adopted as a supporting document to the comprehensive plan.	All LTSP Sections (Financing programs are routinely adopted in the City's Capital Improvement Programs or CIPs.)

<b>660-012-0025 Complying with the Goals in Preparing Transportation System Plans; Refinement Plans</b>	
(1) Except as provided in section (3) of this rule, adoption of a TSP shall constitute the land use decision regarding the need for transportation facilities, services and major improvements and their function, mode, and general location.	
(2) Findings of compliance with applicable statewide planning goals and acknowledged comprehensive plan policies and land use regulations shall be developed in conjunction with the adoption of the TSP.	See ALL Staff Report Findings
(3) A local government or MPO <b>may defer decisions regarding</b> function, general location and mode of a refinement plan if findings are adopted which:	NA  The City is NOT deferring any decisions regarding function, general location and mode of a refinement plan.
(a) Identify the transportation need for which decisions regarding function, general location or mode are being deferred;	
(b) Demonstrate why information required to make final determinations regarding function, general location, or mode cannot reasonably be made available within the time allowed for preparation of the TSP;	
(c) Explain how deferral does not invalidate the assumptions upon which the TSP is based or preclude implementation of the remainder of the TSP;	
(d) Describe the nature of the findings which will be needed to resolve issues deferred to a refinement plan; and	
(e) Demonstrate that the refinement effort will be completed within three years or prior to initiation of the periodic review following adoption of the TSP.	
(4) Where a <b>Corridor Environmental Impact Statement (EIS)</b> is prepared pursuant to the requirements of the National Environmental Policy Act of 1969, the development of the refinement plan shall be coordinated with the preparation of the Corridor EIS. The refinement plan shall be adopted prior to the issuance of the Final EIS.	NA

<b>OAR 660-012-0030 Determination of Transportation Needs</b>	
(1) The TSP shall identify transportation needs relevant to the planning area and the scale of the transportation network being planned including:	2 & 4
(a) State, regional, and local transportation needs;	
(b) Needs of the transportation disadvantaged;	
(c) Needs for movement of goods and services to support industrial and commercial development planned for pursuant to OAR 660-009 and Goal 9 (Economic Development).	
(2) Counties or MPOs preparing regional TSPs shall rely on the analysis of state transportation needs in adopted elements of the state TSP. <b>Local governments</b> [emphasis added] preparing local TSPs shall rely on the analyses of state and regional transportation needs in adopted elements of the state TSP and adopted regional TSPs.	2 & 4
(3) Within urban growth boundaries, the determination of local and regional transportation needs shall be based upon:	
(a) Population and employment forecasts and distributions which are consistent with the acknowledged comprehensive plan, including those policies which implement Goal 14, including Goal 14's requirement to encourage urban development on urban lands prior to conversion of urbanizable lands. Forecasts and distributions shall be for 20 years and, if desired, for longer periods;	4
(b) Measures adopted pursuant to OAR 660-012-0045 to encourage reduced reliance on the automobile.  <i>[e.g., enhanced sidewalk, bike, and pedestrian plans reduce reliance on autos]</i>	6 and 8 (& LDC)
(4) In MPO areas, calculation of local and regional transportation needs also shall be based upon accomplishment of the requirement in OAR 660-012-0035(4) to reduce reliance on the automobile.	NA

<b>OAR 660-012-0035 Evaluation and Selection of Transportation System Alternatives</b>	
(1) The TSP shall be based upon evaluation of potential impacts of system alternatives that can reasonably be expected to meet the identified transportation needs in a safe manner and at a reasonable cost with available technology. The following shall be evaluated as components of system alternatives:	
(a) Improvements to existing facilities or services;	5
(b) New facilities and services, including different modes or combinations of modes that could reasonably meet identified transportation needs;	
(c) Transportation system management measures;	
(d) Demand management measures; and	
(e) A no-build system alternative required by the National Environmental Policy Act of 1969 or other laws.	4 & 5  [Section 4 of the TSP is the "no build" analysis that identifies future needs]
(2) Local governments in MPO areas of larger than 1,000,000 population shall, and other governments may also, evaluate alternative land use designations, densities, and design standards to meet local and regional transportation needs. Local governments preparing such a strategy shall consider:	NA
(3) The following standards shall be used to evaluate and select alternatives:	
(a) The transportation system shall support urban and rural development by providing types and levels of transportation facilities and services appropriate to serve the land uses identified in the acknowledged comprehensive plan;	6
(b) The transportation system shall be consistent with state and federal standards for protection of air, land and water quality including the State Implementation Plan under the Federal Clean Air Act and the State Water Quality Management Plan;	2
(c) The transportation system shall minimize adverse economic, social, environmental and energy consequences;	2, 6
(d) The transportation system shall minimize conflicts and facilitate connections between modes of transportation;	6 & LDC
(e) The transportation system shall avoid principal reliance on any one mode of transportation and shall reduce principal reliance on the automobile. In MPO areas this shall be accomplished by selecting transportation alternatives which meet the requirements in section (4) of this rule.	6

<b>OAR 660-012-0040 Transportation Financing Program</b>	
(1) For areas within an urban growth boundary containing a population greater than 2,500 persons, the TSP shall include a transportation financing program.	7
(2) A transportation financing program shall include the items listed in (a)–(d):	
(a) A list of planned transportation facilities and major improvements;	7
(b) A general estimate of the timing for planned transportation facilities and major improvements;	
(c) A determination of rough cost estimates for the transportation facilities and major improvements identified in the TSP; and	
(d) In metropolitan areas, policies to guide selection of transportation facility and improvement projects for funding in the short-term to meet the standards and benchmarks established pursuant to 0035(4)–(6). Such policies shall consider, and shall include among the priorities, facilities and improvements that support mixed-use, pedestrian friendly development and increased use of alternative modes.	NA
(3) The determination of rough cost estimates is intended to provide an estimate of the fiscal requirements to support the land uses in the acknowledged comprehensive plan and allow jurisdictions to assess the adequacy of existing and possible alternative funding mechanisms. In addition to including rough cost estimates for each transportation facility and major improvement, the transportation financing plan shall include a discussion of the facility provider's existing funding mechanisms and the ability of these and possible new mechanisms to fund the development of each transportation facility and major improvement. These funding mechanisms may also be described in terms of general guidelines or local policies.	7
(4) Anticipated timing and financing provisions in the transportation financing program are not considered land use decisions as specified in ORS 197.712(2)(e) and, therefore, cannot be the basis of appeal under ORS 197.610(1) and (2) or ORS 197.835(4).	
(5) The transportation financing program shall provide for phasing of major improvements to encourage infill and redevelopment of urban lands prior to facilities and improvements which would cause premature development of urbanizable lands or conversion of rural lands to urban uses.	6

**660-012-0045 Implementation of the Transportation System Plan**

**See Sections 2 & 8 of TSP ---- Provisions primarily incorporated into new Lebanon Development Code (LDC) which is still in the process of being developed and refined.**

<b>OAR 660-012-0050 Transportation Project Development</b>	
(1) For projects identified by ODOT pursuant to OAR Chapter 731, Division 15, project development shall occur in the manner set forth in that Division.	NA
(2) Regional TSPs shall provide for coordinated project development among affected local governments. The process shall include:	NA
(a) Designation of a lead agency to prepare and coordinate project development;	
(b) A process for citizen involvement, including public notice and hearing, if project development involves land use decision-making. The process shall include notice to affected transportation facility and service providers, MPOs, and ODOT;	
(c) A process for developing and adopting findings of compliance with applicable statewide planning goals, if any. This shall include a process to allow amendments to acknowledged comprehensive plans where such amendments are necessary to accommodate the project;	
(d) A process for developing and adopting findings of compliance with applicable acknowledged comprehensive plan policies and land use regulations of individual local governments, if any. This shall include a process to allow amendments to acknowledged comprehensive plans or land use regulations where such amendments are necessary to accommodate the project.	NA
(3) Project development addresses how a transportation facility or improvement authorized in a TSP is designed and constructed. This may or may not require land use decision-making. The focus of project development is project implementation, e.g. alignment, preliminary design and mitigation of impacts. During project development, projects authorized in an acknowledged TSP shall not be subject to further justification with regard to their need, mode, function, or general location. For purposes of this section, a project is authorized in a TSP where the TSP makes decisions about transportation need, mode, function and general location for the facility or improvement as required by this division.	
(4) Except as provided in Subsection (1) of this section, where an Environmental Impact Statement (EIS) is prepared pursuant to the National Environmental Policy Act of 1969, project development shall be coordinated with the preparation of the EIS. All unresolved issues of compliance with applicable acknowledged comprehensive plan policies and land use regulations shall be addressed and findings of compliance adopted prior to issuance of the Final EIS.	NA
5) If a local government decides not to build a project authorized by the TSP, it must evaluate whether the needs that the project would serve could otherwise be satisfied in a manner consistent with the TSP. If identified needs cannot be met consistent with the TSP, the local government shall initiate a plan amendment to change the TSP or the comprehensive plan to assure that there is an adequate transportation system to meet transportation needs.	NA
(6) Transportation project development may be done concurrently with preparation of the TSP or a refinement plan.	NA



**Finding #3, Addressing Criteria from City of Lebanon Comprehensive Plan (LCP) Chapter 8 (Transportation):**

As evidenced below, the proposed Lebanon Transportation System Plan fulfills and is in compliance with **the City's Comprehensive Plan Chapter 8 (Transportation) Policies and Goals** since it satisfies all of the relevant requirements of **this Chapter** based on the Findings listed in the right column.

LCP Chapter 8 Goals and Policies	Findings
Overall Goals -- <u>The City's Transportation Related Goals include the following:</u>	TPR Compliance is Demonstrated in the following TSP SECTION(s) [in October 2006 Draft] and Other Documents
G-1: Developing and maintaining a well-planned, comprehensive transportation system that balances the needs of future land development with a system that serves all users.	Entire TSP, as well as New LDC
G-2: Providing a transportation policy plan as a guide for development of a systematic network of traffic ways related to the patterns and needs of community activity.	Sections 6 & 8, as well as New LDC
G-3: Promoting connectivity and efficient multi-modal access within and between developments and neighborhoods.	New LDC
G-4: Promoting efficient access to land development and maintaining operational levels of traffic flow in terms of safety, capacity, functional classification, and performance standards.	Sections 6 & 8, as well as New LDC
G-5: Complying with all applicable Statewide Planning Goal 12 requirements for transportation.	Entire TSP, as well as New LDC
G-6: Complying with all applicable Statewide Planning Goal 11, Public Facilities and Services, requirements for transportation.	Entire TSP, as well as New LDC
G-7: Complying with all applicable requirements of the State's Airport Planning Rule (OAR 660, Division 13).	Entire TSP, as well as New LDC

General Policies -- The City shall:	Findings
P-1: Review residential street standards to ensure that streets are designed in a manner that provides a safe and balanced environment for all uses, including pedestrians, bicyclists, and automobiles.	Sections 6 & 8, as well as New LDC
P-3: Create local street connectivity standards to ensure that new street development provides a high degree of connectivity between streets for automobiles and also for bicyclists and pedestrians.	Sections 6 & 8, as well as New LDC
P-6: The City shall seek to develop a balanced transportation system that includes all transportation modes appropriate to the needs of the City's residents.	Sections 6 & 8, as well as New LDC
P-7: To achieve consistency in construction, operation, and maintenance within street classifications, the City shall classify streets according to their function.	Sections 6 & 8, as well as New LDC
P-8: The roadway design standards for the development of future roadway facilities shall be identified in the Transportation System Plan.	Sections 6 & 8, as well as New LDC

Transportation System Planning Policies	Findings
<b>P-11:</b> The transportation system shall be planned and developed in a manner that contributes to community livability, recognizes and respects the characteristics of natural features, and minimizes the negative effects on abutting land uses.	Sections 5, 6 & 8, as well as New LDC
<b>P-12:</b> The transportation system shall be managed to reduce existing traffic congestion and facilitate the safe, efficient movement of people and commodities within the community.	Sections 6 & 8, as well as New LDC
<b>P-13:</b> The City shall develop and/or promote alternative systems of transportation that will safely, economically, and conveniently serve the needs of the residents.	Sections 6 & 8
<b>P-14:</b> Special consideration in the design of the transportation system shall be given to the needs of those people who have limited choice in obtaining private transportation.	Sections 6 & 8, as well as New LDC
<b>P-15:</b> The transportation system shall give consideration to providing energy efficient transportation alternatives.	Sections 6 & 8, as well as New LDC
<b>P-20:</b> The Transportation System Plan shall reflect consistency with the City Comprehensive Plan, land use designations, and regional and statewide transportation planning efforts.	Entire TSP, as well as New LDC

Auto Traffic And Circulation Policies	Findings
<b>P-28:</b> The street element of the Transportation System Plan shall be the Official Street Map for the City of Lebanon.	Section 6
Local Connectivity Policies	Findings
<b>P-32:</b> The City shall review new developments in light of identified needs for local connectivity and extension of streets, sidewalks, bicycle, pedestrian and multi-use paths.	Sections 6 & 8, as well as New LDC
Downtown Transportation Policies	Findings
<b>P-84:</b> The City shall balance vehicle access needs with those of bicycles and pedestrians when considering transportation issues Downtown, as empowered by the Special Transportation Area (STA).	Sections 6 & 8, as well as New LDC

<b>Transit Policies</b>	<b>Findings</b>
<b>P-63:</b> The City shall work with the Lebanon School District when evaluating new subdivision and multi-family development proposals to identify the optimal location and design of transit facilities to serve student busing.	New LDC
<b>P-64:</b> Park-and-ride lots on the periphery of the City shall be investigated by the City as an alternative solution to parking and congestion problems.	Section 6
<b>P-65T:</b> The City shall continue to support any available inter-city or intra-city bus service as necessary and needed transportation alternatives, especially for elderly and handicapped citizens.	Section 6
<b>Rail Policies</b>	<b>Findings</b>
<b>P-65R:</b> Passenger and freight rail service shall be included as part of the multi-modal potential options available to the community during future transportation planning.	Section 6
<b>Airport Policies</b>	<b>Findings</b>
<b>P-74:</b> The City shall work to ensure that land uses surrounding the Airport both inside the City and Urban Growth Area are developed in a fashion that maintains the City's ability to enable the Airport to function as an important element of the transportation system.	Section 6, as well as New LDC
<b>Truck/Freight Route Policies</b>	<b>Findings</b>
<b>P-82:</b> In the interim, the City shall enhance the existing truck route (e.g., improved road structure, surface condition, and turning radii). Projects to provide these improvements are included in the roadway plan listed in the TSP, and will be included in the City of Lebanon Capital Improvement Program.	Sections 6 & 7, as well as New LDC, and City's Capital Improvement Program (CIP)

<b>Bicycle Policies</b>	<b>Findings</b>
<b>P-38:</b> Bikeways shall be conveniently located, be adequately constructed, have minimal stops and obstructions, and have safe crossings on major streets.	Sections 6 & 8, as well as New LDC
<b>P-39:</b> Bikeways shall provide safe, efficient corridors that encourage bicycle use.	Sections 6 & 8, as well as New LDC
<b>P-41:</b> Designated bike lanes shall be managed and coordinated with on street vehicular parking according to the standards established in the TSP.	Sections 6 & 8, as well as New LDC
<b>P-43:</b> New and redeveloped collector and arterial streets shall be designed to accommodate bicycle corridors.	Sections 6 & 8, as well as New LDC
<b>P-47:</b> Safe and convenient bicycle facilities that minimize travel distance shall be provided within and between new subdivisions, planned developments, shopping centers, industrial parks, residential areas, transit stops, & neighborhood activity centers such as schools, parks, & shopping.	Sections 6 & 8, as well as New LDC
<b>Pedestrian Policies</b>	<b>Findings</b>
<b>P-51:</b> The City shall comply with all requirements of the Americans with Disability Act (ADA) for all new development. All new public and private development shall comply with all requirements of the Americans with Disability Act (ADA).	Sections 6 & 8, as well as New LDC
<b>P-54:</b> All arterial and collector streets shall have sidewalks or other pedestrian ways constructed at the time of initial street improvement to support and facilitate pedestrian use.	Sections 6 & 8, as well as New LDC
<b>P-55:</b> Safe and convenient pedestrian facilities that minimize travel distance shall be provided by new development within and between new subdivisions, planned developments, shopping centers, industrial parks, residential areas, transit stops, and neighborhood activity centers such as schools, parks, and shopping.	Sections 6 & 8, as well as New LDC
<b>P-60:</b> The City shall develop a bikeway and pedestrian plan as part of its TSP.	Sections 6 & 8
<b>P-61:</b> The TSP System Plan shall contain a priority list of future bike and pedestrian ways.	Sections 6 & 8

**Finding #4, Addressing issues from DLCD Letter of December 5, 2006 (See Exhibit B):**

The proposed Transportation System Plan is in compliance with **all relevant criteria vis-à-vis issues raised in the DLCD Letter of December 5, 2006** since it satisfies all of issues raised in this letter based on the Findings listed below:

In the following paragraphs, the City addresses the six numbered items of the DLCD December 5<sup>th</sup> Letter.

