

AGENDA
CANBY CITY COUNCIL
Regular Meeting 7:00 PM - Council Chambers
Meeting can be viewed on CTV Channel 5 or YouTube
April 15, 2020
222 NE 2nd Avenue, 1st Floor
Mayor Brian Hodson

Council President Tim Dale
Councilor Trygve Berge
Councilor Traci Hensley

Councilor Greg Parker
Councilor Sarah Spoon
Councilor Shawn Varwig

1. **CALL TO ORDER**
2. **COMMUNICATION**
3. **CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS:** This is an opportunity for audience members to address the City Council on items not on the agenda. Each person will be given 3 minutes to speak. Staff and the City Council will make every effort to respond to questions raised during citizens input before the meeting ends or as quickly as possible thereafter. *****In order to speak, please email or call the City Recorder by 3:00 pm on April 15th with your name, the topic you'd like to speak on and contact information: bissetm@canbyoregon.gov or call 503-266-0733. Once your information is received, you will be sent instructions to speak virtually. Please note that Council will be attending this meeting virtually.**
4. **MAYOR'S BUSINESS**
5. **COUNCILOR COMMENTS & LIAISON REPORTS**
6. **CONSENT AGENDA:** This section allows the City Council to consider routine items that require no discussion and can be approved in one comprehensive motion. An item may be discussed if it is pulled from the consent agenda to New Business.
 - A. Approval of Minutes of the April 1, 2020 City Council Work Session and Regular Meeting.
7. **ORDINANCES**
 - A. **Ordinance No. 1523:** An Ordinance Amending Canby Municipal Code Chapter 8.16: Fire Prevention Code. *(First Reading)*
 - B. **Ordinance No. 1524:** An Ordinance authorizing the City Administrator to execute a contract with R.L. Reimers Company for the 2020 Wastewater Treatment Plant Primary Clarifier Improvement Project; and declaring an emergency. *(First Reading)*
 - C. **Ordinance No. 1525:** An Ordinance authorizing the City Administrator to execute a contract with Curran-Mcleod, Inc. Consulting Engineers for Engineering Services to complete improvements to South Ivy Street Sanitary Sewer Collection System; and declaring an emergency. *(First Reading)*

8. CITY ADMINISTRATOR’S BUSINESS & STAFF REPORTS
 9. CITIZEN INPUT
 10. ACTION REVIEW
 11. ADJOURN
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*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 Melissa Bisset at 503.266.0733. A copy of this Agenda can be found on the City’s web page at www.canbyoregon.gov. **City Council and Planning Commission Meetings are broadcast live and can be viewed on CTV Channel 5.** For a schedule of the playback times, please call 503.263.6287.

****We are requesting that rather than attending in person you view the meeting on CTV Channel 5 or on YouTube: <https://www.youtube.com/channel/UCn8dRr3QzZYXoPUEF4OTP-A>**

If you do not have access virtually, there are a small number of chairs provided inside so the City is in compliance with public meeting laws and the Governor’s Executive Order.

**CANBY CITY COUNCIL
WORK SESSION MINUTES
April 1, 2020**

Due to COVID-19 Pandemic, the Mayor and City Councilors attended the meeting virtually. The public was asked to view the meeting live on CTV Channel 5 or on YouTube. Seating was available in the Council Chambers in compliance with the Governor's Executive Order regarding social distancing.

PRESIDING: Mayor Brian Hodson.

COUNCIL PRESENT: Tim Dale, Greg Parker, Trygve Berge, Traci Hensley, Shawn Varwig, and Sarah Spoon.

STAFF PRESENT: Amanda Zeiber, Interim City Administrator; Joseph Lindsay, City Attorney; Jamie Stickel, Economic Development Director; and Melissa Bisset, City Recorder.

OTHERS PRESENT: No public attended. Phil McKenney, Peckham & McKenny, Inc. attended virtually (City Administrator Recruiter)

CALL TO ORDER: Mayor Hodson called the Work Session to order at 6:17 p.m.

Mr. McKenney explained some of the challenges and timeline that may occur with the City Administrator recruitment as a result of the COVID-19 Pandemic. He explained that a number of City Administrators are retiring and the talent pool is not as strong. He cited other challenges to recruitment such as a residency requirement in Canby for the City Administrator and there is an election in the fall. He apologized that the City was in the position of seeking a new City Administrator.

Mayor Hodson noted that the Mayor and four Councilors were up for election and that could be an added challenge.

Councilor Parker thought that a national search should be conducted. Discussion ensued regarding broadening the search.

There was discussion regarding the salary range. Mr. McKenney felt that perhaps the salary range was low but was uncertain.

Council did not want to lose a candidate because of the salary. Council felt the salary range should be increased. The range had been advertised as \$125,000 - \$150,000.

Council felt that the job description was good as is.

Councilor Spoon asked if the master's degree in public administration should be required. Mr. McKenney felt it was not a disqualifier to not have it but it was an added bonus if a candidate had one.

Council continued discussing the salary range. Councilor Parker felt that it would be good to conduct a salary survey and there should be a competitive salary.

Council agreed that there should be a salary survey and the City should be competitive with the salary.

Councilor Berge asked about how people are recruited. Mr. McKenney stated that the salary range plays an important part and it is advertised. Mr. McKenney stated that he screens for qualifications and fit.

Mr. McKenney stated that the City should be comfortable in meeting the needs of the candidate if they decide to have a wide and high range.

Mr. McKenney stated that he wanted to conduct a salary survey looking at what other comparable cities are paying.

There was consensus to look for the best candidate nationally.

The meeting adjourned at 7:00 p.m.

Melissa Bisset, CMC
City Recorder

Brian Hodson
Mayor

**CANBY CITY COUNCIL
REGULAR MEETING MINUTES
April 1, 2020**

Due to COVID-19 Pandemic, the Mayor and City Councilors attended the meeting virtually. The public was asked to view the meeting live on CTV Channel 5 or on YouTube. Seating was available in the Council Chambers in compliance with the Governor's Executive Order regarding social distancing measures to be taken.

PRESIDING: Mayor Brian Hodson.

COUNCIL PRESENT: Tim Dale, Greg Parker, Trygve Berge, Traci Hensley, Shawn Varwig, and Sarah Spoon.

STAFF PRESENT: Amanda Zeiber, Interim City Administrator; Joseph Lindsay, City Attorney; Jamie Stickel, Economic Development Director; and Melissa Bisset, City Recorder.

OTHERS PRESENT: No public attended.

CALL TO ORDER: Mayor Hodson called the Regular Meeting to order at 7:07 p.m.

COMMUNICATIONS: None

CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS: It was publically noticed that Council would be attending the meeting virtually and as it was the first run of a virtual meeting, written comments and input on agenda items were accepted until 5:00 pm on Tuesday March 31st. The City received two letters from the Canby Fire District related to the Strategic Investment Zone and Columbia Distributing's application. Both letters were distributed to the City Council and saved for the record in the Council Packet Attachments. There were no public comments or input made during the meeting.

