

**ORDINANCE NO. 1628**

**AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO AN EMPLOYMENT CONTRACT BETWEEN THE CITY OF CANBY AND DOUG KITZMILLER**

**WHEREAS**, the City of Canby currently employs Doug Kitzmiller as Captain at the Canby Police Department;

**WHEREAS**, Doug Kitzmiller has been and continues to be in good standing with the City of Canby for 26 years;

**WHEREAS**, Doug Kitzmiller wants to officially retire in the Oregon PERS system as of September 30, 2024; and


**WHEREAS**, the City of Canby would like Doug Kitzmiller to work back as Captain until October 01, 2026 in accordance with PERS workback rules.

**NOW, THEREFORE, THE CITY OF CANBY, OREGON, ORDAINS AS FOLLOWS:**

**Section 1.** The City Administrator is hereby authorized on behalf of the City to enter into an Employment Contract Agreement with Doug Kitzmiller to continue as Captain for the City. A copy of the Agreement is attached hereto as Exhibit "A."

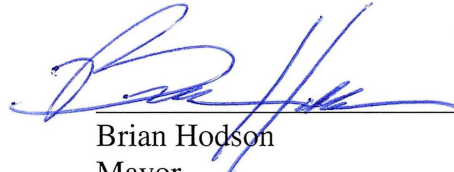
**Section 2.** The effective date of this Ordinance shall be September 6, 2024.

**SUBMITTED** to the Canby City Council and read the first time at a regular meeting therefore on Wednesday, July 17, 2024, ordered posted as required by the Canby City Charter; and scheduled for second reading on Wednesday, August 7, 2024, commencing at the hour of 7:00 PM in the Council Chambers located at 222 NE 2<sup>nd</sup> Avenue, 1<sup>st</sup> Floor Canby, Oregon.

  
\_\_\_\_\_  
Maya Benham, CMC  
City Recorder

**PASSED** on second and final reading by the Canby City Council at a regular meeting thereof on the 7<sup>th</sup> day of August 2024, by the following vote:

YEAS 5 NAYS 0

  
\_\_\_\_\_  
Brian Hodson  
Mayor

ATTEST:

  
\_\_\_\_\_  
Maya Benham, CMC  
City Recorder

**AFFIDAVIT OF POSTING**

STATE OF OREGON )  
 )  
County of Clackamas ) ss:  
 )  
CITY OF CANBY )

I, Maya Benham, being first duly sworn, depose and say that I am the City Recorder for the City of Canby, Clackamas County, Oregon, a City duly incorporated under and by virtue of the laws of the State of Oregon.

That on the 17th day of July, 2024, the Council for said City of Canby held a Regular City Council Meeting, at which meeting Ordinance No. 1628 was read for the first time and passed by the vote of said Council and then and there ordered posted in at least three (3) public and conspicuous places in said City for a period of five (5) days prior to the second reading and final vote on said Ordinance, as provided in Section 2 of Chapter 8 of the Charter of the City of Canby, and

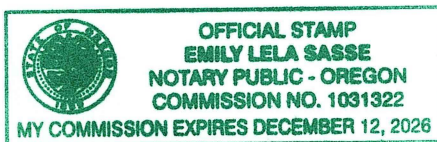
Thereafter, on the 18th day of July, 2024, I posted said Ordinance in the following three (3) conspicuous places, all within the said City of Canby, to wit:

- 1. Canby Civic Building
- 2. Canby Post Office
- 3. City of Canby Web Page

That since said posting on the date aforesaid, the said Ordinance will remain posted in the said three (3) public and very conspicuous places for the period of more than five (5) days and until the very 7<sup>th</sup> day of August, 2024.

*Maya Benham*  
\_\_\_\_\_  
Maya Benham, CMC  
City Recorder

Subscribed and sworn to before me this 19 day of June, 2024.



*Emily Lela Sasse*  
\_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires: 12/12/26

**Employment Agreement**  
**for**  
**Police Captain**

**THIS AGREEMENT** is made and entered into October 1, 2024, by and between the City of Canby, an Oregon municipal corporation, hereinafter referred to as "City," and Doug Kitzmiller, hereinafter referred to as "Employee," both of whom understand and agree as follows:

**RECITALS**

**WHEREAS**, both parties desire to enter into an agreement setting out mutual obligations and to allow Employee to continue to serve as a Police Captain after Employee retires.

**Now, therefore**, in consideration of the mutual covenants herein contained, the parties agree as follows:

- 1. Term and Termination.** The term of this Agreement begins on October 1, 2024 and ends on October 1, 2026 unless terminated sooner under the terms of this Agreement. The agreement may be renewed or extended by mutual agreement.
- 2. Duties.** City hereby agrees to employ Employee as Police Captain of the City of Canby to perform on a continuing basis the functions and duties which are generally described in the Police Captain job description attached as Exhibit A, and to perform other legally permissible and proper duties and functions as the Police Chief shall assign.
- 3. Hours of Work.** Employee shall devote his full work time to the duties and responsibilities of his position, and any additional work time reasonably required to discharge the duties and functions as assigned. Employee may not be engaged in other employment during the term of this Agreement without the specific written authorization of the Police Chief which consent is in the Police Chief's sole discretion.
- 4. At-Will Employment.** Both Parties acknowledge and agree that Employee is considered to be an at-will employee per Personnel Policy 10.1 - Employment Relationship.
- 5. Resignation.** Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of Employee to resign at any time from this position with City subject to the provisions of the Agreement. In the event Employee voluntarily resigns this position before the expiration of the Agreement Employee shall give City a minimum of thirty (30) days written notice, unless the Parties agree otherwise.
- 6. Compensation.** City agrees to pay Employee their current salary \$146,712 (Non-Represented Salary Schedule: Range 8, Step 8) annually for services rendered. Employee shall be eligible for any cost-of-living increase given to all full-time non-represented City employees and effective the same date. Employee will continue to receive 5% for DPSST Executive

Certification pay, 2% for 20-year longevity pay and 2% in deferred compensation contribution match. Such salary shall be payable in installments at the same time as the full-time non-represented employees of City are paid. If either Party terminates this Agreement, Employee shall be compensated only for services rendered before the termination date.