**Finding 4.1: Item #1 (page 1) Planned Facilities:**

The City has deleted the words "recommended" from the Tables and Figures in Section 6, and the word "proposed" from Table 7-3 in Section 7. These deletions will be effected in the adopted LTSP. Therefore, this TPR requirement to include planned needed transportation facilities is explicitly satisfied.

**Finding 4.2: Item #2 (page 2) State Highway Designations:**

As noted on page 6-3 of the LTSP, the City of Lebanon has an OTC designated Special Transportation Area (STA) consisting of portions of Highways 34, and 20, focused in the Downtown area including the City's emerging civic center around Academy Square at the intersection of Highways 20 and 34 north of the Downtown area. This Oregon Highway Plan (OHP) requirement for the City's TSP is thus fully satisfied. If it is later determined by the City, in conjunction with ODOT and DLCD, that other special highway segment designations need to be made, the LTSP may be amended to include such designations. In 2001, as part of the City's Land Use Regulation Amendments (LURA) project (TGM Agreement # 18165) to implement the TPR, the City prepared other proposed special transportation area designations, but was advised to not adopt them at the local level by ODOT staff since these other designations had not yet been adopted by the State (OHP), and would not be adopted in the foreseeable future. Nonetheless, the City still has the applicable 2001 LURA draft provisions for other special transportation areas that could readily be brought forward, updated, and adopted should the City in concurrence with ODOT and DLCD decide that this is now appropriate. Furthermore, it is worth noting that ODOT staff has consistently been closely involved with every step of the preparation of the LTSP since 2001, including the detailed review of all drafts since at least 2003.

**Finding 4.3: Item#3 (page 2) Downtown Street Standard:**

DLCD staff notes that the TSP does not contain a typical street cross section for Highway 20 in the Downtown area (Main Street from Oak Street to Vine Street). This area is totally built out with sidewalk abutting buildings. Consequently, the only pragmatic and cost effective modifications to the road itself would entail minor pedestrian accommodations and streetshed enhancements such as those in the advisory Downtown Lebanon Transportation Enhancements study (2000 TGM Quick Response project, by Crandall Arambula). Likewise, the primary recommendations contained in the Crandall Arambula study have already been implemented during 2001 – 2003 via an Oregon Housing & Community Services CIF Project (# 130), and an OTIA funded project.

In response to the DLCD suggestion that such a cross section be included in the TSP, it is the City's finding that by making reference in the TSP to the advisory role of the Crandall Arambula study, sufficient guidelines for any future improvements of Main Street (Highway 20), in the Downtown area are already in place. Nevertheless, the City has added enhanced language to its reference to the Crandall Arambula study in the LTSP.

Also, please note that the STA and the Downtown area covered by the Crandall Arambula study

have some overlap on Main Street, but large portions of the STA are **NOT** in the Downtown area and were intentionally not part of the Crandall Arambula study.

**Finding 4.4: Item #4 (page 2f) Local Street Standard:**

DLCD staff suggests that the standards for local streets in the TSP do not satisfy OAR 660-012-0045 (7). The City concludes that the standards in the TSP do indeed fully satisfy the above noted TPR requirements, by offering an alternative that provides even greater protection of resource lands and greater cost effectiveness in both the short and long terms. In addition, public safety is at the forefront of the City's standards (please see attached copy of the December 8, 2006, letter from the Lebanon Fire District).

The City's current (1991) local residential street standard calls for a 60-foot right-of-way (ROW) with a 32 foot wide roadway and curb side sidewalks. The revised local street standard, as described in this TSP, includes standards for two local street types: (1) a 28 foot wide pavement width within a 50 foot right of way, and (2) a 34 foot wide pavement width within a 56 foot wide right of way. The 34 foot wide local residential street within a 56 foot right of way represents a 6.7% reduction in over all right of way width from the current local street standard. The 28 foot wide pavement width within a 50 foot right of way represents a 16.7% reduction in over all right of way width from the current local street standard. On average, new subdivisions constructed in the City tend to implement a combination of both standards, with a preference to date shown by developers to minimize the ROWs and hence land area consumed by streets and a concomitant savings in construction costs. In addition to reducing the overall right of way width, the street standards also call for set back sidewalks that facilitate the addition of a beauty or planter strip and the addition of street trees as called for in the City of Lebanon Street Tree Policy. The separated planter strip and street trees enhance pedestrian safety and neighborhood livability, and thus promote such general TPR objectives as improving the livability of urban areas by promoting changes in land use patterns and the transportation system that make it more convenient for people to walk, bicycle and drive less to meet their daily needs (OAR 660-012-0000).

Thus, as mandated in the TPR, the City has reduced the amount of right-of-way for local streets by 6.7% for a 34 foot street, and 16.7% for a 28 foot street. This is a significant step toward achieving the objectives noted in OAR 660-012-0045 (7): *"reduce the cost of construction, provide for more efficient use of urban land, provide for emergency vehicle access while discouraging inappropriate traffic volumes and speeds, and which accommodate convenient pedestrian and bicycle circulation."*

Furthermore, the City finds that the TPR contains no requirements that local jurisdictions must adopt in their TSP the specific local street standard suggested for consideration by the DLCD letter. It is the City's understanding that a variety of methodologies and standards may be used by the cities and counties of the State to achieve the goals of the TPR, and that no one standard is appropriate for jurisdictions of differing sizes and circumstances. Rather, jurisdictions may select different routes to accomplish the common goals presented in the TPR. The City of Lebanon has voluntarily included standards and provisions that go beyond that required by the TPR for a City of its size (12,950 in the 2000 Census, and an estimated population in July 2005 of 13,834). The City of Lebanon continues to explore alternatives to achieve the goals of the TPR. For example, provisions for "green streets" will be in the new development code (in process) and public infrastructure improvements standards, and the City is working currently with developers on a large project that hopefully will include such concepts as "bioswales." In conclusion, the TSP is in full compliance with OAR 660-012-0045 (7).

**Finding 4.5: Item # 5 (page 4) Transit:**

As suggested by DLCD staff, the City has integrated a discussion of Vanpools into Section 6, along with a reference that the Santiam Travel Station (the City's renovated Historic Rail Road Depot) has for several years been a designated facility and site for multimodal transportation in the Downtown area. Therefore, this DLCD staff suggestion for revisions to the TSP's Transit subsection is explicitly satisfied.

**Finding 4.6: Item # 6 (page 4) Funding Plan:**

As suggested by DLCD staff, the City has integrated a more in depth discussion of needed pedestrian improvements into Section 6, along with further details on funding mechanisms into Section 7. Therefore, these revisions to Sections 6 and 7 of the TSP explicitly satisfy the requirements of OAR 660-012-0040.



## Transportation System Plan

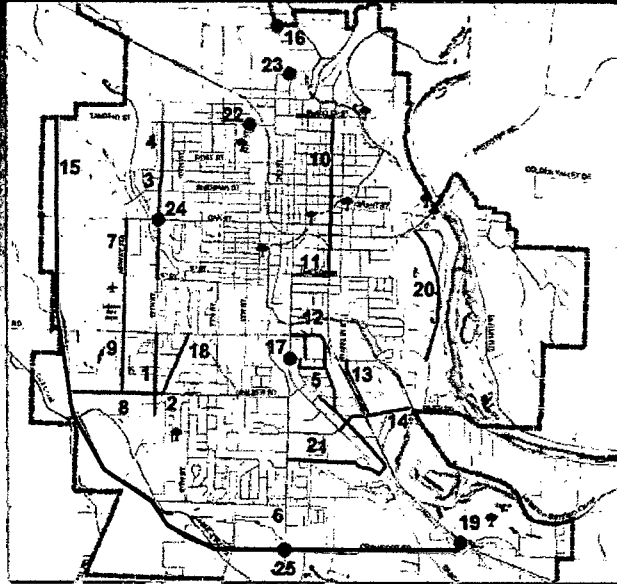
City Council Public Hearing  
January 10, 2007

### Errata Sheet Summary

- Edits to TSP from Work Session #1 & #2
  - Update Air Transportation sections to reflect the new 2006 Lebanon State Airport Master Plan
  - Extend Williams St. north of Wheeler to connect to Industrial Way
  - Evaluate the Highway 20/Weldwood Intersection under 'no-build' conditions.
  - Misc. edits to clarify existing conditions and provide consistency throughout the TSP
  
- Edits to TSP to Comply with DLCD Review
  - Provide cost estimates for Pedestrian and Bicycle Improvements and provide additional detail on how projects will be funded



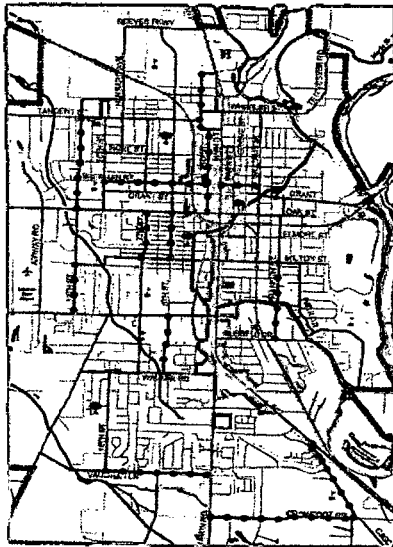
# Recommended Roadway Projects



Project No.	Description	Estimated Cost
1	Develop signalized intersection at US 20 and Industrial Way	\$1,700,000
2	Develop signalized intersection at US 20 and Industrial Way	\$1,700,000
3	Develop signalized intersection at US 20 and Industrial Way	\$1,700,000
4	Develop signalized intersection at US 20 and Industrial Way	\$1,700,000
5	Develop signalized intersection at US 20 and Industrial Way	\$1,700,000
6	Develop signalized intersection at US 20 and Industrial Way	\$1,700,000
7	Develop signalized intersection at US 20 and Industrial Way	\$1,700,000
8	Develop signalized intersection at US 20 and Industrial Way	\$1,700,000
9	Develop signalized intersection at US 20 and Industrial Way	\$1,700,000
10	Develop signalized intersection at US 20 and Industrial Way	\$1,700,000
11	Reconfigure intersection at US 20 and Industrial Way	\$400,000
12	Develop signalized intersection at US 20 and Industrial Way	\$1,700,000
13	Develop signalized intersection at US 20 and Industrial Way	\$1,700,000
14	Develop signalized intersection at US 20 and Industrial Way	\$1,700,000
15	Develop signalized intersection at US 20 and Industrial Way	\$1,700,000
16	Develop signalized intersection at US 20 and Industrial Way	\$1,700,000
17	Reconfigure intersection at US 20 and Industrial Way	\$400,000
18	Develop signalized intersection at US 20 and Industrial Way	\$1,700,000
19	Develop signalized intersection at US 20 and Industrial Way	\$1,700,000
20	Develop Eastside Connector b/w Mountain River Dr. and Grant St	\$7,420,000
21	Develop Weldwood Drive Realignment	\$2,500,000
22	Signalize intersection at OR 34 and 5th Street	\$250,000
23	Signalize intersection at US 20 and Twin Oaks and reconfigure US 20 and Industrial Way intersection to right-in and right-out operations	\$500,000
24	Signalize intersection at Oak Street and 12th Street	\$250,000
25	Signalize intersection at Crowfoot Road and South Main	\$250,000

Total Roadway Costs = \$77,208,000

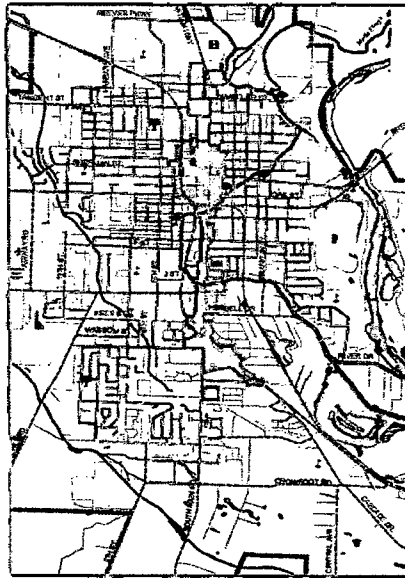
## Recommended Bicycle Improvements



### Bicycle Improvement Estimates & Priority

Project Description	Project Cost	Priority
12 <sup>th</sup> Street – Tangent Street to Oak Street	Included w/road	High
12 <sup>th</sup> Street – F Street to Airport Road	Included w/road	High
7 <sup>th</sup> Street – E Street to Oak Street	\$152,500	High
5 <sup>th</sup> Street – Oak Street to Walker Road	\$207,900	High
2 <sup>nd</sup> Street – U.S. 20/Twin Oaks Drive to Oak Street	\$391,000	High
Franklin Street – Milton Street to Russell Drive	\$221,100	High
Sherman Street – 10 <sup>th</sup> Street to Williams Street	\$282,200	High
Vaughn Lane – 10 <sup>th</sup> Street to South Main Road	\$325,700	High
Cascade Drive – Highway 20 to Crowfoot Road	\$914,100	High
Crowfoot Road – South Main to Cascade Drive	Included w/road	High
Milton Street – 12 <sup>th</sup> Street to Park Drive	\$669,100	Medium
10 <sup>th</sup> Street – Walker Road to Vaughn Lane	\$134,100	Medium
Franklin Street – Grant Street to Milton Street	\$141,900	Medium
Oak Street – Western City Limits to Franklin Street	\$1,124,100	Medium
Walker Road – Stoltz Hill Road to 7 <sup>th</sup> Street	\$226,500	Medium
Vaughn Lane – Stoltz Hill (Future Parkway) to 10 <sup>th</sup> St.	\$353,300	Medium
Wheeler Street – 2 <sup>nd</sup> Street to Tennessee Road	Included w/road	Medium
<b>Total Bicycle Improvement Cost =</b>	<b>\$5,143,500</b>	

# Pedestrian Improvement Projects



## Pedestrian Improvements Estimates & Priority

Project Description	Project Cost
Santiam Highway - Raev's Parkway to Industrial Way	\$109,600
Santiam Highway - Market Street to Sodaville Road	\$508,200
Highway 34 (Tangent Street) - Western UGB to city limits (just east of 13th St.)	\$213,300
Stoltz Hill Rd - Airport Rd to southern UGB	\$319,400
5th Street - Vaughn Lane to southern UGB	\$304,600
South Main Road - Vaughn Lane to southern UGB	\$216,600
Cascade Drive - Waldwood Drive to eastern UGB	\$405,600
Franklin Street - City limits to Russell Drive	\$74,300
Central Ave./Rock Hill Drive - Crowfoot to southwestern UGB	\$251,600
Crowfoot Rd. - 5th Street to Santiam Hwy	Included w/road
Oak Street - Western UGB to Airway Road	\$154,400
Airport Road - Western UGB to City Limits	\$116,600
Wagon Wheel Drive - City Limits to Cascade Drive	\$182,600
Russell Drive/River Road - Hwy 20 to River View Street	\$386,300
Kees Street - Stoltz Hill Rd to 6th Street	\$68,600
Wasson Street - Stoltz Hill Rd to 6th Street	\$112,000
6th Street - Kees Street to Walker Road	\$54,200
Airway Rd - Oak Street to Airport Rd	Included w/road
Airport Road - City Limits to 12th Street	\$59,700
12th Street - F St to Airport Road	Included w/road
F Street - 12th Street to 7th Street	\$116,600
Park Street - Elmore Street to the Santiam Canal	\$250,000
Downtown Enhancements as Identified in the <i>Crandall Arambulla, 2000 Study</i>	\$400,000
<b>Total Pedestrian Improvement Costs =</b>	<b>\$4,293,500</b>

