

**ORDINANCE NO. 1354**

**AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH JEFF KERSEY CONSTRUCTION, INC. IN THE AMOUNT OF \$356,653.15 FOR NE 4th AVENUE IMPROVEMENTS, PHASE II; AND DECLARING AN EMERGENCY.**

**WHEREAS**, the City of Canby has heretofore advertised and received eight (8) bids for the NE 4<sup>th</sup> Avenue Improvements Phase II project; and

**WHEREAS**, the notice of call for bids was duly and regularly published in the Oregon Daily Journal of Commerce on March 22, 2012; and

**WHEREAS**, bids were received and opened on April 10, 2012 at 2:00 pm in the City Hall Conference Room of the City of Canby and the bids were read aloud: and

**WHEREAS**, the bidders are as listed below and a detailed tabulation of all items is attached herein as Exhibit "B" and summarized as follows:

Jeff Kersey Construction, Inc.	\$356,653.15
Eagle-Elsner, Inc.	\$363,897.00
Canby Excavating, Inc.	\$392,056.00
Pacific Excavation, Inc.	\$394,708.00
CivilWorks NW, Inc.	\$398,574.60
Kerr Contractors Oregon, Inc.	\$437,571.00
Northwest Earthmovers, Inc.	\$444,101.70
S2 Contractors, Inc.	\$473,419.00

**WHEREAS**, the Canby City Council, acting as the City's Contract Review Board, met on Wednesday, April 18, 2012, 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 Jeff Kersey Construction, Inc.; now therefore

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

**Section 1.** The Mayor and/or 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 Jeff Kersey Construction, Inc. for NE 4<sup>th</sup> Avenue Improvements, Phase II, in the amount of \$356,653.15. A copy of the contract with Jeff Kersey Construction, Inc. 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, April 18, 2012; ordered posted as required by the Canby City Charter and scheduled for second reading on Wednesday, May 2, 2012, after the hour of 7:30 pm at the Council Meeting Chambers located at 155 NW 2<sup>nd</sup> Avenue, Canby, Oregon.

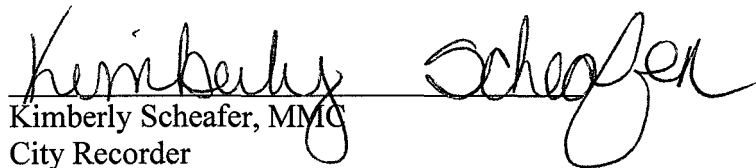
  
\_\_\_\_\_  
Kimberly Scheafer, MMC  
City Recorder

**PASSED** on second and final reading by the Canby City Council at a regular meeting thereof on the 2<sup>nd</sup> day of May, 2012, by the following vote:

YEAS 6 NAYS 0

  
\_\_\_\_\_  
Randy Carson, Mayor

ATTEST:

  
\_\_\_\_\_  
Kimberly Scheafer, MMC  
City Recorder

City of Canby  
 Project: NE 4th Avenue Improvements, Phase II  
 Bid Date: 04/10/2012

