

**ORDINANCE NO. 1266**

**AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH CANBY SAND & GRAVEL / SOUTH COUNTY ASPHALT FOR SUPPLYING ROCK PRODUCT; AND DECLARING AN EMERGENCY.**

**WHEREAS**, the City of Canby has heretofore solicited bids for an annual material supply contract for rock products; and

**WHEREAS**, the solicitation documents were sent to at least three local suppliers on December 7, 2007; and

**WHEREAS**, one bid was received and opened on December 20<sup>th</sup>, 2007 at 2:00 PM by the City of Canby in the City Planning Department from Canby Sand & Gravel / South County Asphalt; and

**WHEREAS**, the Canby City Council, acting as the City's Contract Review Board, met on Wednesday, January 2<sup>nd</sup>, 2008, and considered the bid and reports and recommendations of the City staff, including the staff recommendation that the low responsive bid be selected; and

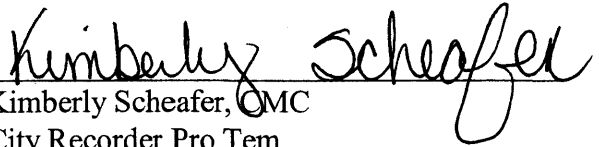
**WHEREAS**, the Canby City Council determined that the low responsive bid was that of Canby Sand & Gravel / South County Asphalt; now therefore

**THE CITY OF CANBY ORDAINS AS FOLLOWS:**

Section 1. The Mayor and City Administrator are hereby authorized and directed to make, execute, and declare in the name of the City of Canby and on its behalf, an appropriate contract with Canby Sand & Gravel / South County Asphalt, to supply rock products (1 ½" minus crushed rock, 1" minus crushed rock, ¾" minus crushed rock, ¾"- 1 ½" clean drain rock or ¼" minus sand and gravel) for the bid amount of \$8.90 per ton. A copy of the contract with Canby Sand & Gravel / South County Asphalt is attached hereto and marked as Exhibit "A" and by this reference incorporated herein.

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

**SUBMITTED** to the Canby City Council and read the first time at a regular meeting therefore on Wednesday, January 2nd, 2008; ordered posted as required by the Canby City Charter and scheduled for second reading on Wednesday, January 16th, 2008, after the hour of 7:30 pm at the Council Meeting Chambers located at 155 NW 2<sup>nd</sup> Avenue, Canby, Oregon.

  
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Kimberly Scheafer, CMC  
City Recorder Pro Tem

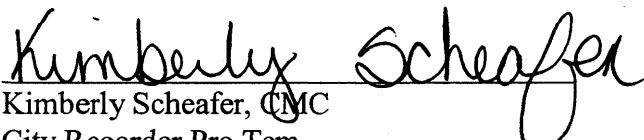
**PASSED** on second and final reading by the Canby City Council at a regular meeting thereof on the 16th day of January, 2008, by the following vote:

YEAS 6

NAYS 0

  
\_\_\_\_\_  
Melody Thompson, Mayor

ATTEST:

  
\_\_\_\_\_  
Kimberly Scheafer, CMC  
City Recorder Pro Tem

**CONTRACT FOR CONSTRUCTION (Ordinance 1266)**

THIS AGREEMENT is dated as of the 16<sup>th</sup> day of January in the year 2008 by and between the

CITY OF CANBY

(hereinafter called OWNER) and

CANBY SAND & GRAVEL / SOUTH COUNTY ASPHALT

(hereinafter called CONTRACTOR)

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

**ARTICLE 1 - WORK**

CONTRACTOR shall supply materials as required for the duration of the contract as specified in the Contract Documents. The Work is generally described as providing crushed rock products.

**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 performance period is to begin upon issuance of Notice to Proceed and continue through December 31, 2008.
- 3.2 The performance period may be extended by mutual agreement for up to a total five year contract, with an escalation factor based on the ENR Construction Cost Index or other mutually agreed adjustment.

#### **ARTICLE 4 - CONTRACT PRICE**

- 4.1 OWNER shall pay CONTRACTOR for providing material in accordance with the bid schedules in current funds by check,

EIGHT AND 90/100 Dollars (\$ 8.90 ) per ton as shown in the attached Bid.

#### **ARTICLE 5 - PAYMENT PROCEDURES**

Upon delivery of any material the CONTRACTOR may submit Applications for Payment in accordance with the bid price. Applications for Payment will be processed by the Owner and paid within 30 days of presentation.

#### **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**

In order to induce OWNER to enter into this Agreement CONTRACTOR certifies that he has familiarized himself with the nature and extent of the Contract Documents, 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.

#### **ARTICLE 8 - CONTRACT DOCUMENTS**

- 8.1 Contractor's Bid
- 8.2 This Agreement.
- 8.3 Exhibits to this Agreement.
- 8.4 Standard General Conditions for Procurement Contracts.
- 8.5 Technical Specifications
- 8.6 Addenda numbers NA Through NA.
- 8.7 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 written modification.

**ARTICLE 9 - MISCELLANEOUS**

- 9.1 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.
- 9.2 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.
- 9.3 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 two counterparts of this Agreement.

This Agreement will be effective on January 16, 2008.

OWNER:

CITY OF CANBY  
170 NW 2<sup>nd</sup> Avenue  
P.O. Box 930  
Canby, OR 97013

By Melody Thompson

Name/Title Melody Thompson  
MAYOR

CONTRACTOR

Parker Northwest Paving Co /  
South County Asphalt  
1105 Abernathy Road  
Oregon City, OR 97045

By [Signature]

Name/Title [Signature]

Attest \_\_\_\_\_