## Funding Sources

**Table 7-6**  
**Transportation Funding Sources**

Improvement Type	Funding Source				Total
	City	Developer	ODOT/Linn County	Grants	
Roadway	\$35,131,700	\$26,750,500	\$1,475,000	\$13,850,800	\$77,208,000
Pedestrian	\$829,800	\$1,256,100	\$2,046,300	\$161,300	\$4,293,500
Bicycle	\$3,179,100	\$843,700	\$810,400	\$310,300	\$5,143,500
Total	<u>\$39,140,600</u>	\$28,850,300	\$4,331,700	<u>\$14,322,400</u>	\$86,645,000

Estimated City Funding \$53,463,000

20 Year Plan = \$2,670,000 per year

## Recent Street Funding

<u>Year</u>	<u>Cost</u>
<u>2001</u>	\$635,000
<u>2002</u>	\$842,000
<u>2003</u>	\$0
<u>2004</u>	\$280,000
<u>2005</u>	\$0
<u>2006</u>	\$2,650,000

Total for 2001 to 2006 = \$4,407,000

2001-06 Average per year investment = \$734,500



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

1140 Willagillespie Rd., Ste. 13

Eugene, OR 97401-6727

(541) 686-7807

Fax: (541) 686-7808

www.lcd.state.or.us



January 10, 2007

Mr. Doug Parker  
Community Development Director  
City of Lebanon  
853 Main Street  
Lebanon, Or 97355-3200

RE: January 8, 2007 city response to DLCD letter of December 14, 2006 regarding Draft Lebanon Transportation System Plan (October 2006) Local File Number FPU-06-02(TSP-06-01); DLCD File 003-06

Dear Doug,

The department has received the transportation funding plan portion of Section 7 from Rob Emmons in response to our recommendations. We are pleased to find that the refinements requested have been made and the compliance threshold described in our department's December 14, 2006 letter has been met.

Again, we are looking forward to continued work in other forums as the long range planning for the city progresses.

Thank you very much for the quick turnaround. If you have questions, please call me at 541-686-7807.

Sincerely,

*Marguerite Nabeta*

Marguerite Nabeta

S. Willamette Valley Regional Representative

Cc: Department File

## Rob Emmons

---

**From:** Joe/Pat Munk [pecknpic@comcast.net]  
**Sent:** Monday, January 08, 2007 10:10 PM  
Rob Emmons  
**Subject:** Lebanon Transportation Plan

January 8, 2007

Dear Rob,

Thank you for talking with Joe and I this morning about the Lebanon transportation plan to be discussed at the Lebanon City Council meeting on Wednesday, January 10.

Also, we very much appreciate the copies of the maps: Figure 6-2 and the aerial view of our neighborhood.

Our main concerns as we study these maps are:

- 1) the increased traffic the plan will bring to South Main Road and
- 2) the congestion that will develop at the intersection of South Main Road and Weldwood Drive.

~~We live at 2920 South Main Road~~ Our driveway, which is also the access to three other properties, exits onto South Main just about 24 feet north of the above named intersection. With the planned extension of Weldwood Drive from South Main Road through to the Wal-Mart store parking area, we foresee a huge increase in the use of the South Main – Weldwood intersection. This will have a direct impact on access to South Main Road for the properties in close proximity to the intersection.

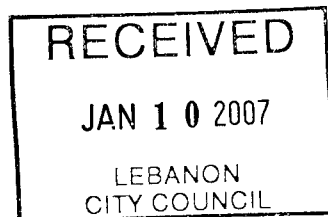
All distances listed below are approximate from the access stated to the South Main – Weldwood intersection:

<u>Driveways:</u>	24 feet north	12 Cedar Drive 2920 South Main Road 2936 South Main Road 2942 South Main Road
	6 feet south	2950 South Main Road
	135 feet south	2960 South Main Road
	200 feet south	3011 South Main Road
<u>Streets:</u>	225 feet north	most of the properties on Cedar Drive
	270 feet south	all of the properties on Kari Place

As the Lebanon City planners and engineers and City Council develop the details for the transportation plan, we ask that our concerns will be recognized and addressed.

Please notify us of design updates for the South Main – Weldwood intersection and Weldwood extension as they are developed.

Sincerely,  
Pat Munk  
2920 South Main Road  
Lebanon, OR



SCRIPT FOR PUBLIC HEARING – ADOPTION OF THE 2007  
LEBANON TRANSPORTATION SYSTEM PLAN.

Mayor: Now is the time and place for the Public Hearing to consider whether the City of Lebanon shall approve an ordinance adopting the proposed, 2007 Lebanon Transportation System Plan. I declare the Public Hearing Open at 1:29 PM

Mayor: I would now ask staff to provide a report on the proposed TSP.

Mayor: (Staff gives report)

Mayor: Are there any questions from any member of the City Council?

Mayor: (After questions) Is there any member of the public who would like to speak in favor of the proposed Transportation System Plan. If so, please come forward and provide your name and address for the record.

Mayor: (After each input) Is there any question from the City Council? (After last person in favor)

Mayor: Are there any members of the public who would like to speak in opposition of the proposed Transportation System Plan. If so, please come forward and provide your name and address for the record.

Mayor: (After each input) Is there any question from the City Council?

Mayor: (After last testimony) Is there anyone who has not already spoken that would like to address the City Council?

Mayor: Seeing none, I now declare the Public Hearing closed at  
1:40 PM.

Mayor: Are there any further questions of the staff?

Mayor: At this time, I will ask the City Attorney to read the title of the ordinance.

City Attorney: Reads title

City Council: (Makes motion and seconds)

Mayor: Is there any discussion on the Motion?

Mayor: (After discussion) If there is no further discussion, I would ask the clerk to call a roll call vote.

Clerk: (Calls vote)


Mayor: I declare the motion passed, the ordinance approved and the 2007 Transportation System Plan adopted.



# Agenda Item 3



**LEBANON POLICE DEPARTMENT  
MEMORANDUM**

**TO:** John Hitt, City Administrator  
**FROM:** Michael Healy, Police Chief   
**DATE:** 15 December 2006  
**RE:** LIQUOR LICENSE APPLICATIONS  
**CC:**

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The following Lebanon, Oregon establishment is requesting consideration for a change of ownership for a liquor license:

From: Nite Mini Mart, 300 N. Santiam Hwy., Lebanon, OR 97355  
Owner: Khae Saetern  
To: Shell Food Mart, 300 N. Santiam Hwy., Lebanon, OR 97355  
Owner: Ngan B. Phan  
License Type: Limited On-Premises Sales w/ fuel pumps.

The Police Department does not possess any documented evidence to support the denial of this request.

*"Integrity, Professionalism and Teamwork"*

LIQUOR LICENSE APPLICATION APPROVAL/DENIAL FORM  
 FINANCE DEPARTMENT  
 CITY OF LEBANON

Date: 4 December 2006  
 New License: Shell Food Mart, 300 N. Santiam Hwy. Lebanon, OR 97355  
 Owners: Ngan B. Phan  
 License: Limited On-Premises Sales

\*\*\*\*\*

RECOMMENDATION:	APPROVAL	DENIAL	DATE
FIRE DISTRICT <u><i>Mark Wiley</i></u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>12-15-06</u>
POLICE DEPT <u><i>Mark Wiley</i></u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>12/11/06</u>
PLANNING DEPT <u><i>Darker</i></u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>12/14/06</u>
COUNCIL _____	<input type="checkbox"/>	<input type="checkbox"/>	_____

**NOTE:** Recommendation for denial must be accompanied by supporting documentation.

SCRIPT FOR PUBLIC HEARING FOR RECOMMENDATION OF APPROVAL OR DENIAL OF A CHANGE OF OWNERSHIP AND CHANGE OF NAME FOR A LIMITED ON-PREMISES LIQUOR LICENSE.

Mayor: Now is the time and place for a Public Hearing to determine whether the City of Lebanon will recommend either an approval or denial of an application for a change in ownership and change of business name Owner change FROM: Khae Saetern TO: Ngan B Phan, and business name change FROM: Nite Mini Mart, TO: Shell Food Mart. Location: 300 Santiam Hwy, Lebanon.

I declare the Public Hearing open at 1:50 PM.

Mayor: At this time, I would ask the staff to provide a staff report. (Chief Healy gives report) Are there any questions of the staff from any City Councilor?)

Mayor: Is there any member of the public here tonight who would like to speak in favor of this liquor license application. If so, please come forward and provide your name and address for the record. (Public gives input)

Mayor: is there any member of public here tonight who would like to speak in opposition to this change in ownership of a Liquor License. If so, please come forward and provide your name and address for the record. (Public Gives input)

Mayor: Is there any one else who hasn't already spoken, who would like to address this issue?

Mayor: Seeing none, I declare the Public Hearing closed at 1:52 PM.

Mayor: Are there any further questions of the staff?

Mayor: If not, the chair will entertain a motion to either recommend approval or denial of this license application to the Oregon State Liquor Control Commission.

Mayor: (After motion made) Is there any discussion on this motion?

Mayor: (After discussion) I will ask the clerk to take a roll call vote.

Mayor: (After vote) I declare the Motion passed and instruct staff to submit the appropriate forms to the OLCC.

# Agenda Item 4



## CITY OF LEBANON

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# MEMORANDUM

<b>TO:</b>	Jim Ruef, Public Works Director	<b>DATE:</b>	12/18/2007
<b>FROM:</b>	Rodney Sell, Maintenance Services Division Manager		
<b>SUBJECT:</b>	Recreational Trails Grant Application		

On January 10<sup>th</sup> the Parks Section of the Maintenance Services Division of Public Works will be presenting a resolution to City Council. The resolution is a request for authorization to apply for a Recreational Trails Grant (RTGP) through the Oregon Parks and Recreation Department.

The deadline for application for the grant is January 12, 2007. A letter of intent to apply for a grant was submitted to OPRD in December of 2006.

The grant application is currently under development. If successful in the grant request the Marks Slough Trail Phase II will be constructed on property owned by the City adjacent and east of the Wastewater Treatment Plant.

The City was successful with their grant application during the 2006 RTGP grant cycle and will begin construction on Phase I of the Marks Slough Trail in the spring of 2007.

With a successful 2007 grant application Phase II will be constructed in the 2008 construction season.

Future trail connections will develop access to this trail segment from Had Irvine Park, Industrial Way and Project Walden.

A RESOLUTION AUTHORIZING THE CITY OF LEBANON ) RESOLUTION NO. \_\_\_\_\_  
TO APPLY FOR A RECREATIONAL TRAILS GRANT FROM )  
THE OREGON PARKS AND RECREATION DEPARTMENT ) FOR 2007  
FOR CONSTRUCTION OF A TRAIL ALONG MARKS SLOUGH )

WHEREAS, the Oregon Parks and Recreation Department is accepting applications for the Recreational Trails Grant; and

WHEREAS, the City of Lebanon desires to participate in this grant program to the greatest extent possible as a means of providing needed park and recreation acquisitions, improvements and enhancements; and

WHEREAS, the City Council, the Parks Advisory Committee, and the Parks Master Plan, has identified the need to develop an interconnected trail system; and

WHEREAS, the applicant hereby certifies that the matching share for this application is readily available at this time.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LEBANON AS FOLLOWS:

**Section 1.** The City of Lebanon is authorized to apply for a Recreational Trails Grant from the Oregon Parks and Recreation Department for the development of trails as specified above.

**Section 2.** This resolution is effective immediately upon passage.

Passed by the Lebanon City Council by a vote of \_\_\_\_\_ for and \_\_\_\_\_ against this 10<sup>th</sup> day of January, 2007.

\_\_\_\_\_  
Kenneth I. Toombs, Mayor [ ]

ATTEST:

\_\_\_\_\_  
Linda Kaser, City Clerk/Recorder



# Agenda Item 5



CITY OF LEBANON  
*It's easier from here.*

## Administration

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City Manager

### MEMORANDUM

**To:** Mayor & City Council

**Date:** January 4, 2007

**From:** John Hitt, City Manager 

**Subject:** Special Public Works Fund Loan

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Last Fall, the City Council granted the City Manager the authority to apply for grants and loans with the understanding that final action is subject to City Council approval.

Last August, The City Council approved the bid to proceed with "Project Mustang Herd", consisting of water, storm drainage, streets and wastewater improvements necessary to support the new businesses at Airport Industrial Park (Oak Street, west of the Consumers Power Office).

In summary, this financing agreement provides:

1. An interim \$2,085,000 interest only loan at 3.77% for 2.5 years.
2. A subsequent long term 25 year loan sponsored under the state's program at an interest rate to be determined but assumed to be approximately 4.5%.
3. This loan is an obligation of and will be paid from the General Fund. However, with the dissolution of the Lebanon URD and upon inclusion on the tax base of these properties, there should be more than adequate new revenues to service this debt without negatively impacting other General Fund activities and departments.



**CITY OF LEBANON**  
**PUBLIC WORKS DEPARTMENT – ENGINEERING**  
**MEMORANDUM**

**TO:** John Hitt City Manager - **DATE:** 1-03-2007  
**FROM:** Malcolm Bowie City Engineer *M. Bowie*  
**SUBJECT:** Special Public Works Fund financing agreement. B07002

The Oregon Economic and Community Development Department has awarded a contract to the City of Lebanon to receive financing in the amount of \$2,085,000 for public improvements to serve project mustang herd located at airport industrial subdivision. This memo requests City Council approval for the city to enter into an agreement with the State .

**BACKGROUND**

An agreement to provide financing for costs associated with Mustang Herd project # B07002 has been offered by the State of Oregon Economic and Community Development Department. The amount is for \$2,085,000 to serve the four businesses associated with project Mustang Herd

**RECOMMENDATION**

We recommend that City Council pass a resolution approving the city to proceed into agreement with the Oregon Economic and Community Development Department on project # B07002

A RESOLUTION OF THE CITY OF LEBANON ) RESOLUTION NO. \_\_\_\_\_  
 AUTHORIZING A LOAN FROM THE SPECIAL PUBLIC )  
 WORKS FUND BY ENTERING INTO AN INTERIM LOAN ) FOR 2007  
 CONTRACT AND A PERMANENT LOAN CONTRACT )  
 WITH THE OREGON ECONOMIC AND COMMUNITY )  
 DEVELOPMENT DEPARTMENT )

The City Council of the City of Lebanon (the "Municipality") finds:

- A. The Municipality is a "municipality" within the meaning of Oregon Revised Statutes 285B.410(7).
- B. Oregon Revised Statutes 285B.410 through 285B.479 (the "Act") authorize any municipality to file an application with the Oregon Economic and Community Development Department ("the Department") to obtain financial assistance from the Special Public Works Fund.
- C. The Municipality has filed an application with the Department to obtain financial assistance for an "infrastructure project" within the meaning of the Act.
- D. The Department has approved the Municipality's application for financial assistance from the Special Public Works Fund pursuant to the Act.
- E. The Department is not able to provide long-term, permanent financial assistance prior to the date the City needs funds to begin construction of the project, as determined below, but is able to provide interim financing for the City's commencement of construction.
- F. The Department will be able to provide long-term, permanent financial assistance prior to the maturity date on the interim financing to allow the City to complete construction and to repay the interim financing loan.
- G. The Municipality is required, as a prerequisite to the receipt of financial assistance from the Department, to enter into a Financial Assistance Award Contract and a Loan Agreement with the Department.
- H. The project described in Exhibit A attached hereto (the "Project"), is an "infrastructure project" within the meaning of the Act which is needed by and is in the public interest of the Municipality.
- I. Notice relating to the Municipality's consideration of the adoption of this Resolution was published in full accordance with the City of Lebanon's charter and laws for public notification.