			1	2	3	4	5	6	7	8
BID TABULATION			Jeff Kersey Construction	Eagle-Elsner, Inc	Canby Excavating	Pacific Excavation, Inc	Civil Works NW, Inc	Kerr Contractors Oregon, Inc	Northwest Earthmovers, Inc	S2 Contractors, Inc
Basic Bid Items:	Units		Unit / Total	Unit / Total	Unit / Total	Unit / Total	Unit / Total	Unit / Total	Unit / Total	Unit / Total
<b>A. Site Preparation</b>										
A.1	Mobilization	All LS	\$ 11,450.00	\$ 14,000.00	\$ 36,900.00	\$ 23,000.00	\$ 18,500.00	\$ 43,126.00	\$ 28,478.10	\$ 21,600.00
			\$ 11,450.00	\$ 14,000.00	\$ 36,900.00	\$ 23,000.00	\$ 18,500.00	\$ 43,126.00	\$ 28,478.10	\$ 21,600.00
A.2	Temporary Protection & Direction of Traffic	All LS	\$ 2,050.00	\$ 2,000.00	\$ 2,500.00	\$ 4,400.00	\$ 3,500.00	\$ 13,267.00	\$ 23,475.00	\$ 24,000.00
			\$ 2,050.00	\$ 2,000.00	\$ 2,500.00	\$ 4,400.00	\$ 3,500.00	\$ 13,267.00	\$ 23,475.00	\$ 24,000.00
A.3	Erosion Control, Tree & Landscape Protection	All LS	\$ 1,640.00	\$ 2,500.00	\$ 2,025.00	\$ 1,350.00	\$ 1,500.00	\$ 1,000.00	\$ 4,596.20	\$ 3,000.00
			\$ 1,640.00	\$ 2,500.00	\$ 2,025.00	\$ 1,350.00	\$ 1,500.00	\$ 1,000.00	\$ 4,596.20	\$ 3,000.00
A.4	Common Excavation	3,450 CY	\$ 12.65	\$ 11.00	\$ 13.90	\$ 11.00	\$ 15.00	\$ 20.00	\$ 13.70	\$ 15.20
			\$ 43,642.50	\$ 37,950.00	\$ 47,955.00	\$ 37,950.00	\$ 51,750.00	\$ 69,000.00	\$ 47,265.00	\$ 52,440.00
A.5	Sawcut Asphalt/ Concrete Pavement	530 LF	\$ 1.55	\$ 0.75	\$ 1.70	\$ 1.00	\$ 1.00	\$ 2.00	\$ 1.20	\$ 1.00
			\$ 821.50	\$ 397.50	\$ 901.00	\$ 530.00	\$ 530.00	\$ 1,060.00	\$ 636.00	\$ 530.00
A.6	Remove, Salvage and Reinstall Existing Signs	6 Ea.	\$ 136.00	\$ 80.00	\$ 187.00	\$ 150.00	\$ 100.00	\$ 200.00	\$ 181.60	\$ 250.00
			\$ 816.00	\$ 480.00	\$ 1,122.00	\$ 900.00	\$ 600.00	\$ 1,200.00	\$ 1,089.60	\$ 1,500.00
A.7	6" Bollards at ADA Crossings	8 Ea.	\$ 347.00	\$ 250.00	\$ 400.00	\$ 300.00	\$ 350.00	\$ 500.00	\$ 378.00	\$ 600.00
			\$ 2,776.00	\$ 2,000.00	\$ 3,200.00	\$ 2,400.00	\$ 2,800.00	\$ 4,000.00	\$ 3,024.00	\$ 4,800.00
A.8	6' Chain Link Fence w/ 3 strands of Barbed Wire	56 LF	\$ 13.90	\$ 21.00	\$ 28.00	\$ 23.00	\$ 45.00	\$ 25.00	\$ 20.50	\$ 18.00
			\$ 778.40	\$ 1,176.00	\$ 1,568.00	\$ 1,288.00	\$ 2,520.00	\$ 1,400.00	\$ 1,148.00	\$ 1,008.00
A.9	24' Chain Link Rolling Gate w/ 3 strands of barbed wire	1 Ea.	\$ 1,594.00	\$ 3,675.00	\$ 1,325.00	\$ 900.00	\$ 2,500.00	\$ 1,500.00	\$ 1,620.00	\$ 1,750.00
			\$ 1,594.00	\$ 3,675.00	\$ 1,325.00	\$ 900.00	\$ 2,500.00	\$ 1,500.00	\$ 1,620.00	\$ 1,750.00