**7. PERS Payment/Retirement Liability.** City will not object to Employee's retirement through the State Public Employees Retirement System (PERS) as of September 30, 2024. During the term of this Agreement, the City will pay any PERS benefits as required by law. In the event the City is not required to pay PERS benefits under state law, City may (but is not required) in its sole and absolute discretion pay PERS benefits. Employee is responsible for any liability associated with PERS either through notifications required to PERS, amounts paid out by PERS, limitation on hours worked, and any other liability associated with Employee's retirement and any applicable PERS requirements. Further, Employee is responsible for any liability or work restrictions related to Employee's federal social security benefits.

**8. Use of Automobile.** Employee shall receive the exclusive and unrestricted use of the automobile he is using as of the date this Agreement is executed for professional, training, and educational related activities. The City shall pay all maintenance, repair, liability, property damage, and comprehensive insurance coverage associated with the automobile.

**9. Vacation Leave.** The total vacation accrual balance as of September 30, 2024, up to 500 hours of vacation shall be cashed out and reported to PERS. As of October 1, 2024, the City will add 40 hours of vacation leave that shall be carried forward and will not be cashed out until this Agreement is terminated. During the term of this Agreement, Employee shall continue to accrue 240 hours of vacation leave annually. At the termination or expiration of this Agreement, there will be a payment of accrued vacation leave.

**10. Sick Leave.** All accrued sick leave beyond 500 hours as of September 30, 2024, shall be reported to PERS and will not carryover and will not be paid out. Per the Non-Represented Benefits, 500 sick leave hours will be paid out at retirement and deposited in the Employee's HRA-VEBA account. Employee may elect to have less than 500 hours paid out and any remaining balance of sick leave shall be carried forward. Employee will continue to accrue 96 hours of sick leave annually during the term of this Agreement. At the termination or expiration of this Agreement, there will be no payment of accrued sick leave.

**11. Other Benefits.** The Employee will continue to receive all fringe benefits offered to all full-time non-represented employees. City will provide Employee with health, dental, vision, life, accidental death and dismemberment, and long-term disability insurance coverage as offered to all full-time non-represented employees of the City through the month this Agreement is terminated or expires. Employee may elect to have any balance of administrative leave and/or personal holiday cashed out at retirement or carry forward any accruals.

**12. Performance Evaluation.** The Police Chief shall evaluate Employee's performance at least once annually.

**13. Personnel Policies.** Unless otherwise agreed to herein, Employee is subject to the rules and regulations that apply to all City employees as set forth in the City's Personnel Policies, Canby Police Department's Policies and Procedures, and as otherwise adopted by the City.

**14. Professional Development.**

Subject to available funds and City approval, City agrees to pay the travel and subsistence expenses of Employee for official travel, meetings and occasions reasonably adequate to continue the professional development of Employee, and to reasonably pursue necessary official functions for the City.

Subject to available funds and City approval, City agrees to pay travel and subsistence expenses for travel to and attendance at Conferences, short courses, institutes and seminars that are necessary for professional development.

**15. Other Terms and Conditions**

- A. City may from time to time fix other terms and conditions relating to Employee's performance hereunder, provided such terms and conditions are not inconsistent or in conflict with the provisions of this Agreement.
- B. Employee shall perform his duties in accordance with all the laws, ordinances, rules, and regulations applicable to his position.
- C. The entire Agreement between the parties with respect to the subject matter hereunder is contained in this Agreement. Except as herein expressly provided to the contrary, the provisions of this Agreement are for the benefit of the parties solely and not for the benefit of any other person, persons or legal entities.
- D. Employee acknowledges that he has not been induced to enter into this Agreement by any representation or statements, oral or written, not expressly contained herein or expressly incorporated by reference. City makes no representations, warranties or guarantees, expressed or implied, other than expressed representations, warranties and guarantees contained in this Agreement.

**16. Notice.** Any written notice hereunder shall become effective as of the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addresses as stated in this Agreement, or at such other address as may hereafter be specified by notice in writing. In lieu of mailing, written notice shall become effective as of the date it is personally delivered to the addressee. Any notice required to be given under the terms and conditions of this Agreement shall be given as follows:

City of Canby: Eileen Stein, City Administrator  
222 NE 2<sup>nd</sup> Avenue  
Canby, OR 97013

Employee: Doug Kitzmiller

**17. Severability.** If any part, term, or provision of this agreement is held by the courts to be illegal or in conflict with the laws of the State of Oregon, the validity of the remaining portions of the Agreement shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision.

For the City:

For the Employee:

  
\_\_\_\_\_  
Eileen Stein, City Administrator

  
\_\_\_\_\_  
Doug Kitzmiller, Police Captain

Date: 9-9-24

Date: 09-10-24