NOW THEREFORE, BE IT RESOLVED by the Governing Body of the Municipality as follows:

1. Interim Financing Loan Authorized. The Governing Body authorizes the [Title of Officer] to execute the Financial Assistance Award Contract, Interim Financing Loan Agreement, the Promissory Note and such other documents as may be required to obtain financial assistance including an interim financing loan from the Department on the condition that the principal amount of the interim financing loan from the Department to the Municipality is not in excess of \$ \_\_\_\_\_ and the interest rate is a percent deemed reasonable by the City Administrator and in the best interest of the City of Lebanon. The proceeds of the interim financing loan from the Department shall be applied solely to the "Costs of the Project" as such term is defined in the Interim Loan Agreement.
2. Permanent Loan Authorized. The Governing Body authorizes the City Administrator to execute the Financial Assistance Award Contract, Loan Agreement, Promissory Note and such other documents as may be required to obtain financial assistance including a permanent financing loan from the Department on the condition that the principal amount of the permanent loan from the Department to the Municipality is not in excess of \$ \_\_\_\_\_ and the interest rate is a percent deemed reasonable by the City Administrator and in the best interest of the City of Lebanon. The proceeds of the permanent financing loan from the Department shall be applied solely to repayment of the interim financing loan and the "Costs of the Project" as such term is defined in the Loan Agreement.
3. Security. Amounts payable by the Municipality shall be payable from the sources described in the Oregon Revised Statutes Section 285B.443(2) which include:
  - a. any sources of funds that are legally available to the Municipality,
  - b. the revenues, if any, of the Project, including special assessment revenues, if any, and
  - c. the Municipality's general fund including the general revenues of the Municipality, other funds which may be available for such purpose and a pledge of the Municipality's taxing power within the restrictions of Article XI, Section 11 and 11b of the Constitution of the State of Oregon. The obligation of the Municipality to make payments pursuant to the Loan Agreement is a full faith and credit obligation of the Municipality that is not subject to annual appropriation.
4. Additional Documents. The City Administrator is hereby authorized to enter into any agreements and to execute any documents or certificates which may be required to obtain financial assistance from the Department for the Project pursuant to the Financial Assistance Award Contract and the Loan Agreement.
5. Tax-Exempt Status. The Municipality covenants not to take any action or omit to take any action if the taking or omission would cause interest paid by the Municipality pursuant to the Loan Agreement not to qualify for the exclusion from gross income provided by Section 103(a) of the Internal Revenue Code of 1986, as amended. The City Administrator of the Municipality may enter into covenants on behalf of the Municipality to protect the tax-exempt status of the interest paid by the Municipality pursuant to the Loan Agreement and may execute any Tax Certificate, Internal Revenue Service forms or other documents as shall be required by the Department or their bond counsel to protect the tax-exempt status of such interest.

6. Reimbursement Bonds. The Municipality may reimburse expenditures for the Project with amounts received from the Department pursuant to the Financing Documents. Additionally, the Municipality understands that the Department may fund or reimburse itself for the funding of amounts paid to the Municipality pursuant to the Financing Documents with the proceeds of bonds issued by the State of Oregon pursuant to the Act. This Resolution shall constitute "official intent" within the meaning of Section 1.150-2 of the Income Tax Regulations promulgated by the United States Department of the Treasury with respect to the funding or the reimbursement for the funding of the costs of the Project with the proceeds of the Municipality's loan pursuant to the Financing Documents and with the proceeds of any bonds issued by the State of Oregon pursuant to the Act.
7. Effective Date. This Resolution shall be in force and effect from and after passage by the Governing Body.

PASSED by the Lebanon City Council this 10th day of January, 2007 by a vote of \_\_\_\_\_ for and \_\_\_\_\_ against.

\_\_\_\_\_  
Kenneth I. Toombs, Mayor

ATTEST:

\_\_\_\_\_  
Linda Kaser, City Clerk / Recorder

# OREGON

ECONOMIC & COMMUNITY  
DEVELOPMENT DEPARTMENT

Main Office

7. Summer St, NE, Suite 200

Salem, OR 97301-1280

Phone 503-986-0123

TTY 1-800-735-2900

Fax 503-581-5115

<http://www.econ.state.or.us/>

December 1, 2006

The Honorable Kenneth I. Toombs  
Mayor of Lebanon  
925 Main Street  
Lebanon, OR 97335

RE: Special Public Works Fund, Interim Financing Loan, Project Number B07002,  
(\$2,085,000), City of Lebanon, Project Mustang Herd Infrastructure Improvements

Dear Mayor Toombs:

Enclosed are two originals of the award contract for interim financing between the State of Oregon and the City of Lebanon. Please note the requirements of Section 5 "Covenants of Borrower" and the special conditions in Exhibit A. Also enclosed are the following:

- Two **Interim Financing Loan Agreements**
- The **Promissory Note**
- A **Signature Card**, which authorizes cash drawdowns for the project. The directions for filling it out are on the back. Please retain a copy of the signed signature card for your official file.
- A **Deposit Option Notification** form where you indicate the method to receive funds
- A sample **Disbursement Request** form for your future use, which is also available electronically by request in Microsoft Excel<sup>®</sup> format
- A **Checklist** with sample documents that must be completed and returned with the contracts

Please return the following to our office by February 15, 2007:

- Two signed original Financial Assistance Award **Contracts** for Interim Financing
- Two signed original **Interim Financing Loan Agreements**
- The signed original **Promissory Note**
- One original completed and signed **Deposit Option Notification** form
- One fully executed original **Signature Card**
- The **Checklist** and the Checklist documents

Please let us know when your project nears construction so we can send you a sign to post in a visible location, noting the participation of the Special Public Works Fund and the Oregon Lottery.

The public, the media, and governmental agencies will view your project with great interest. We are most anxious for your project to succeed and wish to extend any help you need. If you have any questions, please call Louise Birk, Regional Coordinator, at (503) 986-0130.

Sincerely,



Laird Bryan, Operations Manager  
Community Development Division

Enclosures

Contract and General Services/B07002 Lebanon Letter.doc

STATE OF OREGON  
SPECIAL PUBLIC WORKS FUND  
FINANCIAL ASSISTANCE AWARD CONTRACT FOR INTERIM FINANCING

This Contract is made and entered into as of \_\_\_\_\_, 2006 by and between the STATE OF OREGON, ACTING BY AND THROUGH ITS ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT ("State") and City of Lebanon ("Borrower"). The reference number of this Contract is B07002.

**SECTION 1  
CERTAIN DEFINITIONS**

As used in this Contract, the following terms shall have the meanings given below, unless the context requires otherwise:

"Act" shall mean ORS 285B.410 through 285B.482, as amended.

"Contract" means this financial assistance award contract for interim financing between the State and the Borrower, including any exhibits, schedules and attachments thereto, as amended from time to time.

"Costs of the Project" shall mean all eligible costs of acquiring and constructing the Project, including any financing costs properly allocable to the Project, as set out in the approved Project Budget in Exhibit C to the Loan Agreement.

"Default" shall mean an event which with notice or lapse of time or both would become an Event of Default as set out in Section 6 hereof.

"Event of Default" shall mean any of the events described in Sections 6(A) through 6(D) of this Contract.

"Loan" shall have the meaning ascribed thereto in Section 2(A) of this Contract.

"Loan Agreement" shall mean that certain interim financing loan agreement, substantially in the form of Exhibit 1 hereto, entered into between the State and the Borrower, as of the date hereof, as such agreement may from time to time be amended and/or restated.

"Note" shall mean that certain promissory note, substantially in the form of Exhibit F to the Loan Agreement, executed by the Borrower in favor of the State, as it may from time to time be amended, extended, renewed or restated.

"Project" shall have the meaning ascribed thereto in the Loan Agreement and described in Exhibit B of the Loan Agreement.

"Project Completion Date" shall mean the date on which the Borrower has in fact completed the construction of the Project, as described in Section 3.02(d) of the Loan Agreement.

"Special Public Works Fund" or "Fund" shall mean the Special Public Works Fund created by ORS 285B.455(1).

**SECTION 2  
FINANCIAL AWARD**

A. Amount of Loan. Subject to the terms and conditions of this Contract and the Loan Agreement, the State agrees to loan and disburse to Borrower, and Borrower agrees to borrow and accept from State, a non-revolving loan in the maximum aggregate principal amount of \$2,085,000 (the "Loan").



- B. Availability of Funds. The Loan set out in Section 2(A) above is subject to the availability of moneys in the Special Public Works Fund.
- C. Change in the Act. The State shall not be obligated to provide the Loan or make any disbursements under the Loan Agreement if, on or prior to the time the Borrower satisfies all conditions for a disbursement of the Loan proceeds under the Loan Agreement, there has been a change in the Act so that the Project is no longer eligible for the financial assistance authorized by this Contract.
- D. Disbursements. The Borrower must submit disbursement requests for the Loan on a disbursement request form substantially in the form of Exhibit E of the Loan Agreement.

**SECTION 3  
USE OF AWARD**

The use of the Loan is expressly limited to the Project activities described in Exhibit B of the Loan Agreement. The use of these funds is also expressly subject to the terms and conditions set out in Exhibit A to the Loan Agreement.

**SECTION 4  
REPRESENTATIONS OF THE BORROWER**

The Borrower represents and warrants to the State that:

- A. Costs of the Project. A reasonable estimate of the Costs of the Project is \$2,378,517.
- B. Other Funds. Before any disbursement of funds under this Contract or the Loan Agreement, Borrower shall submit documentation to the State that, in addition to the Loan, all funds necessary to complete the Project have been secured.
- C. Binding Obligation. This Contract has been duly authorized, executed and delivered by the Borrower and constitutes the legal, valid and binding obligation of the Borrower, enforceable in accordance with its terms.

**SECTION 5  
COVENANTS OF BORROWER**

The Borrower covenants as follows and understands that the requirements of the covenants may only be waived or amended by a written instrument executed by the State:

- A. Compliance with Laws. The Borrower will comply with the requirements of all applicable laws, rules, regulations and orders of any governmental authority that relate to the construction of the Project and the operation of any utility system of which the Project is a component. In particular, but without limitation, the Borrower shall comply with, as applicable:
  1. State procurement regulations found in the Oregon Public Contracting Code, ORS Chapters 279A, 279B and 279C, as applicable.
  2. State labor standards and wage rates found in ORS Chapter 279C.
  3. State municipal finance and audit regulations found in ORS Chapter 297.
  4. State regulations regarding industrial accident protection found in ORS Chapter 656.
  5. State conflict of interest requirements for public contracts.
  6. State environmental laws and regulations enacted by agencies listed in Exhibit 2 hereto.

7. Oregon Administrative Rules, Chapter 123, Division 42, as amended from time to time at the discretion of the State.
  8. State municipal bonding requirements found in the Act and in ORS Chapters 280, 284, 286, 287 and 288.
- B. Drawings. The Borrower shall obtain as-built drawings for all facilities constructed with the proceeds of the Loan. The Borrower shall obtain certification of completion per the as-built drawings from the Project engineer or architect, as applicable.
  - C. Operation and Maintenance of the Project. By the Project Completion Date, the Borrower will have a program, documented to the satisfaction of the State, for the on-going maintenance, operation and replacement, at Borrower's sole expense, of the public works service system(s), of which the Project is a part. This program should include a plan for generating revenues sufficient to assure the operation, maintenance and replacement of the public works system(s) of which the Project is a part during the service life of the Project.
  - D. Signs and Notifications. Borrower shall post a sign at the Project site or, if more than one site is included in the Project, at a site visible to the general public acknowledging the participation of the State. The sign shall be installed prior to construction and shall be maintained for the duration of the construction period. The State shall provide the sign to Borrower upon request.
  - E. Insurance. Except as may be provided in Exhibit A to the Loan Agreement, in the event the Project, or any portion thereof, is destroyed and the Project is insured, any insurance proceeds shall be paid to the State and shall be applied to prepay the outstanding balance of the Loan in accordance with Section 2.04 of the Loan Agreement unless the State agrees in writing that the insurance proceeds shall be used to rebuild the Project.
  - F. Creation of Project Account. The Borrower shall establish and maintain a segregated Project account. The Loan proceeds (as and when the Loan proceeds are disbursed by the State to the Borrower) shall be deposited in this segregated Project account. Earnings on this account shall be credited to this account. Moneys in this account shall only be used to pay the Costs of the Project.
  - G. Indemnity. To the fullest extent permitted by law, the Borrower shall indemnify the State and its officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of, or relating to the activities of Borrower or its officers, employees, contractors, or agents under or related to this Contract or the Project.
  - H. Sales, Leases and Encumbrances. Borrower may not sell, lease, exchange, transfer or otherwise dispose of any property constituting a part of the Project or any interest therein or any system, the revenues of which are pledged for payment of amounts due under the Loan Documents (as defined in the Loan Agreement), unless it is worn out, obsolete or, in the reasonable business judgment of the Borrower, no longer useful in the operation of the Project, except if (i) the State consents thereto in writing upon ninety (90) days' prior written notice to the State and (ii) Borrower assigns the Loan Agreement and the other Loan Documents pursuant to Article V of the Loan Agreement.

Except as may be provided in the Exhibit A to the Loan Agreement, proceeds of such sale, lease, exchange, transfer or other disposition which are not used to replace property that is part of the Project shall be paid to the State and shall be applied to prepay the outstanding balance of the Loan in accordance with Section 2.04 of the Loan Agreement.

- I. Condemnation Proceeds. Except as may be provided in Exhibit A of the Loan Agreement, in the event the Project, or any portion thereof is condemned, any condemnation proceeds shall be paid to the State and shall be applied to prepay the outstanding balance of the Loan in accordance with Section 2.04 of the Loan Agreement.
- J. Professional Services. Borrower shall demonstrate that any service provider retained for their professional expertise is certified, licensed or registered, as applicable in the State of Oregon, for their specialty.
- K. Minority, Women & Emerging Small Business. ORS 200.090 requires all public agencies to "aggressively pursue a policy of providing opportunities for available contracts to emerging small businesses..." The Oregon Economic and Community Development Department encourages Borrower in any contracting activities to follow good faith efforts in ORS 200.045, available at <http://www.leg.state.or.us/ors/200.html>. Additional resources are provided by the Governor's Advocate for Minority, Women & Emerging Small Business at <http://egov.oregon.gov/Gov/MWESB/index.shtml>. Also, the Office of Minority, Women, and Emerging Small Business at the Department of Consumer and Business Services maintains a list of certified firms and can answer questions. Search for certified MWESB firms on the web at: <http://imd10.cbs.state.or.us/ex/dir/omwesb/>.
- L. Economic Benefit Data. The State may request that the Borrower submit specific requested data on the economic development benefits of the Project, from the date hereof until six (6) years after the Project Completion Date. Upon such request by the State, Borrower shall, at the Borrower's expense, prepare and file the requested data within the time specified in the request. Data shall document specific requested information such as any new direct permanent or retained jobs resulting from the Project and other information to evaluate the success and economic impact of the Project.

**SECTION 6  
DEFAULT**

If any of the following Events of Default occurs and is continuing, namely:

- A. The Borrower fails to proceed expeditiously with, or to complete, the Project or any segment or phase of the Project in accordance with the plans and schedules approved by the State; or
- B. Any representation with respect to current or historical information made to the State herein or in any other pertinent documents, certificates and reports relied upon by the State in gauging the progress of the Project, compliance with the requirements of the Act or performance of duties by the Borrower is untrue in any material respect; or
- C. Except as provided in B or D of this Section, the Borrower fails to perform or observe any of its covenants or agreements contained herein and fails to correct such deficiencies within thirty (30) days of notice from the State of such deficiencies, or such longer period as the State may authorize in its sole discretion; or
- D. The occurrence of an Event of Default under the Loan Agreement;

thereupon, and in each such case, the State, upon notice to the Borrower, may pursue any remedy legally available, including but not limited to the remedies set forth in Section 7.