A.10	New Signs and Posts with V-Loc Base	2 Ea.	\$ 210.00	\$ 300.00	\$ 265.00	\$ 300.00	\$ 300.00	\$ 250.00	\$ 249.00	\$ 400.00
			\$ 420.00	\$ 600.00	\$ 530.00	\$ 600.00	\$ 600.00	\$ 500.00	\$ 498.00	\$ 800.00
A.11	New Multiple Mailbox w/V-Loc Base	1 Ea.	\$ 282.00	\$ 300.00	\$ 260.00	\$ 270.00	\$ 300.00	\$ 375.00	\$ 324.00	\$ 500.00
			\$ 282.00	\$ 300.00	\$ 260.00	\$ 270.00	\$ 300.00	\$ 375.00	\$ 324.00	\$ 500.00
A.12	New Single Mailbox with V-Loc Base	1 Ea.	\$ 205.00	\$ 150.00	\$ 215.00	\$ 200.00	\$ 150.00	\$ 275.00	\$ 205.10	\$ 400.00
			\$ 205.00	\$ 150.00	\$ 215.00	\$ 200.00	\$ 150.00	\$ 275.00	\$ 205.10	\$ 400.00
A.13	Remove and Reinstall Existing Cable Barrier Fence and Posts on Blue Parking Lot	350 LF	\$ 2.70	\$ 3.00	\$ 5.30	\$ 8.00	\$ 10.00	\$ 10.00	\$ 6.70	\$ 6.00
			\$ 945.00	\$ 1,050.00	\$ 1,855.00	\$ 2,800.00	\$ 3,500.00	\$ 3,500.00	\$ 2,345.00	\$ 2,100.00
A.14	Provide and Install Blue Lot Wheel Stops	300 Ea.	\$ 51.25	\$ 62.00	\$ 62.00	\$ 60.00	\$ 60.00	\$ 77.00	\$ 55.40	\$ 68.00
			\$ 15,375.00	\$ 18,600.00	\$ 18,600.00	\$ 18,000.00	\$ 18,000.00	\$ 23,100.00	\$ 16,620.00	\$ 20,400.00
A.14	Site Restoration	All LS	\$ 2,651.00	\$ 5,000.00	\$ 4,200.00	\$ 2,500.00	\$ 3,000.00	\$ 3,000.00	\$ 15,854.80	\$ 2,500.00
			\$ 2,651.00	\$ 5,000.00	\$ 4,200.00	\$ 2,500.00	\$ 3,000.00	\$ 3,000.00	\$ 15,854.80	\$ 2,500.00
<b>Subtotal Site Preparation</b>			\$ 85,446.40	\$ 89,878.50	\$ 123,156.00	\$ 97,088.00	\$ 109,750.00	\$ 166,303.00	\$ 147,178.80	\$ 137,328.00
<b>B. Paving &amp; Surfacing</b>										
B.1	1"-0" Crushed Rock Base (12" deep)	3,500 SY	\$ 8.60	\$ 9.10	\$ 10.00	\$ 12.00	\$ 9.50	\$ 10.25	\$ 9.70	\$ 7.00
			\$ 30,100.00	\$ 31,850.00	\$ 35,000.00	\$ 42,000.00	\$ 33,250.00	\$ 35,875.00	\$ 33,950.00	\$ 24,500.00
B.2	1" Open Graded Crushed Rock Base (20" deep)	1,350 SY	\$ 12.65	\$ 13.25	\$ 15.00	\$ 19.00	\$ 15.00	\$ 17.50	\$ 15.90	\$ 11.00
			\$ 17,077.50	\$ 17,887.50	\$ 20,250.00	\$ 25,650.00	\$ 20,250.00	\$ 23,625.00	\$ 21,465.00	\$ 14,850.00
B.3	Standard Concrete 'C' Curb	3,200 LF	\$ 10.10	\$ 13.00	\$ 10.25	\$ 10.00	\$ 11.50	\$ 6.90	\$ 12.20	\$ 16.00
			\$ 32,320.00	\$ 41,600.00	\$ 32,800.00	\$ 32,000.00	\$ 36,800.00	\$ 22,080.00	\$ 39,040.00	\$ 51,200.00
B.4	Extruded 6" Concrete Curb on Existing Driveway to Package Containers	500 LF	\$ 8.60	\$ 6.25	\$ 6.35	\$ 4.00	\$ 6.60	\$ 7.00	\$ 4.90	\$ 8.00
			\$ 4,300.00	\$ 3,125.00	\$ 3,175.00	\$ 2,000.00	\$ 3,300.00	\$ 3,500.00	\$ 2,450.00	\$ 4,000.00