MAYOR'S BUSINESS: Mayor Hodson shared that there is a new sense of reality because of the COVID-19 Pandemic. He stated that he, the Interim City Administrator, School Superintendent, Chamber of Commerce Director, the Fire Chief and the Police Chief held a community briefing that was streamed live on Facebook. He complimented the Economic Development Director and Chamber of Commerce Director on their work for local businesses. Mayor Hodson stated there was a lot of good going on in the community. He encouraged the community to stay positive.

COUNCILOR COMMENTS & LIAISON REPORTS:

Council President Dale stated that Canby Utility is operating similarly to the City with offices being closed and essential services still being provided and work was being conducted by email and phone where possible.

Councilor Parker stated that that the Clackamas County Fair Board received an update of cancelations of events and they needed to make to stay in compliance with the social distancing orders. The Board will be looking at what it means financially.

Councilor Hensley shared that the next Suicide Prevention Task Force meeting would take place using a virtual meeting platform.

Mayor Hodson noted that the way business is conducted may look different in the future as a result of the current experience.

CONSENT AGENDA: **Councilor Dale moved to adopt the minutes of the March 4, 2020 City Council Work Session and Regular Meeting and the appointment of Melody Thompson to the Canby Utility Board. Motion was seconded by Councilor Hensley and passed 6-0.

RESOLUTIONS:

Resolution 1330 – A Resolution authorizing Columbia Distributing’s Strategic Investment Zone application and authorizing the City Administrator to enter into a contract with Columbia Distributing.

City Attorney Joe Lindsay stated that the Resolution had been brought to the Council before and there had been a Work Session on the topic. He noted that the wording of the caption of the Resolution may be confusing because the action that the City needed to take was deciding whether or not the City wants to enter into the Contract that is attached to Resolution No. 1330. It was an agreement between Clackamas County, the City, and Columbia Distributing. He explained that if Resolution No. 1330 was passed it allowed for the County to present Columbia Distributing’s application to Business Oregon. The process was contained in State Statute. He stated that the agreement about how the Community Service Fee would be enforced needs to be approved in order for the application to move forward to Business Oregon. Business Oregon will have the final decision on eligibility of the application. Mr. Lindsay stated that at the last County Commissioner meeting, the agreement was approved unanimously.

Mayor Hodson stated that it had been tabled originally because there were a lot of questions and they wanted more information before a decision was made.

Mr. Lindsay clarified that in the event Business Oregon finds Columbia Distributing's application eligible, the agreement would be what was used to enforce the community service fee. The statute explains that the agreement must be part of the application.

Councilor Berge stated that with regards from the letters received from the Canby Fire District, and what he had heard from citizens, they were not there to make a decision about eligibility and that would be up to Business Oregon. He added that it was not the time to determine how the tax funds or community service fees would be distributed. He stated that it was a tool that allows the City to bring new revenue in. There would be approximately \$465,000 of revenue that would be coming in if not for the business coming. He stated that the decision was a step in the process that the City had already agreed to the Strategic Investment Zone (SIZ).

Councilor Parker stated he was unsure about what was being voted on after hearing from the City Attorney. He stated that he researched the information in the packet and was prepared to vote on the Resolution and information as provided in the City Council Packet.

Mr. Lindsay explained that the Resolution is left the same due to the fact that it was set over. He stated that he did not want the verbiage of the Resolution to be confusing. The Resolution itself, in order to fulfill the part of the Strategic Investment Zone process is simply to put forward the agreement with the County (the Community Service Fee agreement). He stated that they do not need to actually approve the application. He stated that the Resolution could be amended if they wanted to make it less confusing.

Councilor Parker stated that the meeting was noticed with Resolution No. 1330 and he did not feel that it was good to make changes by Committee and he was not prepared to debate, amend and vote on new language. He asked for completed staff work.

Councilor Spoon asked about the original SIZ agreement. She thought that there was a process built into it and that the agreement was supposed to be authorized.

Mr. Lindsay stated that the Council could approve Resolution No. 1330 as is and it wasn't running in conflict of the statute. Mr. Lindsay referenced State Statute and noted that he has spoken with a District of Justice Attorney about the process.

Discussion ensued regarding the application, eligibility and the agreement process. It was noted that if the County was unable to get the City's agreement then the application would not be considered complete and would not be able to move forward for the consideration of Business Oregon.

Mr. Lindsay reminded the Council that the City became an active participant in 2010 in the Strategic Investment Zone and the Standardized Agreement.

Councilor Parker asked if the City should review the application and see that it was filled out correctly. Discussion ensued regarding the City's role in reviewing the application. Councilor Parker stated that the applicant didn't apply in time.

Council President Dale stated that the City doesn't determine eligibility and that the agreement is for the Community Service Fee and by approving the agreement the application would be forwarded to Business Oregon.

Councilor Spoon expressed concern with the application needing to be authorized as part of the process based on the original agreement.

Discussion ensued about the best way to explain to constituents the action. Councilor Berge suggested explaining that through Council action they are holding the applicant responsible if their application is deemed eligible. Council President Dale suggested that the explanation is that if the Council were to pass Resolution No. 1330, it would approve a long standing agreement that will grant a very sizeable tax abatement for Columbia Distributing and there are offsets with the Community Service Fee, and in exchange the City had attracted a very large employer that would eventually provide a sizable increase to the tax base.

Councilor Parker stated there are four benefits that come to a community when they engage in the Strategic Investment Zone: One of the benefits was the establishment of an office in the County that works with the applicant to make sure that there is a good faith effort for contracting with local businesses. He stated that it cannot happen when the building is already built. It was a mechanism to encourage the use of local contractors. He stated that because the building was already built 25 percent of the benefit is not recognized.

Mayor Hodson suggested that a motion could be: I move to approve the authorization of the City of Canby to enter into a Strategic Investment Zone Agreement with Clackamas County. Discussion ensued regarding what a motion might be.

Councilor Spoon was not comfortable with amending the Resolution.

Mayor Hodson stated that the proposed motion in the City Council Packet was: I move to approve the authorization of the Interim City Administrator to enter into the Strategic Investment Zone Standardized Agreement with Columbia Distributing and Clackamas County.

****Councilor Berge moved to approve the authorization of the Interim City Administrator to enter into the Strategic Investment Zone Standardized Agreement with Columbia Disturbing and Clackamas County. Motion was seconded by Councilor Hensley.**

Council President Dale did not feel that the late application date was an issue, he was more concerned that it was a poorly written piece of legislation. He stated that not all of the taxing

districts are represented as part of the application process. He shared Councilor Parker's disappointment with the missed opportunity to use local contractors. He asked how the grievance could be expressed. The concern could be expressed with Business Oregon. Council President Dale stated that the tax assessor's estimate was roughly \$39,000 in the first year. He stated he would support in the community service funds negotiations looking at things in a prorated basis by district. He supported the City's prorated portion being given to Canby Fire and he would support the Council urging the County to devote its portion as well. He thought that Canby Fire would then be made whole in terms of any abated revenue.

Mr. Lindsay stated that if Business Oregon deemed the application eligible then the 90 day clock would start on a third agreement with the other taxing districts and at that time they could determine how they would like it divided up as long as 75 percent of the taxing districts approve.