**SECTION 7  
REMEDIES**

Upon the occurrence of an Event of Default under this Contract, the State may pursue any or all of the remedies set forth herein or in the Loan Agreement or Note and any other remedies available at law or in equity. Such remedies include, but are not limited to, termination of the State's obligations under Contract and/or Loan Agreement, acceleration of the Loan, declaration of the Borrower's ineligibility to receive future Lottery funded awards and the withholding pursuant to ORS 285B.449 of other State funds due the Borrower. The remedies provided herein are cumulative and not exclusive of any remedies provided by law.

**SECTION 8  
MISCELLANEOUS**

- A. No Implied Waiver. No failure on the part of the State to exercise, and no delay in exercising, any right, power, or privilege under this Contract shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power, or privilege under this Contract preclude any other or further exercise thereof or the exercise of any other such right, power or privilege.
- B. Notices. All notices to or upon the parties hereto shall be in writing and shall be deemed to have been duly given or made when delivered by hand or deposited in the mails, postage prepaid, addressed to the party to which such notice is required or permitted to be given or made at the addresses set forth below or at such other address of which such party shall have notified in writing the other party hereto.

If to the State:                      Operations Manager, Community Development Division  
   Economic and Community Development Department  
   775 Summer Street NE, Suite 200  
   Salem, OR 97301-1280

If to the Borrower:                  Mayor  
   City of Lebanon  
   925 Main Street  
   Lebanon, OR 97335

Any notice so addressed and mailed shall be effective five (5) days after mailing. Any notice given by personal delivery shall be effective when actually delivered.

- C. Severability. If any term or condition of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or condition held to be invalid.
- D. No Construction against Drafter. The terms of this Contract shall not be construed against either party as the drafter hereof.
- E. Successors and Assigns. This Contract shall be binding upon and inure to the benefit of State and Borrower and their respective successors and assigns, except that Borrower may not assign or transfer its rights or obligations hereunder or any interest herein without the prior consent in writing of State.
- F. Applicable Law. This Contract shall be governed by and construed in accordance with the laws of the State of Oregon, including the Act, without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between the State (and/or any agency or department of the State of Oregon) and the Borrower that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted

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solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court.

- G. Merger; Amendments. This Contract, including all exhibits, schedules, and attachments (which are by this reference incorporated herein), constitutes 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 Contract. The terms of this Contract, including timeframes for Project completion, will not be waived, altered, modified, supplemented, or amended in any manner except by written instrument signed by the parties (or, in the case of a waiver, by the party against whom the waiver is being asserted).
- H. Execution in Counterparts. This Contract may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
- I. Attorney Fees. To the extent permitted by law, the prevailing party in any dispute arising from this Contract shall be entitled to recover from the other its reasonable attorney's fees, expenses and costs at trial and on appeal.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be duly executed and delivered, effective as of the last date set forth below the signatures of their respective representatives. The Borrower, by the signature below of its authorized representative, hereby acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.



STATE OF OREGON  
acting by and through its Economic and  
Community Development Department



CITY OF LEBANON

By: \_\_\_\_\_  
Laird Bryan, Operations Manager  
Community Development Division

By:

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

Date:

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

/s/ Lynn T. Nagasako, Sr. AAG (as per email dated 11/29/06)  
Lynn T. Nagasako, Sr. Assistant Attorney General

Date: November 29, 2006

- Exhibit 1: Loan Agreement
- Exhibit 2: Environmental and Natural Resource Agencies

**INTERIM FINANCING LOAN AGREEMENT**

**between**

**STATE OF OREGON**

**acting by and through its**

**ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT**

**and**

**CITY OF LEBANON**

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- Exhibit C: Project Budget
- Exhibit D: Description of Loan
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- Exhibit G: Form of Opinion of Borrower's Counsel



THIS INTERIM FINANCING LOAN AGREEMENT is made and entered into as of XXXXXXXXXXXXXXXXXX, XXXX, by and between the STATE OF OREGON, ACTING BY AND THROUGH ITS ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT (the "State"), and the Borrower (as defined below).

**ARTICLE I**  
**DEFINITIONS**

**SECTION 1.01. Definitions.** The following terms as used in this Loan Agreement shall, unless the context clearly requires otherwise, have the meanings assigned to them below:

"Act" means ORS 285B.410 through 285B.482, as amended.

"Authorized Officer(s)" means, in the case of the Borrower, the person(s) whose name(s) and/or title(s) is set forth in Exhibit D hereto or such other person or persons authorized pursuant to a resolution, an order, ordinance or other official action of the governing body of the Borrower to act as an authorized officer(s) of the Borrower to perform any act or execute any document relating to the Loan or this Loan Agreement and whose name(s) and/or title(s) is furnished in writing to the State.

"Borrower" means the Municipality that is a party to this Loan Agreement and is described on Exhibit D hereto, and its successors and assigns.

"Business Day" means any day other than a Saturday, Sunday or legal holiday or a day on which banking institutions in Salem, Oregon are closed.

"Contract" means the financial assistance award contract for interim financing dated as of the date hereof between the State and Borrower, to which the form of this Loan Agreement is attached as Exhibit 1, as amended from time to time.

"Costs of the Project" means those costs that are (a) reasonable, necessary and directly related to the Project including any financing costs properly allocable to the Project and preliminary costs such as engineering and architectural reports, studies, surveys, permits, soil tests, designs, plans, working drawings and specifications that are necessary for the construction of the Project, and (b) permitted by generally accepted accounting principles to be costs of such Project.

"Counsel" means an attorney at law or firm of attorneys at law (who may be, without limitation, of counsel to, or an employee of, the State or the Borrower) duly admitted to practice law before the highest court of any state.

"Disbursement Request" means a requisition executed by the Borrower requesting a draw under this Loan Agreement in substantially the form of Exhibit E hereto.

"Event of Default" means any occurrence or event specified in Section 6.01 hereof.

"Loan" means the non-revolving loan to be made by the State to the Borrower to provide interim financing for a portion of the Costs of the Project pursuant to this Loan Agreement.

"Loan Agreement" means this interim financing loan agreement, including any exhibits, schedules and attachments hereto (which are by this reference incorporated herein), as it may be supplemented, modified or amended from time to time in accordance with the terms hereof.

"Loan Closing Date" means the date on which all conditions to the Loan closing have been satisfied by Borrower (or waived by the State) and the Loan proceeds are available to disburse to the Borrower in accordance with Section 2.01(b) hereof.

“Loan Closing Deadline” means the date, as set forth in Exhibit D hereof, by which all conditions precedent to Loan closing must be satisfied by Borrower (or waived by the State).

“Loan Documents” means the Loan Agreement, Note, and any agreements, instruments and certificates required to be executed and delivered hereunder.

“Maturity Date” means the date by which the outstanding balance of the Loan must be repaid, as determined in accordance with Exhibit D hereof.

“Municipality” means any entity described in ORS 285B.410(7).

“Note,” means that certain promissory note of the Borrower, substantially in the form of Exhibit F hereto, executed by the Borrower in favor of the State, as it may from time to time be amended, extended, renewed and/or restated.

“Project” means the Project described in Exhibit B hereof or a portion thereof which is financed or refinanced by the State pursuant to this Loan Agreement, as the context requires.

“Project Completion Date” the date on which the Borrower completes construction of the Project as described in Section 3.02(d).

“Refunding Proceeds” means the proceeds of any subsequent short- or long-term financing issued to refund the Loan or to finance the Project.

“Special Public Works Fund” or “Fund” means the fund created by ORS 285B.455(1).

“System” means the utility or wastewater system or systems, if any, of the Borrower which includes the Project or components of the Project, as such system or systems may be modified or expanded from time to time. References in this Loan Agreement to the Borrower’s “System” shall be ignored to the extent that the Project is not a component of a utility or wastewater system or systems.

**SECTION 1.02. General Rules.** Except where the context otherwise requires, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations, corporations, partnerships, agencies and districts. Words importing one gender shall include any other gender.

## ARTICLE II LOAN TO BORROWER

### SECTION 2.01. Loan; Disbursements; Use of Proceeds.

(a) Loan. Subject to the terms and conditions hereof, in particular Sections 4.01 and 4.02 hereof, the State hereby agrees to make and disburse to the Borrower, and the Borrower agrees to borrow and accept from the State, a non-revolving Loan in an aggregate principal amount not to exceed the lesser of (1) the maximum principal amount of the Loan set forth in Exhibit D hereto or (2) the Costs of the Project.

(b) Disbursements. Subject to Sections 4.01 and 4.02 hereof, the proceeds of the Loan shall be disbursed to the Borrower from time to time on an expense reimbursement or cost incurred basis upon receipt by the State of a completed Disbursement Request.

(c) Use of Proceeds. The Borrower shall use the proceeds of the Loan strictly in accordance with Section 3.02(a) hereof and subject to and in compliance with Exhibit B and Exhibit C hereof.

**SECTION 2.02. Loan Payment.** The Borrower agrees to repay the Loan and all amounts due under the Note or any of the Loan Documents in accordance with the terms hereof and thereof. Unless earlier repayment is received hereunder or under the terms of the Note, the entire outstanding principal balance and all accrued unpaid interest shall be due and payable in full on the Maturity Date.

**SECTION 2.03. Unconditional Obligations.** The provisions of the Loan Agreement shall constitute a contract with the State and shall be enforceable by the State. Payments required under the Loan Documents are payable from the sources of repayment described in Section 2.06 hereof, and the obligation of the Borrower to make all payments required under the Loan Documents and the obligation to perform and observe the other duties, covenants, obligations and agreements on its part to be performed or observed contained therein shall be absolute and unconditional. Payments hereunder and under any of the other Loan Documents shall not be abated, rebated, set-off, reduced, abrogated, terminated, waived, diminished, postponed or otherwise modified in any manner or to any extent whatsoever, or any payments under this Loan Agreement or Note remain unpaid, regardless of any contingency, act of God, event or cause whatsoever, including (without limitation) any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, the taking by eminent domain or destruction of or damage to the Project, commercial frustration of the purpose, any change in the laws of the United States of America or of the State of Oregon or any political subdivision of either or in the rules or regulations of any governmental authority, any failure of the State to perform and observe any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with the Project or this Loan Agreement or any rights of set off, recoupment, abatement or counterclaim that the Borrower might otherwise have against the State or any other party or parties; provided, however, that payments hereunder shall not constitute a waiver of any such rights.

**SECTION 2.04. Loan Prepayments.**

(a) **Mandatory Prepayment.** The Borrower shall prepay the outstanding balance of the Loan, including any unpaid accrued interest, upon the occurrence of any of the following events:

- (i) destruction of all or a substantial portion of the Project; or
- (ii) issuance of any subsequent short or long term financing obligation for the Project or to refund the Loan, including State bonds issued in part for the financing and/or refinancing of the Project; or
- (iii) condemnation of the Project, or any portion thereof, to the extent of the condemnation proceeds; or
- (iv) as required by Section 3.02(e); or
- (v) as otherwise required by any of the Loan Documents.

(b) **Optional Prepayment Prior to the Maturity Date.** Borrower may prepay all or any portion of the outstanding balance of the Loan on any Business Day; provided, however, that each Loan prepayment shall include payment of the accrued interest on the amount prepaid.

(c) **General.** Loan payments or prepayments shall be applied first to any costs and expenses of the State required in connection with Loan payments and prepayment, then to unpaid accrued interest and finally to principal (in the case of prepayment, in the inverse order of maturity).

**SECTION 2.05. [Reserved]**

**SECTION 2.06. Sources of Payment of Borrower's Obligations.**

(a) The State and the Borrower agree that the amounts payable by the Borrower under this Loan Agreement and any of the other Loan Documents, including, without limitation, the amounts payable by the Borrower pursuant to Sections 2.02, 2.04, 2.07 and 6.04 hereof, are payable from the sources of repayment described in paragraph (b) of this Section 2.06; provided however that nothing herein shall be deemed to prevent the Borrower from paying the amounts payable under this Loan Agreement and the other Loan Documents from any other legally available source.

(b) The amounts payable by the Borrower under this Loan Agreement and the other Loan Documents are payable from sources of repayment described in the Act and the Refunding Proceeds and other sources identified in Exhibit A hereto; provided however that nothing herein shall be deemed to prevent the Borrower from paying the amounts payable under this Agreement and the other Loan Documents from any other legally available source. Funds from such sources shall be applied to the punctual payment of the principal of and the interest on the Loan and all other amounts due under this Agreement and other Loan Documents according to their respective terms. The amounts payable by the Borrower under this Loan Agreement and the other Loan Documents are also payable from all legally available general funds in the Borrower's general fund.

(c) The Borrower expressly acknowledges that if the Borrower defaults on payments due under this Loan Agreement or any of the other Loan Documents, the State of Oregon, pursuant to ORS 285B.449, may withhold all or a portion of any amounts otherwise due to the Borrower and apply said amounts to payments due under this Loan Agreement and the other Loan Documents to the fullest extent permitted by law; provided however that the provisions of the Loan Agreement and the Note are not to be construed in a way that would cause the obligations of the Borrower thereunder to constitute debt which violates Section 10, Article XI of the Oregon Constitution.

**SECTION 2.07. Disclaimer of Warranties; Limitation of Liability; Indemnification.** The Borrower acknowledges and agrees that:

(a) the State makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for any use of the Project or any portions thereof or any other warranty or representation with respect thereto;

(b) in no event shall the State or its agents be liable or responsible for any direct, indirect, incidental, special or consequential damages in connection with or arising out of this Loan Agreement, any of the other Loan Documents or the Project or the existence, furnishing, functioning or use of the Project or any item or products or services provided for in this Loan Agreement; and

(c) to the extent authorized by law, the Borrower shall (subject to ORS Chapter 180) defend, indemnify, save and hold harmless the State and its officers, employees and agents from and against any and all claims, suits, actions, proceedings, losses, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the Borrower, or its employees, agents or subcontractors pursuant to the terms of this Loan Agreement or any of the other Loan Documents, provided, however, that the provisions of this paragraph (c) are not intended to and shall not be construed as a waiver of any defense or limitation on damages provided for under and pursuant to Chapter 30 of the Oregon Revised Statutes or under the laws of the United States or other laws of the State of Oregon.

**ARTICLE III**  
**REPRESENTATIONS, WARRANTIES AND COVENANTS OF BORROWER**

**SECTION 3.01. Representations and Warranties of Borrower.** The Borrower represents and warrants for the benefit of the State as follows:

(a) Organization and Authority.

(i) The Borrower is a Municipality, organized under ORS 451.

(ii) The Borrower has full legal right and authority and all necessary licenses and permits required as of the date hereof to own, operate and maintain the Project, other than licenses and permits relating to the Project which the Borrower expects to receive in the ordinary course of business, to carry on its activities relating thereto, to execute and deliver this Loan Agreement, to undertake and complete the Project, and to carry out and consummate all transactions contemplated by this Loan Agreement and the other Loan Documents.

(iii) The Project is a project which the Borrower may undertake pursuant to Oregon law and for which the Borrower is authorized by law to borrow money.

(iv) The proceedings of the Borrower's governing members and voters, if necessary, approving this Loan Agreement and the other Loan Documents and authorizing the execution and delivery of this Loan Agreement and other Loan Documents on behalf of the Borrower, and authorizing the Borrower to undertake and complete the Project have been duly and lawfully adopted in accordance with the laws of Oregon, and the actions of such proceedings were duly approved and published, if necessary, in accordance with applicable Oregon law, at a meeting or meetings which were duly called pursuant to necessary public notice and held in accordance with applicable Oregon law, and at which quorums were present and acting throughout.