B.5	6" Concrete Comercial Driveway w/ 2" Leveling Rock & WWF Reinforcing	250 SY	\$ 44.35	\$ 41.00	\$ 44.00	\$ 44.00	\$ 45.00	\$ 49.00	\$ 46.70	\$ 60.00
			\$ 11,087.50	\$ 10,250.00	\$ 11,000.00	\$ 11,000.00	\$ 11,250.00	\$ 12,250.00	\$ 11,675.00	\$ 15,000.00
B.6	4" Concrete sidewalk w/ 2" Leveling Rock	680 SY	\$ 30.00	\$ 30.00	\$ 30.50	\$ 32.00	\$ 35.00	\$ 39.00	\$ 32.70	\$ 45.00
			\$ 20,400.00	\$ 20,400.00	\$ 20,740.00	\$ 21,760.00	\$ 23,800.00	\$ 26,520.00	\$ 22,236.00	\$ 30,600.00
B.7	Detectable Warning Tile (ADA Ramp)	9 Ea.	\$ 180.00	\$ 180.00	\$ 210.00	\$ 200.00	\$ 190.00	\$ 175.00	\$ 216.00	\$ 200.00
			\$ 1,620.00	\$ 1,620.00	\$ 1,890.00	\$ 1,800.00	\$ 1,710.00	\$ 1,575.00	\$ 1,944.00	\$ 1,800.00
B.8	½" Hot Dense Mix AC Pavement, Level II	760 Tons	\$ 76.25	\$ 66.00	\$ 72.25	\$ 74.00	\$ 77.00	\$ 69.00	\$ 74.00	\$ 104.00
			\$ 57,950.00	\$ 50,160.00	\$ 54,910.00	\$ 56,240.00	\$ 58,520.00	\$ 52,440.00	\$ 56,240.00	\$ 79,040.00
B.9	½" Open Mix AC Pavement, Level II	340 Tons	\$ 94.15	\$ 75.00	\$ 81.75	\$ 84.00	\$ 90.00	\$ 78.00	\$ 83.70	\$ 140.00
			\$ 32,011.00	\$ 25,500.00	\$ 27,795.00	\$ 28,560.00	\$ 30,600.00	\$ 26,520.00	\$ 28,458.00	\$ 47,600.00
B.10	Pavement Striping, Thermoplastic Extruded, Non-Profile, 90 mil (4" white or yellow)	4,800 LF	\$ 1.15	\$ 1.30	\$ 1.15	\$ 1.00	\$ 1.45	\$ 1.10	\$ 1.20	\$ 1.40
			\$ 5,520.00	\$ 6,240.00	\$ 5,520.00	\$ 4,800.00	\$ 6,960.00	\$ 5,280.00	\$ 5,760.00	\$ 6,720.00
B.11	Parking/Loading Zone Paint Striping	1,200 LF	\$ 1.00	\$ 0.50	\$ 0.90	\$ 1.00	\$ 0.55	\$ 0.85	\$ 0.90	\$ 0.60
			\$ 1,200.00	\$ 600.00	\$ 1,080.00	\$ 1,200.00	\$ 660.00	\$ 1,020.00	\$ 1,080.00	\$ 720.00
B.12	Pavement Reflectors	18 Ea.	\$ 5.15	\$ 7.00	\$ 5.00	\$ 5.00	\$ 7.70	\$ 5.00	\$ 5.40	\$ 8.00
			\$ 92.70	\$ 126.00	\$ 90.00	\$ 90.00	\$ 138.60	\$ 90.00	\$ 97.20	\$ 144.00
B.13	Thermoplastic Handicap Parking Stencils	7 Ea.	\$ 139.05	\$ 135.00	\$ 142.00	\$ 150.00	\$ 150.00	\$ 135.00	\$ 145.80	\$ 150.00
			\$ 973.35	\$ 945.00	\$ 994.00	\$ 1,050.00	\$ 1,050.00	\$ 945.00	\$ 1,020.60	\$ 1,050.00
B.14	Thermoplastic Cross Bars (12" width)	252 LF	\$ 4.10	\$ 5.00	\$ 4.25	\$ 5.00	\$ 5.50	\$ 4.00	\$ 4.30	\$ 6.00
			\$ 1,033.20	\$ 1,260.00	\$ 1,071.00	\$ 1,260.00	\$ 1,386.00	\$ 1,008.00	\$ 1,083.60	\$ 1,512.00
<b>Subtotal Paving &amp; Surfacing</b>			\$ 215,685.25	\$ 211,563.50	\$ 216,315.00	\$ 229,410.00	\$ 229,674.60	\$ 212,728.00	\$ 226,499.40	\$ 278,736.00