Councilor Spoon stated that the original SIZ Agreement and Exhibit B states that eligible companies must meet the local requirements in addition to any Oregon requirements. It also stated that companies must sign a First Source Contracting Agreement for construction.

Mr. Lindsay stated that if the Council felt that the requirements were not being met then it could be brought up to Business Oregon.

Councilor Spoon asked if it was the City's obligation to see that the applicant met the local requirements. She felt that Columbia Distributing did not meet the local requirements as they have not signed a First Source Contracting Agreement. She stated that the whole idea of a SIZ was a win-win. She thought it should be looked into further and a decision should not be rushed into based on the local requirements. She stated that the First Source Contracting Agreement should have been signed and used for construction.

Council President Dale felt that they were dealt a tough hand. He stated that there were discrepancies and that there were bound to something that was agreed upon in 2010 and felt that they were dancing around whether or not they fundamentally agreed upon the SIZ as a tool. He stated that if they do not want to use it as a tool in the future then they will need to deal with that issue at a later time.

Mayor Hodson stated that in the next phase they would look at the Community Service Fee and have discussion about how it would be distributed.

Councilor Varwig thought that if it was approved then they needed to make sure that the other taxing districts were fought for and make them whole with the Community Service Fee.

Councilor Hensley stated that the decision was to move it forward to Business Oregon. She called for the question.

Mr. Lindsay explained that there is liability and it is an advertised offer for businesses to potential use in their toolbox.

Councilor Spoon asked when they would determine if they met the local requirements in the SIZ Agreement.

Economic Development Director Jamie Stickel stated that Art Fish of Business Oregon has copies of the Strategic Investment Zone Agreement as it relates to Clackamas County as when they discussed what steps the company need to take, he helped highlight the First Source Contracting and agreements. She stated that they are aware of the First Source Hiring and Contracting.

Councilor Spoon asked who determines local requirements are met. Mr. Lindsay stated that in his reading of the state statutes he believes that the County is the one who carries the application up to Business Oregon.

Discussion ensued regarding what would happen with future applications.

Mr. Lindsay suggested that they not move the goal posts so far that they are not able to submit the application to Business Oregon.

Councilor Hensley felt that the conversation was not relevant to the motion. Councilor Spoon stated she was seeking clarification.

Councilor Spoon asked for what the intent of the motion was.

****Councilor Berge amended the motion stating “I move to approve Resolution 1330: A Resolution authorizing Columbia Distributing’s Strategic Investment Zone application and authorizing the City Administrator to enter into a contract with Columbia Distributing and Clackamas County. Councilor Hensley Seconded.**

Councilor Spoon stated that her exception to the application was not punitive, the application deadline was clear and unambiguous and she understood the City is not the enforcing body but she would not authorize the application as it was. She felt that if the City started capitulating on requirements then when the next company wants grace on a requirement, then the City would be in a cycle of a Pandora’s Box. She stated that City Staff had emails documenting their awareness that they could potentially qualify for the SIZ no later than April 6, 2018. She felt there was ample time for the applicant to read the application. She thought they had an obligation to do their own due diligence. She felt that allowing it to move forward was government at its worst. She stated that it was bureaucrats deciding that a large corporation should receive a tax exemption regardless of what the law says and regardless that the company made an error of negligence on their own account. Councilor Spoon stated that locally business owners are

expected to jump through expensive hoops that cost them significant amounts of time and money. She felt that the government should treat all applicants equally with respect to the law. She stated that Columbia Distributing did not meet the local requirements and should be expected to follow the rules and accept the consequences when they don't. She stated that she would like to have a conversations with local taxation districts.

Councilor Parker stated that part of it involves keeping faith with citizens. He stated that there are rules and that in bold on the application it states that it must be filled out before construction begins. He expressed concern that it came across as defying common sense.

Council President Dale stated that his concern was that the Council entered into an agreement a decade ago to participate in the program, he was concerned about the chilling effect it could have on other businesses, and he stated that there was good faith that needed to be upheld on the City's portion of the agreement. He felt that if Canby Fire could be made whole, and grievances could be made to Business Oregon about not satisfying the local requirements then he could live with it. He thought that the City should work with the County to make Canby Fire whole.

Discussion ensued regarding how to make the City's concerns known.

Councilor Berge stated that while it had been noted that Columbia Distributing did not turn in the application on time, they had been working directly with the City during the entire time leading up to submission of the application. He stated that it was the first application to come to Clackamas County. They had been working hand-in-hand with Business Oregon and the City.

Discussion ensued regarding the process with Business Oregon and Columbia Distributing.

Councilor Varwig stated his hesitation was not the technicality of when the application came in but with the Community Service Fee. He stated that they can work later with making the Fire District whole. He felt that it was a learning experience and that it will be done better the next time.

It was noted that City Staff worked in earnest and good faith to move the application forward.

****Councilor Hensley moved to call the question and end the debate. Councilor Berge Seconded. Motion carried 6-0.**

Mayor Hodson called for a roll call vote.

AYES: Berge, Dale, Hensley, Varwig

NOES: Parker, Spoon

Resolution No. 1330 Passed 4-2.

Resolution No. 1332 - A Resolution adopting a revised City of Canby Drug & Alcohol Policy for use with DOT Regulated Employees and identifying an effective date and repealing Resolution No. 1281.

Interim City Administrator Amanda Zeiber stated that the City had an adopted Drug and Alcohol Policy that was required in order for the City to be eligible to receive federal FTA Grant Funding. CDL Drivers and Mechanics that work on Transit buses are covered. The Policy was last updated in February 2018. Last year Federal Transit Administration conducted an audit and as part of the routine audit Canby was selected for site visits. They reviewed the Drug and Alcohol Policy and made recommendations including some housekeeping and minor changes to keep the City in compliance with the federal regulations. The Collective Bargaining Unit received a copy of the proposed changes and they did not have any feedback.

****Councilor Hensley moved to adopt Resolution No. 1332: A RESOLUTION ADOPTING A REVISED CITY OF CANBY DRUG & ALCOHOL POLICY FOR USE WITH DOT REGULATED EMPLOYEES AND IDENTIFYING AN EFFECTIVE DATE AND REPEALING RESOLUTION NO. 1281. Motion was seconded by Councilor Berge and passed 6-0.**

NEW BUSINESS:

Approve Declaration of Emergency – Mayor Hodson stated that on March 17, 2020 he issued a Declaration of a State of Emergency for the City of Canby. He stated that taking the action triggers the regulation and control powers vested in the Canby City Council under Canby Municipal Code 2.52.070. It allows the Mayor and City staff greater flexibility to quickly address hazards posed by the COVID-19 by facilitating more expedient coordination with public agencies and quicker deployment of resources and staffing to safeguard the community. It also provides for the ability to modify work schedules of emergency responders to meet reduced staffing or increased emergency responses due to the COVID-19. The state of emergency declaration provides the City with the latitude to coordinate an effective response by redirecting funding for emergency use as needed and suspending standard procurement procedures. Additionally, the designation aids the City's efforts when requesting assistance and/ or reimbursement for expenditures related to COVID-19 response.