(v) This Loan Agreement and all other Loan Documents required hereunder to be executed by Borrower have been duly authorized and executed and delivered by an Authorized Officer of the Borrower; and, assuming that the State has all the requisite power and authority to authorize, execute and deliver, and has duly authorized, executed and delivered, this Loan Agreement and the Loan Documents required hereunder to be executed by the State, this Loan Agreement and other Loan Documents required hereunder to be executed by the Borrower constitute the legal, valid and binding obligation of the Borrower in accordance with their terms.

(vi) Borrower's Contract and the Loan Agreement have been authorized by an ordinance, order or resolution of the Borrower which was adopted in accordance with applicable law and the Borrower's requirements for filing public notices and holding public meetings.

(b) Full Disclosure. There is no fact that the Borrower has not disclosed to the State in writing on the Borrower's application for the Loan or otherwise that materially adversely affects the properties, activities, prospects or condition (financial or otherwise) of the Borrower or the Project, or the ability of the Borrower to make all payments required by the Loan Documents and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the other Loan Documents. Neither the Borrower's application for the Loan or the Borrower's representations in this Loan Agreement or any of the other Loan Documents contain any untrue statement of a material fact or omits any statement or information which is necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. The information contained in Exhibit B and Exhibit C hereto and in Sections 2, 3, 4 and 8 of Exhibit D hereto is true and accurate in all respects.

(c) Pending Litigation. There are no proceedings pending, or, to the knowledge of the Borrower threatened, against or affecting the Borrower, in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would materially adversely affect the Project, properties, activities, prospects or condition (financial or otherwise) of the Borrower or the Project, or the ability of the Borrower to make all payments required by the Loan Documents and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the other Loan Documents, that have not been disclosed in writing to the State in the Borrower's application for the Loan or otherwise.

(d) Compliance with Existing Agreements, Etc. The authorization, execution and delivery of this Loan Agreement and the other Loan Documents by the Borrower, the observation and performance by the Borrower of its duties, covenants, obligations and agreements thereunder, the consummation of the transactions provided for in this Loan Agreement and the other Loan Documents, the compliance by the Borrower with the provisions of this Loan Agreement and the other Loan Documents and the undertaking and completion of the Project will not result in any breach of any of the terms, conditions or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or asset of the Borrower pursuant to, any existing ordinance or resolution, trust agreement, indenture, mortgage, deed of trust, loan agreement or other instrument (other than any lien and charge of this Loan Agreement or any of the documents related hereto) to which the Borrower is a party or by which the Borrower, the Project or any of its property or assets may be bound, nor will such action result in any violation of the provisions of the charter or other document pursuant to which the Borrower was established or any laws, ordinances, resolutions, governmental rules, regulations or court orders to which the Borrower, the Project or its properties or operations is subject.

(e) No Defaults. No event has occurred and no condition exists that, upon authorization, execution and delivery of this Loan Agreement or any of the Loan Documents or receipt of the amount of the Loan or any portion thereof, would constitute an Event of Default hereunder. The Borrower is not in violation of, and has not received notice of any claimed violation of, any term of any agreement or other instrument to which it is a party or by which it, the Project or its property may be bound, which violation would materially adversely affect the Project, properties, activities, prospects or condition (financial or otherwise) of the Borrower or the Project or the ability of the Borrower to make all payments required by the Loan Documents or otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the other Loan Documents.

(f) Governmental Consent. The Borrower has obtained or will obtain all permits and approvals required to date by any governmental body or officer for the making, observance and performance by the Borrower of its duties, covenants, obligations and agreements under this Loan Agreement and the other Loan Documents or for the undertaking or completion of the Project and the financing or refinancing thereof; and the Borrower has complied or will comply with all applicable provisions of law requiring any notification, declaration, filing or registration with any governmental body or officer in connection with the making, observance and performance by the Borrower of its duties, covenants, obligations and agreements under this Loan Agreement and the other Loan Documents or with the undertaking or completion of the Project and the financing or refinancing thereof. No consent, approval or authorization of, or filing, registration or qualification with, any governmental body or officer that has not been obtained is required on the part of the Borrower as a condition to the authorization, execution and delivery of this Loan Agreement or any other Loan Document.

(g) Compliance with Law. The Borrower:

(i) is in compliance with all laws, ordinances, and governmental rules and regulations to which it is subject, the failure to comply with which would materially adversely affect the ability of the Borrower to conduct its activities or undertake or complete the Project or the condition (financial or otherwise) of the Borrower or the Project; and

(ii) has obtained or will obtain all licenses, permits, franchises or other governmental authorizations presently necessary for the ownership of its property or for the conduct of its activities which, if not obtained, would materially adversely affect the ability of the Borrower to conduct its activities or undertake or complete the Project or the condition (financial or otherwise) of the Borrower or the Project.

(h) The Project.

(i) The Project is feasible, and there will be adequate funds available to complete the Project and repay the Loan.

(ii) The Project is owned by the Borrower and will be operated by the Borrower or by a person under a management contract or operating agreement with Borrower and shall remain in municipal ownership until the Loan is repaid in full.

(i) Continuing Representations. The representations of the Borrower contained herein shall be true at the time of the Loan Closing Date and at all times during the term of this Loan Agreement.

**SECTION 3.02. Particular Covenants of the Borrower.**

(a) Use of Proceeds. The Borrower will apply the proceeds of the Loan and interest earnings thereon to finance all or a portion of the Costs of the Project in accordance with Exhibit B and Exhibit C hereof. None of the proceeds of the Loan shall be used for

(i) costs in excess of one hundred percent (100%) of the total Costs of the Project,

(ii) costs not listed in the Project budget or which are not eligible under the Act, or

(iii) assistance to facilities that are or will be privately owned.

Borrower will apply the proceeds of the Loan and the interest earnings thereon strictly in accordance with the Act and Oregon law.

(b) Source of Repayment. The Loan shall be paid from such sources of repayment described in Section 2.06 hereof and Exhibit A hereto to the Loan Agreement. Funds from such sources shall be applied to the punctual payment of the principal of and the interest on the Loan and all other amounts due under this Loan Agreement and the other Loan Documents according to their respective terms.

(c) Performance Under Loan Documents. The Borrower covenants and agrees (i) to maintain the Project in good repair and operating condition; (ii) to cooperate with the State in the observance and performance of the respective duties, covenants, obligations and agreements of the Borrower and the State under this Loan Agreement and the other Loan Documents; and (iii) to comply with the covenants described in this Loan Agreement and the other Loan Documents.

(d) Completion of Project and Provision of Moneys Therefor. The Borrower covenants and agrees to provide the State with copies of all plans and specifications relating to the Project for review and approval by the State, but in any event no later than ten (10) days prior to the date on which bids are advertised. The Borrower shall obtain as-built drawings for all facilities of the Project and obtain certification of completion per as-built drawings from the Project engineer or architect within ninety (90) days of the Project Completion Date. The Borrower shall supply a copy of such drawings and certification to the State upon request. The Borrower further covenants and agrees (i) to exercise its best efforts in accordance with prudent practice to complete the Project and to so accomplish such completion on or before the estimated Project Completion Date set forth in Exhibit D; (ii) to proceed expeditiously with, and complete, the Project in accordance with plans reviewed and approved by the State and (iii) to provide from its own fiscal resources all moneys, in excess of the total amount of Loan proceeds it receives pursuant to this Loan Agreement, required to complete the Project. For purposes of (ii) of the preceding sentence, if the State does not review the plans and specifications or suggests modifications thereto within thirty (30) days of the receipt by the State of the plans and specifications, they shall be deemed approved. The Borrower shall have a program, documented to the satisfaction of the State, for the on-going maintenance, operation and replacement, at its sole expense, of the Project. The program shall include a plan for generating revenues sufficient to assure the operation, maintenance and replacement of the Project during the useful life of the Project. Borrower shall provide such documentation to the State on or before the Project Completion Date.

(e) Disposition of Project. Unless worn out, obsolete, or in the reasonable business judgment of the Borrower, no longer useful in the operation of the Project, the Borrower shall not sell, lease, exchange, abandon or otherwise dispose of all or substantially all or any substantial portion of the Project or any system which provides revenues for payment of amounts due under this Loan Agreement and the Loan Documents, except if

- (i) the State consents thereto in writing upon ninety (90) days' prior written notice to the State; and
- (ii) Borrower assigns this Agreement and the other Loan Documents pursuant to Article V hereof.

Except as provided in Exhibit A, proceeds of any such transfer not used to replace property that is part of the Project or System shall be applied to the payment or prepayment of the outstanding principal of and interest on the Loan, as provided in Section 2.04 of this Agreement.

(f) [Reserved]

(g) Operation and Maintenance of Project. The Borrower covenants and agrees that it shall, in accordance with prudent ownership practice, (i) at all times operate the Project so as to preserve the long term public benefits of the Project, and (ii) maintain the Project in good repair, working order and operating condition, including from time to time making all necessary and proper repairs, renewals, replacements, additions, betterments and improvements as may be required.



(h) Records; Accounts. The Borrower shall keep accurate records and accounts for the revenues and funds that are the source of repayment of the Loan (the "Repayment Revenue Records"), separate and distinct from its other records and accounts (the "General Records"). Such Repayment Revenue Records shall be maintained in accordance with generally accepted accounting principles as established by the Government Accounting Standards Board as in effect from time to time and shall be audited annually by an independent accountant, which audit may be part of the annual audit of the General Records of the Borrower. Such Repayment Revenue Records and General Records shall be made available for inspection by the State at any reasonable time, and a copy of such annual audit(s) therefore, including all written comments and recommendations of such accountant, shall be furnished to the State within two hundred ten (210) days of the close of the fiscal year being so audited. The Borrower's financial management system must conform with the generally accepted accounting principles for state and municipal corporations established by the National Committee on Governmental Accounting as in effect from time to time.

(i) Inspections; Information. The Borrower shall permit the State and any party designated by the State to examine, visit and inspect, at any and all reasonable time, the property, if any, constituting the Project, and to inspect and make copies of any accounts, books and records, including, without limitation, its records regarding receipts, disbursements, contracts, investments and any other matters relating thereto and to its financial standing, and shall supply such reports and information as the State may reasonably require in connection therewith. In addition, the Borrower shall provide the State with copies of loan documents or other financing documents and any official statements or other forms of offering prospectus relating to any other bonds, notes or other indebtedness of the Borrower that are issued after the Loan Closing Date.

(j) Insurance. The Borrower shall maintain or cause to be maintained, insurance policies with responsible insurers or self insurance programs insuring against risk of direct physical loss, damage or destruction of the Project, at least to the extent that similar insurance is usually carried by governmental units constructing, operating and maintaining similar facilities, including liability coverage, all to the extent available at reasonable cost. Nothing herein shall be deemed to preclude the Borrower from exerting against any party, other than the State, a defense which may be available to the Borrower, including without limitation a defense of immunity. In the event the Project or any portion thereof is destroyed, any insurance proceeds shall be paid to the State and shall be applied to prepay the principal of and interest on the Loan in accordance with Section 2.04 of this Agreement.

(k) Condemnation. In the event the Project or any portion thereof is condemned, any condemnation proceeds shall be used to prepay the outstanding balance on the Loan in accordance with Section 2.04 of this Agreement.

(l) Notice of Material Adverse Change. The Borrower shall promptly notify the State of any material adverse change in the activities, prospects or condition (financial or otherwise) of the Borrower or the Project or in the ability of the Borrower to make all payments required by the Loan Documents and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement and the other Loan Documents.

(m) Financial Statements; Reports. The Borrower shall deliver to the State in form and detail satisfactory to the State such statement or statements or reports as to the Borrower as the State may reasonably request:

(n) Contract Covenants. The Borrower covenants and agrees to comply with the terms of the Contract including without limitation the covenants of the Borrower in Section 5 of the Contract.

(o) Further Assurances. The Borrower shall, at the request of the State, authorize, execute, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights, security interests and agreements granted or intended to be granted by this Loan Agreement.

**ARTICLE IV**  
**CONDITIONS PRECEDENT**

**SECTION 4.01. Loan Closing.** The State's obligations hereunder are subject to satisfaction of the following conditions precedent on or prior to the Loan Closing Deadline or such later date as the State may authorize in writing in the State's sole and absolute discretion:

(a) the Borrower has caused to be executed and delivered to the State the following items, each in a form and substance satisfactory to State and its Counsel:

- (i) this Loan Agreement duly executed and delivered by an Authorized Officer of the Borrower;
- (ii) the Note duly executed and delivered by an Authorized Officer of the Borrower;
- (iii) the Contract duly executed and delivered by an Authorized Officer of the Borrower;
- (iv) copy of the ordinance, order or resolution of the governing body of the Borrower authorizing the execution and delivery of this Loan Agreement, the other Loan Documents, and the Borrower's Contract, certified by an Authorized Officer of the Borrower;
- (v) an opinion of the Borrower's Counsel, acceptable to the State, substantially in the form set forth in Exhibit G; and
- (vi) such other certificates, documents, opinions and information as the State may reasonably require; and

(b) there is money available in the Special Public Works Fund for the Project;

provided, however, the State shall be under no obligation to make this Loan or disburse funds under this Loan Agreement if there has been a change in the Act so that the Project is no longer eligible for financial assistance authorized by this Loan Agreement.

**SECTION 4.02. Conditions to Disbursements.** Notwithstanding anything in this Loan Agreement or any of the Loan Documents to the contrary, the State shall have no obligation to make the Loan or disburse funds under this Loan Agreement to the Borrower hereunder if:

(a) an Event of Default, or event, omission or failure of a condition which would constitute an Event of Default as defined in this Loan Agreement or any of the Loan Documents after notice or lapse of time or both, has occurred and is continuing under this Loan Agreement or any of the Loan Documents;

(b) any representations or warranties of the Borrower made in this Loan Agreement are not true and correct on the date of disbursement with the same effect as if made on such date;

(c) State has not received (i) a completed Disbursement Request and (ii) any other written evidence of materials and labor furnished to or performed upon the Project, itemized receipts or invoices for the payment of the same, and releases, satisfactions and other signed statements and forms as the State may require as a condition for making disbursements of funds under this Loan Agreement. The State may, at its option, from time to time, either reimburse the Borrower for construction costs paid or may make direct payment for construction costs to suppliers, subcontractors and others for sums due them in connection with construction of the Project. Nothing herein contained shall require the State to pay any amounts for labor or materials unless satisfied that such claims are reasonable and that such labor and materials were expended and used in the construction of the Project. The State, at its option, from time to time, may also require that the Borrower have a contractor or subcontractor execute and/or deliver a surety bond or indemnification in form and substance acceptable to the State for the faithful performance of the construction contract or subcontract and payment of all liens and lienable expenses in connection therewith in a sum equal to the contract or subcontract price. Disbursements for the Costs of the Project shall be subject to a retainage at the rate of five percent (5%) (unless such retainage is waived in writing by the State) which will be released upon satisfactory completion of the Project; or

(d) the State and the Special Public Works Fund have not received sufficient funding, appropriations and other expenditure authorizations to allow the State, in the exercise of its reasonable administrative discretion, to make the disbursement and there are not sufficient moneys in the accounts or funds to be used to cover the disbursement, as determined by the State in the reasonable exercise of its administrative discretion, to permit the State to make the disbursement.

Further, the State shall have no obligation to make any disbursement of funds to the Borrower if, on or before the time for disbursement, there has been a change in the Act so that the Project is no longer eligible for financial assistance authorized by this Loan Agreement.

#### ARTICLE V ASSIGNMENT

##### SECTION 5.01. [Reserved]

**SECTION 5.02. Assignment by Borrower.** This Loan Agreement and the other Loan Documents may not be assigned by the Borrower without the prior written consent of the State. The State may grant or withhold such consent in its sole discretion. In the event of an assignment of this Loan Agreement and the other Loan Documents by Borrower and assumption of the obligations hereunder, Borrower shall pay, or cause to be paid, to the State any fees or costs incurred by the State as the result of such assignment, including but not limited to, attorney fees of State's Counsel.

