



AGENDA
CANBY CITY COUNCIL
SPECIAL CALLED MEETING – 6:00 PM
EXECUTIVE SESSION – 6:15 PM
(Will begin after Special Called Meeting but not before 6:15pm)

April 25, 2023

Hybrid/Virtual Meeting/Council Chambers
Council Chambers - 222 NE 2nd Avenue, 1st Floor

Register here to attend the meetings virtually:
https://us06web.zoom.us/webinar/register/WN_VrNoflQJSsW-Z5ntssBBvg

The meetings can be viewed on YouTube:
<https://www.youtube.com/channel/UCn8dRr3QzZYXoPUEF4OTP-A>

For questions regarding programming, please contact:
Willamette Falls Studio (503) 650-0275; media@wfmstudios.org

Mayor Brian Hodson	
Councilor Christopher Bangs	Councilor Herman Maldonado
Councilor James Davis	Councilor Jason Padden
Council President Traci Hensley	Councilor Shawn Varwig

SPECIAL CALLED MEETING – 6:00 PM

1. CALL TO ORDER

2. ORDINANCE

- a. Consider **Ordinance No. 1596**: An Ordinance authorizing the City Administrator to execute a contract with Canby Excavating, Inc. in the amount of \$1,035,249 for the 2023 Sanitary Sewer Improvements and declaring an emergency. (*Second Reading*)

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3. OLD BUSINESS

- a. Further Discussion regarding upcoming City Administrator position vacancy and succession process.

4. ADJOURN

EXECUTIVE SESSION – 6:15 PM

Will begin after the Special Called meeting but not prior to 6:15 PM.

EXECUTIVE SESSIONS ARE CLOSED TO THE PUBLIC. Representatives of the news media and designated staff may attend Executive Sessions. Representatives of

the news media are specifically directed not to report on any of the deliberations during the Executive Session, except to state the general subject of the session as previously announced. No Executive Session may be held for the purpose of taking final action or making any final decision.

1. CALL TO ORDER

2. EXECUTIVE SESSION: Pursuant to ORS 192.660 (2) (f) to consider information or records that are exempt by law from public inspection.

3. ADJOURN

*The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Maya Benham at 503-266-0720. A copy of this Agenda can be found on the City's web page at www.canbyoregon.gov.



CITY COUNCIL STAFF REPORT

Meeting Date: 4/25/2023

To: The Honorable Mayor Hodson & City Council

Thru: Scott Archer, City Administrator

From: Jeremy S. Thomas, CURRAN-MCLEOD, Inc

Agenda Item: Consider Ordinance No. 1596: An Ordinance authorizing the City Administrator to execute a contract with Canby Excavating, Inc. in the amount of \$1,035,249.00 for the 2023 Sanitary Sewer Improvements and declaring an emergency.

Goal: Align Resources to Address Future Community Growth

Objective: Explore planning toward future wastewater/municipal water needs

Summary

On March 5th, 2023, the City of Canby received two bids for the 2023 Sewer Improvements Project. This staff report is to recommend the City Council approve award of the construction contract to Canby Excavating, Inc., in the amount of \$1,035,249.00.

Background

In August 2021, the City of Canby and CURRAN-McLEOD signed a contract for engineering services to prepare plans and specifications for the Safeway Pump Station Decommissioning project. This project will be listed in the CIP and funded by the Sanitary Sewer SDC.

The two bids for the 2023 Sewer Improvements project are listed below:

1	Canby Excavating, Inc.	\$1,035,249.00
2	K & E Excavating, Inc.	\$1,233,725.00

Canby Excavating, Inc.'s bid was deemed to be responsive and responsible. There are no concerns listed on the Oregon Construction Contractors Board (CCB) records for this company, therefore, CURRAN-McLEOD recommends the contract be awarded to Canby Excavating, Inc.

Discussion

This solicitation was advertised and completed in compliance with the public bid statutes in ORS 279C, as a formal bid process. All bids received were responsive and responsible. The bid from Canby Excavating, Inc. was the lowest responsive and responsible bid.