BID TABULATION			Jeff Kersey Construction	Eagle-Elsner, Inc	Canby Excavating	Pacific Excavation, Inc	Civil Works NW, Inc	Kerr Contractors Oregon, Inc	Northwest Earthmovers, Inc	S2 Contractors, Inc
Basic Bid Items:			Units	Unit / Total	Unit / Total	Unit / Total	Unit / Total	Unit / Total	Unit / Total	Unit / Total
<b>C. Storm Drain Improvements</b>										
C.1	Infiltration Trench Including Ecavation and Select Backfill	480 LF	\$ 10.70	\$ 28.00	\$ 20.00	\$ 24.00	\$ 20.00	\$ 16.50	\$ 19.00	\$ 45.00
			\$ 4,922.00	\$ 12,880.00	\$ 9,200.00	\$ 11,040.00	\$ 9,200.00	\$ 7,590.00	\$ 8,740.00	\$ 20,700.00
<b>Subtotal Storm Drainage</b>			\$ 4,922.00	\$ 12,880.00	\$ 9,200.00	\$ 11,040.00	\$ 9,200.00	\$ 7,590.00	\$ 8,740.00	\$ 20,700.00
<b>Basic Bid Items</b>			<b>Units</b>	<b>Unit / Total</b>	<b>Unit / Total</b>	<b>Unit / Total</b>	<b>Unit / Total</b>	<b>Unit / Total</b>	<b>Unit / Total</b>	<b>Unit / Total</b>
<b>D. Sanitary Sewer</b>										
D.1	8" PVC 3034 Including Excavation and Select Backfill	420 LF	\$ 51.25	\$ 50.00	\$ 37.75	\$ 50.00	\$ 50.00	\$ 37.50	\$ 50.50	\$ 24.00
			\$ 21,525.00	\$ 21,000.00	\$ 15,855.00	\$ 21,000.00	\$ 21,000.00	\$ 15,750.00	\$ 21,210.00	\$ 10,080.00
D.2	2" PVC 3034 Including Excavation and Select Backfill	175 LF	\$ 22.70	\$ 21.00	\$ 16.00	\$ 20.00	\$ 20.00	\$ 16.00	\$ 19.80	\$ 15.00
			\$ 3,972.50	\$ 3,675.00	\$ 2,800.00	\$ 3,500.00	\$ 3,500.00	\$ 2,800.00	\$ 3,465.00	\$ 2,625.00
D.3	6" PVC 3034 Including Excavation, Select Backfill, Toning Wire and end cap.	100 LF	\$ 27.75	\$ 48.00	\$ 31.00	\$ 35.00	\$ 45.00	\$ 45.00	\$ 61.60	\$ 20.00
			\$ 2,775.00	\$ 4,800.00	\$ 3,100.00	\$ 3,500.00	\$ 4,500.00	\$ 4,500.00	\$ 6,160.00	\$ 2,000.00
D.4	2" Cleanout Assembly	1 Ea.	\$ 264.50	\$ 150.00	\$ 270.00	\$ 300.00	\$ 250.00	\$ 400.00	\$ 373.10	\$ 250.00
			\$ 264.50	\$ 150.00	\$ 270.00	\$ 300.00	\$ 250.00	\$ 400.00	\$ 373.10	\$ 250.00
D.5	New or Reconstructed Manhole 0-8' Deep	3 Ea.	\$ 2,838.00	\$ 3,200.00	\$ 2,570.00	\$ 3,000.00	\$ 3,000.00	\$ 2,250.00	\$ 5,814.60	\$ 2,000.00
			\$ 8,514.00	\$ 9,600.00	\$ 7,710.00	\$ 9,000.00	\$ 9,000.00	\$ 6,750.00	\$ 17,443.80	\$ 6,000.00
<b>Subtotal Sanitary Sewer</b>			\$ 37,051.00	\$ 39,225.00	\$ 29,735.00	\$ 37,300.00	\$ 38,250.00	\$ 30,200.00	\$ 48,651.90	\$ 20,955.00
<b>Basic Bid Items</b>			<b>Units</b>	<b>Unit / Total</b>	<b>Unit / Total</b>	<b>Unit / Total</b>	<b>Unit / Total</b>	<b>Unit / Total</b>	<b>Unit / Total</b>	<b>Unit / Total</b>
<b>E. Utility Construction</b>										
E.1	Single or Multiple Utility Trenching Including Shading and Native Backfill	850 LF	\$ 11.80	\$ 7.85	\$ 11.40	\$ 16.00	\$ 9.00	\$ 14.00	\$ 9.70	\$ 15.00
			\$ 10,030.00	\$ 6,672.50	\$ 9,690.00	\$ 13,600.00	\$ 7,650.00	\$ 11,900.00	\$ 8,245.00	\$ 12,750.00
E.2	Single or Multiple Utility Trenching Including Shading and Crushed Rock Backfill	150 LF	\$ 13.75	\$ 12.85	\$ 18.70	\$ 25.00	\$ 13.00	\$ 24.00	\$ 17.50	\$ 8.00
			\$ 2,062.50	\$ 1,927.50	\$ 2,805.00	\$ 3,750.00	\$ 1,950.00	\$ 3,600.00	\$ 2,625.00	\$ 1,200.00
E.3	Excavate and Backfill For Street Light Poles	7 LF	\$ 208.00	\$ 250.00	\$ 165.00	\$ 360.00	\$ 300.00	\$ 750.00	\$ 308.80	\$ 250.00
			\$ 1,456.00	\$ 1,750.00	\$ 1,155.00	\$ 2,520.00	\$ 2,100.00	\$ 5,250.00	\$ 2,161.60	\$ 1,750.00
<b>Subtotal Utility Construction</b>			\$ 13,548.50	\$ 10,350.00	\$ 13,650.00	\$ 19,870.00	\$ 11,700.00	\$ 20,750.00	\$ 13,031.60	\$ 15,700.00
<b>TOTAL BASIC BID</b>			\$ 356,653.15	\$ 363,897.00	\$ 392,056.00	\$ 394,708.00	\$ 398,574.60	\$ 437,571.00	\$ 444,101.70	\$ 473,419.00