#### ARTICLE VI DEFAULTS AND REMEDIES

**SECTION 6.01. Event of Default.** Time is of the essence. If any of the following events occurs, it is hereby defined as and declared to be and to constitute an "Event of Default:"

(a) Failure by the Borrower to pay, or cause to be paid, any amount required to be paid hereunder on the due date thereof; or

(b) Failure by the Borrower to make, or cause to be made, any required payments of principal and interest on any bonds, notes or other material obligations of the Borrower for borrowed money (other than the Loan), after giving effect to the applicable grace period; or

(c) Any representation made by or on behalf of the Borrower contained in this Loan Agreement or any other Loan Document, or in any agreement, instrument, certificate or document furnished in compliance with or with reference to this Loan Agreement, any other Loan Document or the Loan or in connection with the Lottery Bonds, including but not limited to any representation with respect to current or historical information made to the State herein or in any other pertinent documents, certificates and reports relied upon by the State in gauging the progress of the Project, compliance with the requirements of the Act or performance of duties by the Borrower, is false or misleading in any material respect; or

(d) A petition is filed by or against the Borrower under any federal or state bankruptcy or insolvency law or other similar law in effect on the date of this Loan Agreement or thereafter enacted, unless in the case of any such petition filed against the Borrower, such petition shall be dismissed within twenty (20) calendar days after such filing, and such dismissal shall be final and not subject to appeal; or the Borrower shall become insolvent or bankrupt or make an assignment for the benefit of its creditors; or a custodian (including, without limitation, a receiver, liquidator or trustee of the Borrower or any of its property) shall be appointed by court order or take possession of the Borrower or its property or assets if such order remains in effect or such possession continues for more than thirty (30) calendar days;

(e) Failure of the Borrower's governing body to appropriate sufficient funds to fully fund all of the Borrower's obligations to make payments required by the Loan Documents for any future fiscal period; or

(f) The occurrence of any event of default under Section 6 of the Contract or under any of the Loan Documents; or

(g) Failure by the Borrower to observe and perform any duty, covenant, obligation or agreement (including that described in subsection (h) below) on its part to be observed or performed under this Loan Agreement or any other Loan Documents, other than as referred to in subsections (a) through (f) of this Section, which failure shall continue for a period of thirty (30) calendar days after written notice, specifying such failure and requesting that it be remedied, is given to the Borrower by the State, unless the State shall agree in writing to an extension of such time prior to its expiration; provided, however, that if the failure stated in such notice is correctable but cannot be corrected within the applicable period, the State may not unreasonably withhold its consent to an extension of such time up to one hundred twenty (120) days from the delivery of the written notice referred to above if corrective action is instituted by the Borrower within the applicable period and diligently pursued until the Event of Default is corrected; or

(h) The Borrower fails to proceed expeditiously with, or to complete, the Project or any segment or phase of the Project in accordance with the plans and schedules approved by the State.

**SECTION 6.02. Notice of Default.** The Borrower shall give the State prompt telephonic notice of the occurrence of any Event of Default referred to in Section 6.01(d) hereof, and of the occurrence of any other event or condition that constitutes an Event of Default at such time as any senior administrative or financial officer of the Borrower becomes aware of the existence thereof. Any telephonic notice pursuant to this Section 6.02 shall be confirmed in writing as soon as practicable by the Borrower.

**SECTION 6.03. Remedies on Default.** Whenever an Event of Default referred to in Section 6.01 hereof shall have occurred and be continuing, the State shall have the right to take any action permitted or required pursuant to the Loan Agreement or any other Loan Document and to take whatever other action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due hereunder or to enforce the performance and observance of any duty, covenant, obligation or agreement of the Borrower hereunder, including, without limitation, (a) declaring all payments under the Note and all other amounts due hereunder and under the other Loan Documents to be immediately due and payable, and upon notice to the Borrower the same shall become due and payable without further notice or demand, (b) appointment of a receiver of the Project, (c) refusal to disburse any funds under this Loan Agreement or the Contract, (d) barring the Borrower from applying for future Special Public Works Fund assistance, or (e) withholding amounts otherwise due to the Borrower to apply to the payment of amounts due under this Loan Agreement as provided in ORS 285B.449.

**SECTION 6.04. Attorney's Fees and Other Expenses.** To the extent permitted by law, the prevailing party in any dispute arising from this Agreement shall be entitled to recover from the other its reasonable attorney's fees, expenses and costs at trial and on appeal.

**SECTION 6.05. Application of Moneys.** Any moneys collected by the State pursuant to Section 6.03 hereof shall be applied (a) first, to pay any attorney's fees or other fees and expenses owed by the Borrower hereunder, (b) second, to pay interest due and payable on the Loan, (c) third, to pay principal due and payable on the Loan, and (d) fourth, to pay any other amounts due and payable under this Loan Agreement or any of the Loan Documents.

**SECTION 6.06. No Remedy Exclusive; Waiver; Notice.** No remedy herein conferred upon or reserved to the State is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or any of the Loan Documents or now or hereafter existing at law or in equity. No delay or omission to exercise any right, remedy or power accruing upon any Event of Default shall impair any such right, remedy or power or shall be construed to be a waiver thereof, but any such right, remedy or power may be exercised from time to time and as often as may be deemed expedient. To entitle the State to exercise any remedy reserved to it in this Article VI, it shall not be necessary to give any notice, other than such notice as may be required in this Article VI.

**SECTION 6.07. Default by the State.** In the event of any default by the State under any covenant, agreement or obligation of this Loan Agreement, the Borrower's remedy for such default shall be limited to injunction, special action, action for specific performance or any other available equitable remedy designed to enforce the performance or observance of any duty, covenant, obligation or agreement of the State hereunder as may be necessary or appropriate.

## ARTICLE VII MISCELLANEOUS

**SECTION 7.01. Notices.** All notices hereunder shall be sufficiently given and shall be deemed given when hand delivered or mailed by registered or certified mail, postage prepaid, to the Borrower at the address specified on Exhibit D hereof and to the State at the following address:

Economic and Community Development Department  
Attention: Operations Manager, Community Development Division  
775 Summer Street NE, Suite 200  
Salem, OR 97301-1280

Any party may designate any further or different addresses to which subsequent notices shall be sent, by notice in writing given to the others.

Any notice so addressed and mailed shall be effective five (5) days after mailing. Any notice given by personal delivery shall be effective when actually delivered.

**SECTION 7.02. Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of State and Borrower and their respective successors and assigns, except that Borrower may not assign or transfer its rights or obligations hereunder or any interest herein without the prior consent in writing of State.

**SECTION 7.03. Severability.** In the event any provision of this Loan Agreement shall be held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

**SECTION 7.04. Amendments, Supplements and Modifications.** This Loan Agreement may not be amended, supplemented or modified without the prior written consent of the State and the Borrower. This Loan Agreement may not be amended, supplemented or modified in a manner that is not in compliance with the Act.

**SECTION 7.05. Execution in Counterparts.** This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 7.06. No Construction against Drafter.** Both parties acknowledge that they are each represented by and have sought the advice of Counsel in connection with this Loan Agreement and the transactions contemplated hereby and have read and understand the terms of this Loan Agreement. The terms of this Loan Agreement shall not be construed against either party as the drafter hereof.

**SECTION 7.07. Applicable Law.** This Loan Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, including the Act, without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between the State (and/or any agency or department of the State of Oregon) and the Borrower that arises from or relates to this Loan Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.

**SECTION 7.08. Consents and Approvals.** Whenever the written consent or approval of the State shall be required under the provisions of this Loan Agreement, such consent or approval may only be given by the State unless otherwise provided by law or by rules, regulations or resolutions of the State.

**SECTION 7.09. Merger; No Waiver.** This Loan Agreement and the attached exhibits (which by this reference are incorporated herein) 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 Loan Agreement. No waiver of any provision of this Loan Agreement or consent shall be binding unless in writing and signed by the party against who it is asserted and all necessary State approvals have been obtained. Such waiver or consent, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of the State to enforce any provision of this Loan Agreement shall not constitute a waiver by the State of that or any other provision.

IN WITNESS WHEREOF, the State and the Borrower have caused this Loan Agreement to be executed and delivered, effective as of the latest date of the signatories below. The Borrower, by the signature below of its Authorized Officer, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.



**STATE OF OREGON**  
acting by and through its Economic and  
Community Development Department

**CITY OF LEBANON**

By: XXXXXXXXXXXXXXXXXXXX  
Laird Bryan, Operations Manager  
Community Development Division

By: XXXXXXXXXXXXXXXXXXXX  
The Honorable Kenneth I. Toombs  
Mayor of Lebanon

Date: XXXXXXXXXXXXXXXXXXXX

Date: XXXXXXXXXXXXXXXXXXXX

**APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:**

/s/ Lynn T. Nagasako, Sr. AAG (as per email dated 11/29/06)  
Lynn T. Nagasako, Sr. Assistant Attorney General

Date: November 29, 2006

**Exhibit A**  
**SPECIAL CONDITIONS OF AWARD**

**I. General Fund as a Source of Repayment**

The Loan shall be payable from the general fund of the Borrower and shall be a full faith and credit obligation of the Borrower which is payable from any taxes which the Borrower may levy within the limitations of Article XI of the Oregon Constitution.

**II. Security - Refunding Proceeds**

- A. The principal of and interest on the Loan shall be payable from the Refunding Proceeds. The Borrower hereby grants to the State a security interest in and irrevocably pledges the Refunding Proceeds to pay all of the obligations owed by the Borrower to the State under the Loan Agreement.
- B. The Refunding Proceeds pledged above pursuant to Section II. A and hereafter received by the Borrower shall immediately be subject to the lien of such pledge without physical delivery or further act, and the lien of the pledge shall be superior to all other claims and liens whatsoever, to the fullest extent permitted by ORS 288.594. The Borrower hereby represents and warrants that the pledge of the Refunding Proceeds hereby made by the Borrower complies with, and shall be valid and binding from the date of this Loan Agreement pursuant to, ORS 288.594.

**Permanent Financing**

Although the State intends to provide long-term financing to Borrower for the Project, nothing in the Loan Documents shall be construed or interpreted to obligate the State to provide such financing. The State anticipates that any loan agreement for such permanent financing shall contain, among other terms and conditions, the following provisions:

**I. General Fund as a Source of Repayment**

The Loan shall be payable from the general fund of the Borrower and shall be a full faith and credit obligation of the Borrower which is payable from any taxes which the Borrower may levy within the limitations of Article XI of the Oregon Constitution.

**II. Other**

- A. Wetlands mitigation must be completed in accordance with a division of State Lands approved mitigation plan.
- B. Borrower must be the owner of all wetland mitigation and construction activities.



**Exhibit B**

**PROJECT DESCRIPTION**

Borrower shall complete the following improvements to the Airport Industrial Site:

1. Construct a pump station.
2. Acquire necessary rights-of-way.
3. Install sewer, water, and storm drainage improvements.
4. Purchase wetland mitigation bank credits to replace the wetlands disrupted by the Project.
5. Improve Parkway Street by extending the road approximately 400 feet and constructing a sidewalk on one side.
6. Improve Oak Street by widening the street from 22 feet to 35 feet and constructing 500 feet of half street improvements consisting of a sidewalk, curb and gutter.

**Oregon Economic & Community Development Department  
Project Budget**

Interim Financing Loan Agreement Exhibit C  
Page 1 of 2

**Project Number:** B07002  
**Project Name:** Project Mustang Herd Infrastructure Improvements

**Recipient:** City of Lebanon  
**Funding Pgm(s):** Special Public Works Fund, Interim Financing Loan

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(A)	Department Funds				Other/Matching Funds			All Funds
	(B)	(C)	(D)	(E) = [B-C-D]	(F)	(G)	(H) = [F-G]	(I) = [C+D+G]
Activity	Approved Budget	Prior Disbursements	Current Request	Balance	Approved Budget	Expended To Date	Balance	Disbursed & Expended To Date
Sewer Improvements	\$620,220			\$620,220				
Water Improvements	227,513			227,513				
Street Improvements	554,729			554,729				
Right of Way Acquisition	100,275			100,275	293,517		293,517	
Wetlands	426,200			426,200				
Engineering	111,063			111,063				
Mobilization Permitting and Bonding	45,000			45,000				
<b>Total</b>	<b>\$2,085,000</b>			<b>\$2,085,000</b>	<b>\$293,517</b>		<b>\$293,517</b>	

Total Project Budget		
Funding Sources	Approved Budget	Expenditures To Date
Special Public Works Fund, Interim Financing Loan	\$2,085,000	
Other/Matching Funds	293,517	
<b>Total Project Costs</b>	<b>\$2,378,517</b>	

Non-Department Funds (Other/Matching) Sources Used for all Expenditures		
Funding Sources	Approved Budget	Expenditures To Date
City of Lebanon	\$293,517	
<b>Total Non-Dept. Funds</b>	<b>\$293,517</b>	

Non-Department Funds (Other/Matching) IN-KIND		
Source of In-Kind Contribution	Goods/Services Donated	Value of Contribution To Date
<b>In-Kind Contributions To Date</b>		

Oregon Economic & Community Development Department  
Project Budget

Project Number: B07002  
Project Name: Project Mustang Herd Infrastructure Improvements

Project Goals (report for every cash request)		
Proposed Work Plan	Estimated Completion Date	Results Achieved
1 Hire Engineering Consultant	Jun 1, 2006	
2 Bid Project	Jul 1, 2006	
3 Award Contract	Aug 9, 2006	
4 Start Construction	Sep 15, 2006	
5 Construction Completed	Mar 1, 2007	
6 Project Completed	Apr 1, 2007	
7		
8		
9		
10		

**Exhibit D**  
**DESCRIPTION OF THE LOAN**

- 1. Loan Closing Deadline: February 15, 2007
- 2. Name and Address of Borrower: City of Lebanon  
925 Main Street  
Lebanon, OR 97335
- 3. Costs of the Project: \$2,378,517
- 4. Estimated Project Completion Date: April 1, 2007
- 5. Maximum Aggregate Principal Amount of Loan: \$2,085,000
- 6. Interest Rate: three and 77/100 percent (3.77%) per annum
- 7. Maturity Date: That date which is 2.5 years from the Loan Closing Date.
- 8. Authorized Officer(s) of Borrower: Mayor

Oregon Economic & Community Development Department  
Disbursement Request

Project Number:  
Project Name:

Recipient:  
Funding Pgm(s):

Request Number: \_\_\_\_\_

Final Draw?  Yes  No

Reporting Period: \_\_\_\_\_ to \_\_\_\_\_

(A) Activity	Department Funds				Other/Matching Funds			All Funds
	(B) Approved Budget	(C) Prior Disbursements	(D) Current Request	(E) = [B-C-D] Balance	(F) Approved Budget	(G) Expended To Date	(H) = [F-G] Balance	(I) = [C+D+G] Disbursed & Expended To Date
<b>Total</b>								

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Total Project Budget		
Funding Sources	Approved Budget	Expenditures To Date
Other/Matching Funds		
<b>Total Project Costs</b>		

Non-Department Funds (Other/Matching) Sources Used for all Expenditures		
Funding Sources	Approved Budget	Expenditures To Date
<b>Total Non-Dept. Funds</b>		

**Certification:** We certify that the data are correct and that the amount requested is not in excess of current needs.

Authorized Signature & Title \_\_\_\_\_ Date \_\_\_\_\_

Authorized Signature & Title \_\_\_\_\_ Date \_\_\_\_\_

Contact Person \_\_\_\_\_ Phone Number \_\_\_\_\_

Non-Department Funds (Other/Matching) IN-KIND		
Source of In-Kind Contribution	Goods/Services Donated	Value of Contribution To Date
<b>In-Kind Contributions To Date</b>		

Interim Financing Loan Agreement Exhibit E  
Oregon Economic & Community Development Department  
Disbursement Request

Project Number:

Project Name:

Request Number: \_\_\_\_\_

Project Goals (report for every cash request)		
Proposed Work Plan	Estimated Completion Date	Results Achieved
1 _____	_____	_____
2 _____	_____	_____
3 _____	_____	_____
4 _____	_____	_____
5 _____	_____	_____
6 _____	_____	_____
7 _____	_____	_____
8 _____	_____	_____
9 _____	_____	_____
10 _____	_____	_____

**Exhibit F**  
**State of Oregon**  
**Economic and Community Development Department**  
**Promissory Note**

(Dated) XXXXXXXXXXXXXXXXXX, XXXX

Lebanon, OR

FOR VALUE RECEIVED, City of Lebanon, 925 Main Street, Lebanon, OR 97335 (hereinafter "Borrower"), unconditionally promises to pay in lawful money of the United States of America to the order of the STATE OF OREGON, ACTING BY AND THROUGH ITS ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT, at its principal office at 775 Summer Street NE, Suite 200, Salem, Oregon 97301-1280 (hereinafter "State"), the principal sum of Two Million Eighty-Five Thousand Dollars (\$2,085,000), or so much thereof as is disbursed pursuant to the Loan Agreement (as defined below), plus interest at the rate of three and 77/100 percent (3.77%) per annum, from the date of disbursement until paid. Interest shall be computed on the basis of a 360-day year, consisting of twelve (12) thirty (30) day months. All outstanding principal and accrued unpaid interest on this Note are due and payable in full on the Maturity Date (as defined in the Loan Agreement).

Capitalized terms not otherwise defined in this Note shall have the meanings assigned to them by that certain loan agreement dated as of XXXXXXXXXXXXXXXXXXXXXX, XXXX between the State and the Borrower (as amended from time to time the "Loan Agreement").

This Note is subject to mandatory prepayment, and is payable prior to its Maturity Date, as provided for in Section 2.04 of the Loan Agreement.

Each payment made by the Borrower hereunder shall be applied in accordance with the terms of the Loan Agreement.

This Note is given to avoid the execution by Borrower of an individual note for each disbursement of Loan proceeds by State to Borrower in accordance with Section 2.01 of the Loan Agreement. In consideration thereof, Borrower authorizes State to record in State's files the date and amount of each such disbursement, the date and amount of each payment and prepayment by Borrower hereunder and the amount of interest accrued and paid. Borrower further agrees that absent manifest error, such notations shall be conclusive evidence of borrowing, payments and interest under this Note; provided, however, that failure to make any such notations shall not affect the obligations of Borrower hereunder or under any of the Loan Documents.

If any Event of Default occurs, the outstanding balance of the Note, including principal, interest and other charges, if any, shall, at the option of the State, become immediately due and payable in accordance with Section 6.03 of the Loan Agreement. Failure or delay of the holder of this Note to exercise any option available to the State under the terms of this Note or the Loan Agreement shall not constitute a waiver of the right to exercise the option in the event of any continuing or subsequent default and shall not constitute a waiver of any subsequent breach of the same or of any other provision of this Note or the Loan Agreement.

All parties to this Note hereby waive presentment, dishonor, notice of dishonor, and protest. All parties hereto hereby consent to, and the holder hereof is hereby expressly authorized to make, without notice, any and all renewals, extensions, modifications or waivers of the time for or the terms of payment of any sum or sums due hereunder, or under any documents or instruments relating to or securing this Note, or of the performance of any covenants, conditions or agreements hereof or thereof, or the taking or release of collateral securing this Note. No liability of a party on this Note shall be discharged by any action taken by any holder of this Note that is consented to above.

If this Note is placed in the hands of an attorney for collection, the Borrower shall, to the fullest extent permitted by law and on demand, pay to the State the reasonable fees and expenses of attorneys, whether at trial or on appeal, and other reasonable expenses (including without limitation the reasonable costs of the State's Counsel and legal staff) incurred by the State in the collection of principal and interest due under this Note or any other sum due hereunder or under any of the Loan Documents in the enforcement of performance or observation of any other duties, covenants, obligations or agreements of the Borrower.

This Note is made with reference to, and is to be construed in accordance with, the laws of the State of Oregon.

This Note is subject to, and is secured pursuant to, the terms and conditions of the Loan Agreement.

CITY OF LEBANON

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

Title: \_\_\_\_\_XXXXXXXXXXXXXXXXXX

**Notice to Borrower: Do not sign this Note before you read it.**



**ENVIRONMENTAL AND NATURAL RESOURCE AGENCIES**

The federal, state, and local agencies listed have enacted ordinances or regulations relating to environmental pollution or the preservation of natural resources that may affect the performance of construction contracts.

**FEDERAL AGENCIES**

Agriculture, Department of  
Forest Service  
Soil Conservation Service  
Army, Department of the  
Corps of Engineers  
Coast Guard  
Energy, Department of  
Environmental Protection Agency  
Health & Human Services, Department of  
Heritage Conservation and Recreation Service  
Interior, Department of  
Bureau of Indian Affairs  
Bureau of Land Management  
Fish and Wildlife Service  
Office of Surface Mining, Reclamation and Enforcement  
Bureau of Reclamation  
Labor, Department of  
Occupational Safety & Health Administration  
Mine Safety & Health Administration  
Transportation, Department of  
Federal Highway Administration

**STATE AGENCIES**

Agriculture, Department of  
Energy, Office of  
Environmental Quality, Department of  
Fish and Wildlife, Department of  
Forestry, Department of  
Geology and Mineral Industries, Department of  
Human Resources, Department of  
Land Conservation and Development Commission  
State Lands, Division of  
State Soil & Water Conservation Commission  
Transportation, Department of  
Water Resources Department

**LOCAL AGENCIES**

City Councils  
County Courts  
County Commissioners, Boards of  
Planning Commissions  
Special Districts: Ports, Water, Sewer, Roads

# MORLEY, THOMAS & McHILL, LLC

## Attorneys at Law

William R. Thomas  
Thomas A. McHill

80 E. Maple St.  
Lebanon, OR 97355-3218  
Phone: (541) 258-3194  
Fax: (541) 258-7575

Jessica K. Meyer  
John "Tré" Kennedy (Of Counsel)  
Laurence Morley (1915-1999)

January 10, 2007

Oregon Economic and Community Development Department  
755 Summer Street NE, Suite 200  
Salem, Oregon 97301-1280

Ladies and Gentlemen:

This office has acted as general counsel to the City of Lebanon (the "Municipality"), which has entered into a Loan Agreement, as hereinafter defined, with the Oregon Economic and Community Development Department (the "Department") pursuant to the provisions of ORS 285B.410 through 285B.482 (the "Act"), and have acted as such in connection with the authorization, execution and delivery by the Municipality of the Contract, as hereinafter defined, and the Loan Agreement.

In so acting, I have examined the Constitution and laws of the State of Oregon and the Municipality's Charter. I have also examined the originals, or copies certified or otherwise identified to my satisfaction, of the following:

- A. The Interim Financing Loan Agreement, dated as of January 10, 2007, by and between the Department and the Municipality and the Promissory Note dated January 10, 2007, in the principal amount of \$2,085,000 executed by the Municipality (collectively, the "Loan Agreement").
- B. The Financial Assistance Award Contract for Interim Financing number B07002 (the "Contract") by and between the Department and the Municipality;
- C. Proceedings of the governing body of the Municipality relating to the approval fo the Contract and the Loan Agreement and the execution, issuance and delivery thereof on behalf of the Municipality, and the authorization fo the undertaking and completion of the Project (as defined in the Loan Agreement).

I have also examined and relied upon originals, or copies certified or otherwise authenticated to my satisfaction, of such other records, documents, certificates and other instruments, and made such investigation fo law as in my judgment I have deemed

necessary or appropriate to enable me to render the opinions expressed below.

Based upon the foregoing, I am of the opinion that:

1. The Municipality is a duly formed and operating municipality and city as described in ORS 285B.410(7), with the legal right to own and operate the project.
2. The Municipality has the full legal right and authority to execute and deliver the Contract and the Loan Agreement and to observe and perform its duties, covenants, obligations and agreements thereunder and to undertake and complete the Project.
3. Amounts due to the Department pursuant to the Contract and the Promissory Note are payable from the sources described in Section 2.06 of the Loan Agreement.
4. The Resolution of the Municipality approving the Contract and the Loan Agreement and authorizing their execution, issuance and delivery on behalf of the Municipality, and authorizing the Municipality to undertake and complete the Project has been duly and lawfully adopted and authorized in accordance with the Municipality's Charter, the Act and other applicable Oregon law and the Resolution was adopted in accordance with the Municipality's Charter and applicable Oregon law, and which quorums were present and acting throughout.
5. The Contract and the Loan Agreement have been duly authorized, executed and delivered by the authorized officers of the Municipality and constitute the legal, valid and binding obligation of the Municipality enforceable in accordance with their respective terms; subject, however, to the effect of, and to restrictions and limitations imposed by or resulting from bankruptcy, insolvency, moratorium, reorganization, debt adjustment or other similar laws affecting creditors' rights generally or other laws, judicial decisions and principles of equity relating to the enforcement of contractual obligations generally.
6. To the best of my knowledge, after such investigation as I have deemed appropriate, the authorization, execution and delivery of the Contract and the Loan Agreement by the Municipality, the observation and performance by the Municipality of its duties, covenants, obligations and agreements thereunder and the consummation of the transactions contemplated therein and the undertaking and completion of the Project do not and will not contravene any existing law or any existing order, injunction, judgment, decree, rule or regulation of any court or governmental or administrative agency, authority or person having jurisdiction over the Municipality or its property or assets or result in a breach or violation of any of the terms and provisions of, or constitute a default under any existing bond ordinance, resolution, trust agreement, indenture, mortgage, deed of trust or other agreement to which the Municipality is a party or by which it, the Project, or its property or assets is bound.

January 4, 2007

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7. To the best of my knowledge, after such investigation as I have deemed appropriate, all approvals, consents or authorizations of, or registrations or filings with, any governmental or public agency, authority or person required to date on the part of the Municipality in connection with the authorization, execution, delivery and performance of the Contract and the Loan Agreement and the undertaking and completion of the Project have been obtained or made.
  
8. To the best of my knowledge, after such investigation as I have deemed appropriate, there is no litigation or other proceeding pending or threatened in any court or other tribunal of competent jurisdiction, either State or Federal, questioning the creation, organization or existence of the Municipality or of the validity, legality or enforceability of the Contract or the Loan Agreement or the undertaking or completion of the Project.

This opinion is rendered on the basis of the laws of the state of Oregon, including the Act, as enacted and construed on the date hereof. I express no opinion as to any matter not set forth in the numbered paragraphs herein.

Sincerely,

**MORLEY, THOMAS & MCHILL, LLC**

Thomas A. McHill

**State of Oregon  
Economic and Community Development Department  
Promissory Note**

(Dated) \_\_\_\_\_, \_\_\_\_\_

Lebanon, OR

FOR VALUE RECEIVED, City of Lebanon, 925 Main Street, Lebanon, OR 97335 (hereinafter "Borrower"), unconditionally promises to pay in lawful money of the United States of America to the order of the STATE OF OREGON, ACTING BY AND THROUGH ITS ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT, at its principal office at 775 Summer Street NE, Suite 200, Salem, Oregon 97301-1280 (hereinafter "State"), the principal sum of Two Million Eighty-Five Thousand Dollars (\$2,085,000), or so much thereof as is disbursed pursuant to the Loan Agreement (as defined below), plus interest at the rate of three and 77/100 percent (3.77%) per annum, from the date of disbursement until paid. Interest shall be computed on the basis of a 360-day year, consisting of twelve (12) thirty (30) day months. All outstanding principal and accrued unpaid interest on this Note are due and payable in full on the Maturity Date (as defined in the Loan Agreement).

Capitalized terms not otherwise defined in this Note shall have the meanings assigned to them by that certain loan agreement dated as of \_\_\_\_\_, \_\_\_\_\_ between the State and the Borrower (as amended from time to time the "Loan Agreement").

This Note is subject to mandatory prepayment, and is payable prior to its Maturity Date, as provided for in Section 2.04 of the Loan Agreement.

Each payment made by the Borrower hereunder shall be applied in accordance with the terms of the Loan Agreement.

This Note is given to avoid the execution by Borrower of an individual note for each disbursement of Loan proceeds by State to Borrower in accordance with Section 2.01 of the Loan Agreement. In consideration thereof, Borrower authorizes State to record in State's files the date and amount of each such disbursement, the date and amount of each payment and prepayment by Borrower hereunder and the amount of interest accrued and paid. Borrower further agrees that absent manifest error, such notations shall be conclusive evidence of borrowing, payments and interest under this Note; provided, however, that failure to make any such notations shall not affect the obligations of Borrower hereunder or under any of the Loan Documents.

If any Event of Default occurs, the outstanding balance of the Note, including principal, interest and other charges, if any, shall, at the option of the State, become immediately due and payable in accordance with Section 6.03 of the Loan Agreement. Failure or delay of the holder of this Note to exercise any option available to the State under the terms of this Note or the Loan Agreement shall not constitute a waiver of the right to exercise the option in the event of any continuing or subsequent default and shall not constitute a waiver of any subsequent breach of the same or of any other provision of this Note or the Loan Agreement.

# Agenda Item 6



CITY OF LEBANON  
*It's easier from here.*

## *Administration*

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City Manager

### MEMORANDUM

**To:** Mayor & City Council

**Date:** January 4, 2007

**From:** John Hitt, City Manager

**Subject:** City Manager's Report

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At the January 10 City Council meeting, I will provide a brief update on the following:

1. Litigation Costs Update: Beck, Weldon, Mel & Shirlee Harrington v. City of Lebanon
2. City Council Meeting Schedule
3. IS/City Hall offices
4. Miscellaneous Matters

# **\*Executive Session**

*Per ORS 192.660(1)(h) To consult with legal counsel concerning legal rights and duties of the Council regarding current litigation or litigation likely to be filed.*

*\* Executive Sessions are closed to the public due to the highly confidential nature of the subject. It is unlawful to discuss anything outside of the Executive Session.*





CITY OF LEBANON  
*It's easier from here.*

## *Administration*

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City Manager

### MEMORANDUM

**To:** Mayor & City Council

**Date:** January 4, 2007

**From:** John Hitt, City Manager

**Subject:** Executive Session

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We will have an Executive Session as per ORS 192.660(1)(h) to consult with Kristin Binkley of Williams, Zagafos and Peck. She will update the City Council on the status of the Beck, Weldon and Harringtons vs. the City of Lebanon litigation.

The City Council will not be taking action, or go back into regular/public session, after the Executive Session.

**CITY OF LEBANON  
BUDGET COMMITTEE**

<u>Citizen</u>	<u>Term Expires</u>	<u>Councilor</u>	<u>Term Expires</u>
		<b><u>MAYOR</u></b>	
		Ken Toombs 1299 Franklin Street 258-7825 (home) 451-1477 (work)	12/31/08
		<b><u>WARD I</u></b>	
Don Thoma 298 Cedar Drive 258-3493 (home)	12/31/06	Ray Weldon 1610 South 4 <sup>th</sup> 258-6595 (home)	12/31/08
Todd Gestrin 12 W. Cedar 451-4540 (home)	12/31/09	Tim Fox 673 West "D" Street 905-3364 (Cell)	12/31/10
		<b><u>WARD II</u></b>	
Judy Skyles 1175 W. Grant Place 259-1121 (home)	12/31/06	Rebecca Grizzle 333 E. Ash Street 258-2940 (home) 259-1235 x305 (work)	12/31/08
Floyd Fisher	12/31/09	Floyd Fisher 170 S. 2nd Street 259-1617 (home)	12/31/10
		<b><u>WARD III</u></b>	
Barry Scott 1620 Airway Rd. 258-5675 (home)	12/31/06	Ron Miller 1115 Franklin Street 451-3257 (home) 881-5480 (cell)	12/31/08
Mike Lee 1140 Franklin St. 451-4190 (home)	12/31/09	Bob Elliott 795 Binshadler Street 258-5593 (home)	12/31/10

*Budget Committee Members are staggered 3 year appointments.*

*Revised: 1/2/07*