Council President Dale recognized the Mayor's early action as it had turned out to be a crisis where early action was good.

****Council President Dale moved to RATIFY THE MAYOR'S DECLARATION OF EMERGENCY. Motion was seconded by Councilor Hensley and passed 6-0.**

Approval of City Administrator Hiring Standards, Criteria and Policy Directives – Mayor Hodson stated that there was a work session earlier in the evening to discuss the recruitment process for a City Administrator. The job description and what they were looking for would remain the same as the most recent recruitment for City Administrator. They would be looking at a national search with not necessarily an emphasis on a regional candidate. They also wanted a salary survey to be conducted and offer a competitive salary and benefits package.

****Council President Dale moved to APPROVE THE CITY ADMINISTRATOR HIRING STANDARDS, CRITERIA AND POLICY DIRECTIVES. Motion was seconded by Councilor Varwig and passed 6-0.**

CITY ADMINISTRATOR’S BUSINESS & STAFF REPORTS: Interim City Administrator Amanda Zeiber stated that although City Staff has been consumed with handling the COVID-19 response, there were City projects that are moving forward. The Grant Street Arch Project and Quiet Zone Project were combined in a bid package that went out. There was a pre-bid conference scheduled the following week and if there were no delays, construction was anticipated to begin in June. The Splash Pad design was moving forward and there was hope that it could be opened by July 4th. The South Street Ivy Project has 30 percent of the plans being reviewed by Public Works. The Hazel Dell Signal Project was moving forward and they were looking at it being operational by June 2020. The South Ivy Street Pump Station is on schedule for an August 2020 completion. There would be a bid opening for the Wastewater Treatment Plant Clarifier Project. There would be an electronic process for the bid opening. Bringing Wi-Fi in three parks was being worked on however several of the entities involved have delays related to the project. It was in partnership with DirectLink.

Mayor Hodson thanked City Staff for their work on continuing to move the projects along. He recognized Ms. Zeiber for her leadership. He stated that the projects were important.

Councilor Parker thanked Ms. Zeiber for keeping the Wi-Fi in the Parks project moving forward and felt that the opportunity for citizens to have access to Wi-Fi in the Parks fits into community.

Councilor Hensley stated that connectivity is important especially during the current times.

Councilor Dale stated that he was in a fairly strict quarantine situation but as he has been forced to go out to get food and gas he was thankful for the businesses and citizens of Canby. He stated that people were still smiling, saying hi, and having good spirits while maintaining safe distances.

Councilor Parker thanked Ms. Zeiber and Mr. Lindsay for their work. He thanked Ms. Bisset for her efforts on making a virtual meeting happen.

ACTION REVIEW:

1. Approved the Consent Agenda.
2. Approved Resolution No. 1330.
3. Approved Resolution No. 1332.
4. Ratified the Declaration of Emergency.
5. Approved City Administrator Hiring Standards, Criteria and Policy Directives as discussed in Work Session.

The meeting adjourned at 9:22 p.m.

Melissa Bisset, CMC
City Recorder

Brian Hodson
Mayor

DRAFT



City of Canby

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City Council Staff Report

DATE: April 15, 2020

TO: Honorable Mayor Hodson and City Council

THRU: Amanda Zeiber, Interim City Administrator

FROM: Melissa Bisset, City Recorder

ITEM: Ordinance No. 1523: An Ordinance amending Canby Municipal Code Chapter 8.16

Summary

The current Fire Prevention Code references specific years of Fire Codes. Staff met with Canby Fire District Division Chief Matt English and reviewed the Fire Code.

Discussion

The proposed Ordinance removes references to specific dates of Fire Code. Removing the date specific references will allow for the code to stay current without having to amend the Canby Municipal Code each time the State of Oregon and International Fire Code changes.

Attachments

Ordinance No. 1523

Fiscal Impact

None.

Options

1. Approve Ordinance No. 1523.
2. Not approve Ordinance No. 1523.
3. Table Ordinance No. 1523.

Recommendation

Staff recommends Council approves Ordinance No. 1523.

Proposed Motion

"I move to approve Ordinance No. 1523, an Ordinance amending Canby Municipal Code Chapter 8.16, Fire Prevention Code."

ORDINANCE NO. 1523

AN ORDINANCE AMENDING CANBY MUNICIPAL CODE CHAPTER 8.16: FIRE PREVENTION CODE.

WHEREAS, Chapter 8.16 of the Canby Municipal Code contains the Fire Prevention Code for the City of Canby; and

WHEREAS, the Canby Fire District has proposed changes to Chapter 8.16 so it is current.

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

Section 1. Chapter 8.16 of the Canby Municipal Code is amended to read as noted. All other sections, shall remain in full force and effect as they presently appear.

§ 8.16.010 Adoption of Fire Code.

There is adopted by the City Council, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the State of Oregon 2004 Fire Code Amendments based on 2003 International Fire Code, save and except those portions of the code as are deleted, modified or amended in this chapter. Not fewer than 3 copies of the Fire Code as adopted in this section, are to be kept on file in the office of the city's Fire Department, and 1 copy of the Fire Code shall be kept on file in the office of the Building Official as a part of this chapter. The State of Oregon 2004 Fire Code Amendments based on International Fire Code are adopted by reference as if the same were fully set out at length in this chapter; and from the effective date of this chapter shall take effect, and the provisions thereof shall be controlling within the limits of the city.

§ 8.16.020 Establishment and duties of Bureau of Fire Prevention.

A. The Fire and Life Safety Code shall be enforced by the Bureau of Fire Prevention in the Fire Department of the city, which is established and which shall be operated under the supervision of the Chief of the Fire Department.

B. The Chief of the Fire Department may detail members of the Fire Department as inspectors as shall from time to time be necessary.

§ 8.16.030 Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Chief of the Bureau of Fire (Prevention) shall mean either Fire Chief or Fire Marshal.

Corporation Counsel, whenever used in the Fire and Life Safety Code, shall mean the attorney for the city.

Jurisdiction, whenever used in the Fire and Life Safety Code, shall mean the City of Canby, Clackamas County, State of Oregon.

§ 8.16.040 Storage of flammable or combustible liquids in outside, aboveground tanks; where prohibited.

A. The outside, aboveground storage of flammable or combustible liquids, as defined in the Fire and Life Safety Code, is prohibited in all areas of the city which are zoned for commercial development.

B. The development of new bulk plants for flammable or combustible liquids, as defined in the Fire and Life Safety Code, is prohibited in all areas of the city which are zoned for residential or commercial development.

§ 8.16.050 Bulk storage of liquefied petroleum gases; restrictions.

The limits referred to in the Fire and Life Safety Code, in which bulk storage of liquefied petroleum gas is restricted, are established as including all areas of the city which are zoned for commercial development.

§ 8.16.060 Storage of explosives and blasting agents; where prohibited.

The storage of explosives and blasting agents, as defined in the Fire and Life Safety Code, is prohibited in all areas of the city which are zoned for residential or commercial development.

§ 8.16.070 Penalty.