Attachments

1. Ordinance No. 1596
2. Contract for Construction

Fiscal Impact

This project is budgeted for 2022-23 and an eligible expense for both the Sanitary Sewer SDC Reimbursement and Improvement fees.

Options

1. Approve the contract as presented.
2. Reject the contract as presented.

Recommendation

That the City of Canby approve Ordinance No. 1596 authorizing the City Administrator to execute a contract with Canby Excavating, Inc., for the 2023 Sewer Improvements in the amount of \$1,035,249.00.

Proposed Motion

“I move to adopt Ordinance No. 1596 authorizing the City Administrator to execute a contract with Canby Excavating, Inc., in the amount of \$1,035,249.00 for the 2023 Sewer Improvements project, and declaring an emergency.”

ORDINANCE NO. 1596

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH CANBY EXCAVATING, INC, IN THE AMOUNT OF \$1,035,249.00 FOR CONSTRUCTION OF THE 2023 SANITARY SEWER IMPROVEMENTS PROJECT; AND DECLARING AN EMERGENCY

WHEREAS, in accordance with the Public Contract requirements in ORS 279C, the City of Canby has heretofore formally advertised and received bids for the 2023 Sanitary Sewer Improvements Project;

WHEREAS, the notice of call for bids was duly and regularly published in the Oregon Daily Journal of Commerce on February 6th, 2023;

WHEREAS, two (2) bids were received and opened on March 2nd, 2023, at 2:00 pm in the City Hall Mt Hood Conference Room, and the bids were read aloud, with the summary of bids as listed below:

1	Canby Excavating, Inc.	\$1,035,249.00
2	K & E Excavating, Inc.	\$1,233,725.00

WHEREAS, the Canby City Council, acting as the City's Contract Review Board, met on Wednesday, March 15, 2023, and considered the bids and reports and recommendations of the City staff, including the staff recommendation that the low responsive bid be selected; and

WHEREAS, the Canby City Council determined that the low responsive bid was that of Canby Excavating, Inc.

NOW THEREFORE, THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. The City Administrator is hereby authorized and directed to make, execute, and declare in the name of the City of Canby and on its behalf, an appropriate contract with Canby Excavating, Inc. for the 2023 Sewer Improvements Project in the amount of \$1,035,249.00.

Section 2. Inasmuch as it is in the best interest and the safety and welfare of the citizens of Canby, Oregon, to complete this project as soon as possible, an emergency is hereby declared to exist and this ordinance shall therefore take effect immediately upon its enactment after final reading.

SUBMITTED to the Canby City Council and read the first time at a regular meeting therefore on Wednesday, April 19, 2023; ordered posted as required by the Canby City Charter and scheduled for second reading on Wednesday, April 25, 2023, after the hour of 6:00 PM at the Council Meeting Chambers located at 222 NE 2nd Avenue, Canby, Oregon.

Maya Benham
City Recorder

PASSED on second and final reading by the Canby City Council at a special called meeting thereof on the 25th day of April 2023, by the following vote:

YEAS _____

NAYS _____

ATTEST:

Brian Hodson, Mayor

Maya Benham
City Recorder

CONTRACT FOR CONSTRUCTION

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

CITY OF CANBY

(hereinafter called OWNER) and

CANBY EXCAVATING, INC.

(hereinafter called CONTRACTOR)

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

ARTICLE 1 - WORK

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

City of Canby

SANITARY SEWER IMPROVEMENTS

Schedule A: Gravity Sewer Construction & Safeway Pump
Station Decommissioning

Schedule B: 3rd & Baker Pump Station

Schedule 'A' scope of work includes approximately 1,120 feet of 8" gravity sewer construction, including 120 feet of open trench excavation across Highway 99E, and decommissioning of the existing Safeway Pump Station. Schedule 'B' consists of a new 40 kW generator and masonry building at the existing 3rd & Baker Pump Station.