**AFFIDAVIT OF POSTING**

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

I, Kimberly Scheafer, 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 18<sup>th</sup> of April 2012 the Council for said City of Canby held a Regular City Council Meeting, at which meeting Ordinance No. 1354 was read for the first time and passed by the vote of said Council and was 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 19<sup>th</sup> day of April 2012, I personally posted said Ordinance in the following three (3) conspicuous places, all within the said City of Canby, to wit:

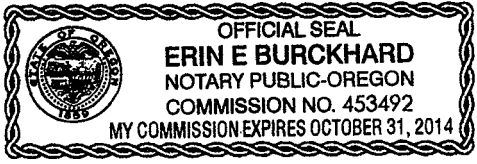
- 1. Canby City Hall Bulletin Board - outside
- 2. Canby Public Library Bulletin Board
- 3. Canby Post Office

That since said posting on the date aforesaid, the said Ordinance will remain posted in the said three (3) public and conspicuous places continuously for the period of five (5) days and until the very 2<sup>nd</sup> day of May 2012.

*Kimberly Scheafer*  
\_\_\_\_\_  
Kimberly Scheafer, MMC  
City Recorder

Subscribed and sworn to before me this 19<sup>th</sup> day of April 2012.

*Erin E Burckhard*  
\_\_\_\_\_  
Notary Public For Oregon  
My Commission Expires: 10/31/2014



## CONTRACT FOR CONSTRUCTION

THIS AGREEMENT is dated as of the 2<sup>nd</sup> day of May in the year 2012 by and between

**CITY OF CANBY**

(hereinafter called OWNER) and

**JEFF KERSEY CONSTRUCTION, 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  
NE 4th Avenue Improvements, Phase II**

The scope of work consists of removing existing improvements and reconstructing approximately 1,200 lineal feet of 34 foot wide street improvements with associated curbs and sidewalks, as well as approximately 400 lineal feet of 8" sanitary sewer construction and associated manholes and services.

### 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 45 calendar days after the date when the Contract Time commences to run as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 14.07 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 Four Hundred Dollars (\$400.00) 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

Three Hundred Fifty Six Thousand, Six Hundred Fifty Three and 15/100 Dollars

( \$356,653.15 ) as shown in the attached Bid Proposal.

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

CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of 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 on the basis of 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 on the basis of the progress of the Work measured by the schedule of values provided for in paragraph 14.01 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 paragraph 14.02 of the General Conditions.

5.2 Final Payment: Upon final completion and acceptance of the Work in accordance with paragraph 14.07 of the General Conditions, OWNER shall pay the remainder of the value of the Contract Work completed, as recommended by ENGINEER as provided in said paragraph 14.07.

## **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 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 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 made or caused to be made 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 correlated 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 Specifications bearing the following general title:

City of Canby  
NE 4th Avenue Improvements, Phase II

- 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 Article 1 of 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 May 2, 2012.

OWNER:

CITY OF CANBY  
182 N Holly Street  
P.O. Box 930  
Canby, OR 97013

By:

Randy Carson

Name/Title: Randy Carson, Mayor

CONTRACTOR:

JEFF KERSEY CONSTRUCTION INC.  
P.O. Box 896  
Canby, OR 97013

By:

Jeff Kersey

Name/Title: JEFF KERSEY, PRESIDENT

Attest:

TSL

Address for giving notices:

P.O. Box 896 CANBY OR 97013