A. 1. Any person who shall violate any provision of this chapter, including the Fire and Life Safety Code adopted by reference, or who shall fail to comply therewith; who shall violate or fail to comply with any order made thereunder; who shall build in violation of any detailed statement of specification or plans submitted and approved hereunder, or any certificate or permit issued thereunder and from which no appeal has been taken; or who shall fail to comply with an order as affirmed or modified by the City Council or by a court of competent jurisdiction within the time fixed herein, shall severally for each and every violation and noncompliance, respectively, be guilty of a misdemeanor punishable by a fine of not less than \$100 nor more than \$500.

2. The imposition of 1 penalty for any violation shall not excuse the violation or permit it to continue; and all these persons shall be required to correct or remedy the violations or defects within a reasonable time.

3. When not otherwise specified, each 10 days that prohibited conditions are maintained or permitted to exist shall constitute a separate offense.

B. The application of the penalties prescribed in the foregoing paragraph shall not be held to prevent the enforced removal of prohibited conditions.

§ 8.16.080 Nonliability for damages.

The adoption of the Fire and Life Safety Code, ~~1994 edition~~ and any amendments thereto as the fire code for the city shall not be construed to hold the city, its officers, agents or employees responsible for any damage to persons or property by reason of the inspection or reinspection authorized by the Fire and Life Safety Code, or for failure to inspect or reinspect on a permit issued or denied for use of any equipment for which a permit is required.

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, April 15, 2020, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and scheduled for second reading before the City Council for final reading and action at a regular meeting thereof on Wednesday, May 6, 2020, commencing at the hour of 7:00 PM in the Council Meeting Chambers located at 222 NW 2nd Avenue, 1st Floor, Canby, Oregon.

Melissa Bisset, CMC
City Recorder

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 6th day of May 2020, by the following vote:

YEAS _____

NAYS _____

Brian Hodson
Mayor

ATTEST:

Melissa Bisset, CMC
City Recorder



City of Canby

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City of Canby Staff Report

DATE: April 15, 2020
TO: Hon Mayor Hodson & City Council
THRU: Ms. Amanda Zeiber, Interim City Administrator
FROM: Curt J. McLeod, P.E.
CURRAN-McLEOD, INC

Summary

On April 2nd the City of Canby received eight bids for construction of a new primary clarifier at the Wastewater Treatment Plant. This staff report is to request the City Council's approval for award of the construction contract to R.L. Reimers from Canby in the amount of \$1,274,775.

Background

The City of Canby contracted for the design and construction of a new primary clarifier and support equipment in 2019 as a step in implementing the Wastewater Treatment Facility Capital Improvement Plan. Per the Plan, this clarifier structure was scheduled to be added to the treatment process when the service population reached 15,000, which occurred years ago. Since preparation of the Facilities Plan, the per capita flows to the treatment facility have decreased, but the total load has increased to where the new primary clarifier is now warranted.

The project includes a new clarifier similar to the existing that will increase capacity as well as provide redundancy. Support systems include new primary and secondary pumping equipment, waste sludge disposal facilities and associated electrical/mechanical improvements. The eight bids received on April 2nd are listed below:

1	R.L. Reimers, Co	\$1,274,775.00
2	Stettler Supply Co	\$1,516,775.00
3	Clackamas Construction, Inc	\$1,529,427.00
4	Rotschy, Inc.	\$1,531,099.33
5	Wildish Building Co.	\$1,560,000.00
6	TEK Construction, Inc.	\$1,765,000.00
7	Stellar J Corp	\$1,818,000.00
8	McClure & Sons, Inc.	\$1,937,800.00

Honorable Mayor & City Council
April 6, 2020
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R.L. Reimer Company recently constructed a new shop facility in the Canby Pioneer Industrial Park, and was the successful bidder on last major project at the Canby Wastewater Treatment Plant in 2018. There are no concerns listed on the Oregon Construction Contractors Board (CCB) records for this firm. Their bid was deemed to be responsive and responsible.

Discussion

This solicitation was advertised and completed in compliance with ORS 279C as a formal bid process. All but one of the bids received were responsive. The eighth bidder, McClure & Sons failed to submit the first tier disclosure form and as a result was deemed non-responsive. The bid from R.L. Reimers Company was the lowest responsive and responsible bid.

In addition to the clarifier construction, the design process included an evaluation of the primary and secondary sludge pumping equipment. Currently both pump stations use air operated pumps and operate on a single air compressor. An evaluation of cost and redundancy determined the best alternative was to abandon both of the old pumping systems and replace each with four new electric pumps that do not require an air source. The existing compressor was installed in the mid-1980's and is near the end of its service life and will be taken out of service with this current work.

The clarifier, pumping equipment and control panels have long lead time from order date. As a result, the ordinance includes an emergency clause to permit the project to proceed immediately upon second reading on May 6, 2020.

Fiscal Impact

This project was first listed in the 1992 Capital Improvement Plan, and the cost estimate has been escalated multiple times since. However, the bids received this month exceed the current estimate for this work by approximately \$40,000. The final scope of work was modified generally with balancing additions and reductions from the original concept to address items identified during the design process, but the construction bids exceeded the current estimate.

The current budget needs to be adjusted to accommodate the additional \$40,000 of construction cost and to provide a reasonable contingency of \$60,000 for a total increase of \$100,000. Additional funds should be made available from the Sanitary Sewer Capital Reserves with System Development Charge revenues to cover the contract amount and a contingency.

Options

1. Approve the contract as presented.

Recommendation

That the City of Canby approve Ordinance 1524 authorizing the City Administrator to execute a contract with R.L. Reimers Co. in the amount of \$1,274,775 for construction of the primary clarifier Improvement project, and declare an emergency to allow the project to proceed immediately upon second reading.

Proposed Motion

I move to approve Ordinance 1524 authorizing the Interim City Administrator to execute a contract with R.L. Reimers Co. in the amount of \$1,274,775 for construction of the 2020 Wastewater Treatment Plant Primary Clarifier Improvement Project and declaring an emergency.

Attachments

1. Ordinance 1524
2. Contract for Construction

ORDINANCE NO. 1524

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH R.L. REIMERS COMPANY FOR THE 2020 WASTEWATER TREATMENT PLANT PRIMARY CLARIFIER IMPROVEMENT PROJECT; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Canby has heretofore advertised and received bids for the 2020 WWTP Primary Clarifier Improvement Project; and

WHEREAS, the notice of call for bids was duly and regularly published in the Oregon Daily Journal of Commerce on March 13, 2020; and

WHEREAS, eight bids were received by email at 2:00 PM on April 2nd which included the following bids:

1	R.L. Reimers Co.	\$1,274,775.00
2	Stettler Supply Co.	\$1,516,775.00
3	Clackamas Construction, Inc	\$1,529,427.00
4	Rotschy Inc.	\$1,531,099.33
5	Wildish Building Co.	\$1,560,000.00
6	TEK Construction, Inc	\$1,765,000.00
7	Stellar J Company Corp	\$1,818,000.00
8	McClure & Sons Inc	\$1,937,800.00

WHEREAS, the Canby City Council, acting as the City’s Contract Review Board, met on Wednesday, April 15, 2020, 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 Notice of Intent to Award as required by ORS 279C.375 was issued on April 3, 2020, and provided seven days notice before the contract award would be made, and

WHEREAS, the Canby City Council determined that the low responsive bid was that of R.L. Reimers Company; now therefore

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. Having not received an appeal to the award within the statutory seven day period, 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 R.L. Reimers Company for the 2020 WWTP Primary Clarifier Improvement Project, for the bid amount of \$1,274,775. A copy of the contract form with R.L. Reimers Company is attached herein.