ARTICLE 2 - ENGINEER

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

ARTICLE 3 - CONTRACT TIME

- 3.1 The Work will be substantially completed within **150 calendar days** after the date when the Contract Time commences to run as provided in paragraph 4.01 of the General Conditions and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within 30 days after the date when the issuance of the Certificate of Substantial Completion including punch list items.

- 3.2 Liquidated Damages: OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not substantially complete within the time specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving in a legal proceeding the actual loss suffered by OWNER if the Work is not substantially complete on time.

Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER or the OWNER may withhold from amounts due the CONTRACTOR Two Hundred Fifty Dollars (\$250.00) for each day that expires after the time specified in paragraph 3.1. for Substantial Completion until the Work is substantially complete AND/OR for each day of delay beyond the deadline for Final Completion.

ARTICLE 4 - CONTRACT PRICE

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

ONE MILLION THIRTY-FIVE THOUSAND TWO HUNDRED FORTY-NINE DOLLARS & NO CENTS

(\$1,035,249.00) as shown in the attached Bid Proposal.

ARTICLE 5 - PAYMENT PROCEDURES

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

- 5.1 Progress Payments: OWNER shall make progress payments on account of the Contract Price based on CONTRACTOR'S Applications for Payment as recommended by ENGINEER, on or about the 25th day of each month during construction as provided below. All progress payments will be based on the progress of the Work measured by the schedule of values provided for in paragraph 2.03 of the General Conditions.

- 5.1.1 Prior to Substantial Completion progress payments will be in an amount equal to:

- (a) 95 % of the Work completed; and
- (b) 95 % of materials and equipment not incorporated in the Work but delivered and suitably stored, less in each case the aggregate of payments previously made.

- 5.1.2 Upon Substantial Completion, OWNER shall pay an amount sufficient to increase total payments to CONTRACTOR to 95% of the value of the Contract Work completed, less such amounts as ENGINEER shall determine in accordance with the General Conditions.
- 5.2 Final Payment: Upon final completion and acceptance of the Work in accordance with the General Conditions, OWNER shall pay the remainder of the value of the Contract Work completed, as recommended by ENGINEER.

ARTICLE 6 - INTEREST

All monies not paid when due hereunder shall bear interest at the maximum rate allowed by law at the place of the Project, when requested in accordance with ORS 279C.570

ARTICLE 7 - CONTRACTOR'S REPRESENTATIONS

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

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

ARTICLE 8 - CONTRACT DOCUMENTS

- 8.1 This Agreement
- 8.2 Exhibits to this Agreement.
- 8.3 Performance and other Bonds
- 8.4 Notice of Award.
- 8.5 General Conditions of the Construction Contract
- 8.6 Supplementary Conditions
- 8.7 Technical Specifications as listed in the Table of Contents.
- 8.8 Drawings & Specifications bearing the following general title:

City of Canby
SANITARY SEWER IMPROVEMENTS
Schedule A: Gravity Sewer Construction & Safeway Pump
Station Decommissioning
Schedule B: 3rd & Baker Pump Station

- 8.9 Addenda number 1.
- 8.10 CONTRACTOR'S Bid
- 8.11 Any Modification, including Change Orders, duly delivered after execution of Agreement.

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

ARTICLE 9 - MISCELLANEOUS

- 9.1 Terms used in this Agreement which are defined in the General Conditions shall have the meanings indicated in the General Conditions.
- 9.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically by without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no

assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.3 OWNER and CONTRACTOR each binds himself, his partners, successors, assigns and legal representatives to the other party hereto, his partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

9.4 In the event a suit, arbitration or other legal action is required by either the OWNER or the CONTRACTOR to enforce any provisions of this Agreement, the prevailing parties shall be entitled to all reasonable costs and reasonable attorney's fees upon trial or subsequent appeal.

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

This Agreement will be effective on _____ .

OWNER:

**City of Canby
222 NE 2nd Avenue
Canby, OR 97013**

CONTRACTOR:

**Canby Excavating, Inc.
25361 S Hwy 99 E,
Aurora, OR 97002**

By: _____

By: _____

Name/Title: _____

Name/Title: _____

Name/Title: _____

Attest: _____

Address for giving notices: