ORDINANCE NO. 1968
MILWAUKIE, OREGON

AN ORDINANCE ESTABLISHING CRIMINAL HISTORY RECORD CHECK POLICIES CONCERNING APPLICANTS FOR EMPLOYMENT, APPOINTED VOLUNTEERS, CONTRACTORS AND THOSE EMPLOYED BY CONTRACTORS WITH THE CITY, AND VOLUNTEERS OF YOUTH ORGANIZATIONS OPERATING WITHIN THE CITY OF MILWAUKIE AND DECLARING AN EMERGENCY

WHEREAS, the City Council finds it in the City's best interest both financially and efficieny of time to have the City Police department complete criminal and driving history record checks for finalists for positions in all departments at the City, volunteers, contractors and employees of contractors with the City and volunteers working with non profit youth organizations operating within the City; and

WHEREAS, the City Council finds that in order to proceed in accomplishing the above the City Council must adopt an Ordinance directing the Police department to do this per the State Law Enforcement Data System (LEDS) regulations; now, therefore;

THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. PURPOSE

The purpose of this Ordinance is to authorize the City of Milwuakie Police Department to access Oregon State Police (OSP) criminal offender information through the Law Enforcement Data System (LEDS) for applicants seeking employment and/or volunteer work, contractors and employees of contractors with the City and volunteers with non profit youth organizations operating within the City of Milwaukie, in accordance with OAR 257-10-025(1)(a).

Section 2. PROCEDURE

All proceedings pursuant to this Ordinance shall be conducted in accordance with ORS 181.555 and OAR257-10-025, which establishes procedures for access to criminal record information possessed by the Oregon State Police (OSP) through the Law Enforcement Data System (LEDS), and as supplemented below.

A. Parties subjected to a background check under the provisions of this Ordinance will be required to

authorize the City of conduct a criminal offender information check through the OSP LEDS system.

B. The Human Resources Department will maintain the criminal history authorization forms for those doing work on behalf of the City and request that a criminal history check be made if it is determined that this will be in the best interest of the City in filling the position.

C. The City of Milwaukie Police Department will conduct the check on the prospective employee, volunteer, contractor or employee of contractor doing business with the City and report to the Human Resources Department that the person's record indicates "no criminal and/or traffic infraction record" or "criminal and/or traffic record does not meet standards set for that position".

D. If the person's record is reported as "criminal record and/or traffic record does not meet standards set for that position," the Human Resources Department may in accordance with OAR 257-10-025(1)(c), request a written criminal history report from the OSP Identification Services Section and pay the applicable fee for this service. The Human Resources Department may make a written criminal and/or driving history record available to the selecting official for his/her consideration in making the hiring decision.

E. The written criminal history record on persons that are not hired or appointed as a volunteer will be retained in accordance with the requirements of OAR 166-40-080 for a period of three (3) years and thereafter will be destroyed by shredding.

F. The criminal history record of applicants and volunteers with a criminal history that are hired or appointed will become a part of the confidential personnel file of that employee or volunteer. Access to confidential personnel files is limited to authorized persons who have an official need to access such files as sanctioned by law or regulation.

G. Applicants for employment or appointment as a volunteer or contractor that have a felony criminal

history or a history of conviction of a misdemeanor will be closely examined to determine if the person possesses the required degree of public trust and confidence. Each selection will, however, be made on an individual, case by case basis, taking into account the person's qualifications, the requirements of the particular job or volunteer post applied for, and the results of the criminal history check. Factors such as the age of the offender at the time of the offense, the type of offense and subsequent rehabilitation, and the public sensitivity of the position under consideration shall be taken into account in evaluating a criminal history report.

H. Hiring an applicant or appointing a volunteer or contractor with a criminal history record, will require a positive recommendation by the Police department official conducting the background investigation and the approval of the Human Resources Director, after full disclosure and consideration of the criminal history of the applicant.

Section 3. SAVINGS

If any section, subsection, provision,, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this Ordinance; it is hereby expressly declared that every section, subsection, provision, clause or paragraph of this Ordinance enacted, irrespective of the enactment or validity of the portion hereof declared to be unconstitutional or invalid is valid. Invalidity of a section or part of a section of this Ordinance shall not affect the validity of the remaining section or parts of sections.

Section 4. EMERGENCY DECLARATION AND EFFECTIVE DATE

This ordinance is necessary for the immediate safety of the City and an emergency is declared to exist and this Ordinance shall be effective immediately upon passage.

Read the first time on February 6, 2007, andmoved to second reading by 5 - 0 vote of the City Council.

Read the second time and adopted by the City Council on February 6, 2007.

Signed by the Mayor on February 20, 2007.

James Bernard, Mayor

ATTEST:

Pat DuVal, City Recorder

APPROVED AS TO FORM:

Ramis Crew Corrigan LLP
City Attorneys