Section 2. Due to the need to provide continuous sanitary sewer treatment and effluent disposal, 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 thereof on Wednesday, April 15, 2020 and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter, and to come before the City Council for final reading and action at a regular meeting thereof on Wednesday, May 6, 2020, commencing at the hour of 7:30 PM in the Council Meeting Chambers located at 222 NE 2nd Avenue, Canby, Oregon.

Melissa Bisset, CMC
City Recorder

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 6th day of May 2020 by the following vote:

YEAS _____ NAYS _____

Brian Hodson, Mayor

ATTEST:

Melissa Bisset, CMC
City Recorder

CONTRACT FOR CONSTRUCTION

THIS AGREEMENT is dated as of the _____ day of _____ in the year 2020, by and between the:

CITY OF CANBY

(Hereinafter called OWNER) and

R.L. REIMERS COMPANY

(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

2020 WWTP PRIMARY CLARIFIER IMPROVEMENTS

The scope of work consists of construction of a new 50 foot diameter by 10 foot side water depth primary clarifier, rehabilitation of the existing primary clarifier, and associated improvements.

ARTICLE 2 - ENGINEER

The Project has been designed by CURRAN-McLEOD, INC., Consulting Engineers, who are 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 180 calendar days after the date when the Contract Time commences to run, and completed and ready for final payment 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 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 Two Hundred Seventy Four Thousand Seven Hundred Seventy Five and No/100 Dollars (\$1,274,775.00) as shown in the attached Bid Proposal.

ARTICLE 5 - PAYMENT PROCEDURES

CONTRACTOR shall submit Applications for Payment in accordance with Article 15 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 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 paragraph 15.01 of the General Conditions.

5.2 Final Payment: Upon final completion and acceptance of the Work in accordance with paragraph 15.06 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 15.06.

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
2020 WWTP PRIMARY CLARIFIER IMPROVEMENTS**

- 8.9 Addenda number(s) 1 - 3.
- 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 _____.

OWNER:

CITY OF CANBY
222 NE 2nd Avenue
P.O. Box 930
Canby, OR 97013

CONTRACTOR:

R.L. REIMERS COMPANY
3939 Old Salem Rd, Suite 200
Albany OR, 97321

Signed: _____

Signed: _____

Name: _____

Name: _____

Title: _____

Title: _____

Attest: _____

Address for giving notices:



City of Canby

PO Box 930
222 NE 2nd Ave
Canby, OR 97013

Phone: 503.266.4021
Fax: 503.266.7961
www.canbyoregon.gov

City of Canby Staff Report

DATE: April 15, 2020
TO: Hon Mayor Hodson & City Council
THRU: Ms. Amanda Zeiber, Interim City Administrator
FROM: Jerry Nelzen, Operations Supervisor

Summary

Clackamas County is preparing plans to complete street improvements to South Ivy Street in the near future. The City of Canby's sanitary sewer collection system along South Ivy Street is at the end of its design life and needs to be replaced prior to the street construction. This staff report is to request the City Council's approval to enter into an engineering contract with the City Engineer of Record, Curran-McLeod, Inc. for design and construction engineering of sanitary sewer improvements to S Ivy Street, in the amount of \$75,500. The total cost of the project is estimated at \$900,000.

Background

The collection system in S Ivy Street is approaching 60 years old and has multiple isolated pipeline deficiencies including cracks, misalignments, adverse grade sections from settlement, lateral deficiencies, and the main is generally undersized to support buildout of the Urban Growth Boundary. Small sections of this line have been upsized and replaced, but the remainder from SE 2nd Avenue to SE 13th Avenue need to be replaced and increased in size.

Clackamas County is currently preparing plans to improve sections of S Ivy Street and the City intends to complete a street overlay. The sanitary sewer line must be replaced prior to the street reconstruction project.

Discussion

The City Engineers are very familiar with the sewer system and the problems on South Ivy Street and have completed several project in the past in this area, including the collection system master planning. The engineering costs are very reasonable at approximately 10%.

The current business environment is good time to undertake construction. Utility construction can continue during this quarantine period as an essential service and will allow contractors to generate revenues. As a result, we are requesting this ordinance be approved with an emergency clause to permit the work to proceed immediately. The City can be ready to solicit bids by mid-May.

Fiscal Impact

This project has been included in the budget in FY 2020 and FY 2021, and is funded through the Sanitary Sewer Capital Reserves with System Development Charge revenues.

Options

1. Approve the contract as presented.

Recommendation

That the City of Canby approve Ordinance 1525 authorizing the City Administrator to execute a contract with Curran-McLeod, Inc. in the amount of \$75,500 for design and construction engineering services and declaring an emergency to allow soliciting bids as early as possible.

Proposed Motion

I move to approve Ordinance 1525 authorizing the City Administrator to execute a contract with Curran-McLeod, Inc. in the amount of \$75,500 for design and construction phase engineering services for reconstruction of the South Ivy Street sanitary sewer and declaring an emergency.

Attachments

1. Ordinance 1525
2. Contract for Construction

ORDINANCE NO. 1525

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH CURRAN-MCLEOD, INC. CONSULTING ENGINEERS FOR ENGINEERING SERVICES TO COMPLETE IMPROVEMENTS TO SOUTH IVY STREET SANITARY SEWER COLLECTION SYSTEM; AND DECLARING AN EMERGENCY.

WHEREAS, the CITY OF CANBY has heretofore advertised and received proposals for municipal engineering services, completed oral interviews and selected CURRAN-McLEOD, INC. for the City's Engineer of Record; and

WHEREAS, CURRAN-McLEOD, INC. has provided preliminary planning, preliminary engineering and cost estimates for engineering and construction for the needed improvements to the South Ivy Street Sanitary Sewer Collection System; and

WHEREAS, the City of Canby has budgeted expenditures for this work in FY 2019-2020 and 2020-2021; 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 CURRAN-MCLEOD, INC for engineering services in an amount not to exceed \$45,700 for design phase services in Fiscal Year 2019-2020, and \$29,800 for construction phase services in Fiscal Year 2020-2021, for a total contract amount of \$75,500.

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 15, 2020; ordered posted as required by the Canby City Charter and scheduled for second reading on Wednesday, May 6, 2020 after the hour of 7:30 pm at the Council Chambers at the Canby City Hall, 222 NE 2nd Avenue, Canby, Oregon.

Melissa Bisset, CMC
City Recorder

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 6th day of May 2020 by the following vote:

YEAS _____ NAYS _____

Brian Hodson, Mayor

ATTEST:

Melissa Bisset, CMC
City Recorder

CITY OF CANBY
SOUTH IVY STREET SANITARY SEWER RECONSTRUCTION
AGREEMENT FOR ENGINEERING SERVICES

This Agreement is made this _____ day of _____, 2020, by and between the **CITY OF CANBY**, Oregon, hereafter referred to as the **OWNER**, and **CURRAN-McLEOD, INC. Consulting Engineers**, Portland, Oregon, hereafter referred to as the **ENGINEER**.

The **OWNER** intends to construct the South Ivy Street Sanitary Sewer Reconstruction for which the **ENGINEER** agrees to perform the various professional engineering services for the design and construction of said improvements.

WITNESSETH

That for and in consideration of the mutual covenants and promises between the parties hereto, it is hereby agreed:

SECTION A - ENGINEERING SERVICES

The **ENGINEER** shall furnish engineering services to accomplish the work identified above and as more specifically identified in the correspondence dated February 5, 2020, attached as Exhibit A:

1. The **ENGINEER** will attend conferences with the **OWNER**, representatives of the State, or other interested parties as may be required for completion of the work previously described.

2. After the **OWNER** directs the **ENGINEER** to proceed, the **ENGINEER** will perform the necessary alignment determination, accomplish the detailed design of the projects, prepare construction Drawings, Specifications and Contract Documents, and prepare a final cost estimate based on the final design. It is also understood that if additional subsurface explorations (such as borings, soil tests, rock soundings and the like) are required, the **ENGINEER** will furnish coordination of said explorations without additional charge, but the costs incident to such explorations shall be paid for by the **OWNER** as set out in Section D hereof.

Statements of probable construction costs and detailed cost estimates prepared by the **ENGINEER** represent his best judgment as a design professional familiar with the Construction Industry. It is recognized, however, that neither the **ENGINEER** nor the **OWNER** has any control over the cost of labor, materials or equipment, over the Contractor's method of determining bid prices, or over competitive bidding or market conditions. Accordingly the **ENGINEER** cannot and does not guarantee that bids will not vary from any statement of probable construction cost or other cost estimate prepared by the **ENGINEER**.

3. The Contract Documents furnished by the ENGINEER under Section A-2 shall include the State of Oregon Prevailing Wage Rates or the Federal Davis Bacon Prevailing Wage Rates as applicable, and OWNER, funding agency, and state requirements as appropriate.
4. Prior to the advertisement for bids, the ENGINEER will provide for each Construction Contract, not to exceed 10 copies of detailed Drawings, Specifications, and Contract Documents for use by the OWNER, and for appropriate Federal, State, and local agencies from whom approval of the project must be obtained. The cost of such drawings, Specifications, and Contract Documents shall be included in the basic compensation paid to the ENGINEER. The OWNER pays the cost of permits and review fees as provided in Section F-2 of this Agreement.
5. The drawings prepared by the ENGINEER under the provisions of Section A-2 above shall be in sufficient detail to permit the actual location of the proposed improvements on the ground. The ENGINEER shall prepare and furnish to the OWNER without any additional compensation, three copies of a map(s) showing the general location of needed construction easements and permanent easements and the land to be acquired. Property surveys, property plats, property descriptions, abstracting and negotiations for land rights shall be provided by the OWNER, unless the OWNER requests, and the ENGINEER agrees to provide those services. In the event the ENGINEER is requested to provide such services, the ENGINEER shall be additionally compensated as set out in Section D hereof, unless this task is identified and included in the proposed scope of work herein.
6. The ENGINEER will furnish additional copies of the Drawings, Specifications and Contract Documents as required by prospective bidders, materials suppliers, and other interested parties, but may charge them for the reasonable cost of such copies. Upon award of each contract, the ENGINEER will furnish to the OWNER three sets of the Drawings, Specifications and Contract Documents for execution. The cost of these sets shall be included in the basic compensation paid to the ENGINEER. Drawings and Specifications as instruments of service are and shall remain the property of the ENGINEER whether the project for which they are made is executed or not. They are not to be used by the OWNER on other projects or extensions to this project except by agreement in writing and with appropriate compensation to the ENGINEER.
7. The ENGINEER will require prospective contractors to file an approved Pre-qualification Form with the Oregon Department of Transportation and will require a Bid Bond not to exceed 10% in the Bidding Documents to secure the Bid.
8. The ENGINEER will attend the bid opening and tabulate the bid proposals, make an analysis of the bids, make recommendations for awarding contracts for construction.
9. The ENGINEER will assist in the Preconstruction Conference, and will review and approve, for conformance with the design concept, any necessary shop and working drawings furnished by Contractors.

10. The ENGINEER will interpret the drawings and specifications to protect the OWNER against defects and deficiencies in construction on the part of the Contractor. The ENGINEER will not, however, guarantee the performance of any Contractor. Planning and design of the project and construction engineering services shall be accomplished with due diligence and in conformance with accepted industry standards of the practice of professional engineering.
11. The ENGINEER will provide general engineering review of the work of the contractors as construction progresses to assure conformance with the design concept.
12. The ENGINEER will establish baselines and grades for locating the work together with a suitable number of bench marks adjacent to the work as shown in the Contract Documents.
13. The ENGINEER, as representative of the OWNER during the construction phase, shall advise and consult with the OWNER and all of the OWNER'S instructions to the Contractor shall be issued through the ENGINEER. The ENGINEER shall have the authority to act on behalf of the OWNER to the extent provided in this Agreement.
14. Unless otherwise requested by the OWNER in writing, the ENGINEER will not provide Resident Construction Inspection. The ENGINEER'S undertaking construction inspection hereunder shall not relieve the Contractor of Contractor's obligation to perform the work in conformity with the Drawings and Specifications and in a workmanlike manner; shall not make the ENGINEER an insurer of the Contractor's performance; and shall not impose upon the ENGINEER any obligation to see that the work is performed in a safe manner.
15. The ENGINEER will review the Contractor's applications for progress and final payment and, when approved, submit same to the OWNER for payment.
16. The ENGINEER will prepare and review necessary contract Change Orders on a timely basis for consideration of approval by the OWNER.
17. The ENGINEER and a representative of the OWNER will make an inspection of the project or project element to determine the status of completion. The ENGINEER may issue a Certificate of Substantial Completion consistent with the General Conditions of the Construction Contract Documents.
18. The ENGINEER will provide the OWNER with one set of record drawings on electronic media and three sets of prints at no additional cost to the OWNER. Such drawings will be based upon construction records provided by the Contractor during construction, as specifically required in the Construction Contract, and reviewed by the ENGINEER, and from the ENGINEER'S construction data.

19. If State statutes require notices and advertisements of final payment, the ENGINEER shall assist in their preparation.
20. The ENGINEER will be available for site visits to furnish engineering services and consultations necessary to correct unforeseen project operation difficulties for a period of one year after the date of the Certificate of Substantial Completion of the facility. The ENGINEER will assist the OWNER in performing a review of the project during the 11th month after the date of initiation of the 12 month warranty period.

SECTION B - COMPENSATION FOR ENGINEERING SERVICES

1. The OWNER shall compensate the ENGINEER for services in accordance with the following schedule:

Design Phase Engineering:

- Forty-Five Thousand Seven Hundred and No/100 Dollars (\$45,700)

The work will be limited to the design phase in the amount of \$45,700 until June 30, 2020. The construction phase amount of \$29,800 will not be billed until it is authorized after the start of the new fiscal year on July 1, 2020.

Construction Phase Engineering:

- Twenty-Nine Thousand Eight Hundred and No/100 Dollars (\$29,800)

2. The compensation for the above Engineering Services shall be as follows:
 - a. Preliminary and Design Phase Services shall include items A-1 through A-5.
 - b. Billings shall be submitted monthly by the ENGINEER for Preliminary and Design Phase Services during the previous month. Payments shall be made for these billings within 30 days. Billings shall be based on percent of completion for Preliminary and Design Phase Services.
 - c. Construction Engineering Services and Construction Inspection shall include items A-6 through A-20 and shall be billed by the ENGINEER on an hourly basis. The total shall not exceed the budget figures under Article B.1 above without the express written authorization of the OWNER.
 - d. Where hourly rates are used, they shall be in accordance with the Standard Hourly Rate Schedule, attached herewith and referenced Exhibit B.
 - e. In the event of multiple construction contracts, the ENGINEER may negotiate revised figures under Article B.1.

SECTION C - RESIDENT CONSTRUCTION INSPECTION

If the OWNER requests the ENGINEER to provide Resident Construction Inspection, the ENGINEER will, prior to the Preconstruction Conference, submit a resume of the Resident Inspector's qualifications, anticipated duties and responsibilities for approval by the OWNER. The OWNER agrees to pay the ENGINEER for such services in accordance with the "Inspector" rate schedule set out in Exhibit B. The ENGINEER will render to OWNER for such services performed hereunder during such period, the same to be due and payable by the OWNER to the ENGINEER on or before the 10th day of the following period. A separate agreement shall be negotiated for Resident Construction Inspections Services setting out estimated hours required and maximum estimated fees and charges.

SECTION D - ADDITIONAL ENGINEERING SERVICES

In addition to the foregoing being performed, the following services may be provided UPON WRITTEN AUTHORIZATION OF THE OWNER.

1. Financial feasibility or other special studies.
2. Record boundary surveys or other similar surveys, excepting surveys required to locate the construction project, or as identified in the scope of work.
3. Laboratory tests, borings, specialized geological, soil, hydraulic, or other studies recommended by the ENGINEER.
4. Record property surveys, detailed descriptions of sites, maps, drawings, or estimates related thereto; assistance in negotiating for land and easement rights.
5. Necessary data and filing maps for storm water discharge permits, water rights, adjudication, and litigation.
6. Redesigns not initiated by the ENGINEER after final Plans and Specifications have been approved by the OWNER, except redesigns to reduce the project cost to within the funds available.
7. Appearances before courts or boards on matters of litigation or hearings related to the project and providing services as an expert witness in connection with any public hearing, arbitration proceeding, or the proceedings of a court of record.
8. Preparation of Environmental Assessments or Environmental Impact Statement (E.I.S.).
9. Performance of detailed staking necessary for construction of the project in excess of the control staking set forth in Section A-12.
10. Preparing documents for alternate bids requested by the OWNER.

11. Providing consultation concerning replacement of any work damaged by fire or other cause during construction, and furnishing professional services of the type set forth as previously mentioned in this Agreement as may be required in connection with the replacement of such work.
12. Providing professional services made necessary by the default of the Contractor in the Construction Contract.
13. Providing construction engineering and inspection services after the construction contract time has been exceeded.

Unless identified as included in the proposed scope of work herein, payment for the services specified in this Section D shall be as agreed in writing prior to commencement of the work. The ENGINEER will render to OWNER for such services an itemized bill, once each month, for compensation for services performed hereunder during such period, the same to be due and payable by OWNER to the ENGINEER within 30 days.

SECTION E - OWNER'S RESPONSIBILITIES

1. The OWNER shall provide full information regarding his requirements for the project.
2. The OWNER shall designate, when necessary, a representative authorized to act in his behalf with respect to the project. The OWNER or his representative shall examine documents submitted by the ENGINEER and shall render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of the ENGINEER'S work.
3. The OWNER shall furnish all pertinent existing mechanical, chemical or other laboratory tests, inspections and reports as required by law or the Contract Documents, and which may impact the design.
4. The OWNER shall furnish such legal, accounting and insurance counseling services as may be necessary for the project, and such auditing services as he may require to ascertain how or for what purposes the CONTRACTOR has used the moneys paid to him under the Construction Contract.
5. If the OWNER observes or otherwise becomes aware of any fault or defect in the project or non-conformance with the Contract Documents, he shall give prompt oral notice with written confirmation thereof to the ENGINEER.
6. The OWNER shall furnish information required of him as expeditiously as necessary for the orderly progress of the work.

SECTION F - SPECIAL PROVISIONS

The following is agreed to by both parties:

1. That the OWNER reserves the right to request replacement of any Resident Inspector(s) furnished by the ENGINEER or to furnish the Resident Inspector(s) from the OWNER'S own forces, subject to the approval of the ENGINEER regarding the qualifications of the Resident Inspector(s). If the OWNER furnishes the Resident Inspector(s), the OWNER agrees that the Resident Inspector(s) will be under the direction and supervision of the ENGINEER.
2. That the OWNER shall pay for advertisement for bids, building or other permits, licenses, technical review fees, etc., as may be required by local, State or Federal authorities, and shall secure the necessary land easements and rights-of-way.
3. The ENGINEER will endeavor to assure compliance of his work with applicable State and Federal requirements.
4. That insofar as the work under this Agreement may require, the OWNER shall furnish the ENGINEER all existing maps, field survey data, grades and lines of streets, pavements, and boundaries, rights-of-way, and other surveys presently available, which will be returned upon project completion. ENGINEER will provide the OWNER a copy of survey notes establishing bench marks and location of improvements.
5. That if the engineering work covered in this Agreement has not been completed on or after the expiration of a twenty-four month period from the date of execution of this Agreement, the OWNER or ENGINEER may, at the option of either, on written notice, request a renegotiation of Sections B, C, and D (providing for the compensation to be paid the ENGINEER for services rendered) to allow for changes in the cost of services. Such new schedule of compensation is to apply only to work performed by the ENGINEER after delivery date of such written notice.
6. That this Agreement is to be binding on the heirs, successors and assigns of the parties hereto and is not to be assigned by either party without first obtaining the written consent of the other. At least fifteen (15) days shall be allowed for such consent.
7. Attorney's fees: In the event a suit, arbitration or other legal action is required by either the OWNER or the ENGINEER to enforce any provision of this Agreement, the prevailing parties shall be entitled to all reasonable costs and reasonable attorney's fees upon litigation or upon appeal.
8. Termination
 - a. This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given (1) not less than ten

- (10) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) an opportunity for consultation with the terminating party prior to termination.
- b. The Agreement may be terminated in whole or in part in writing by the OWNER for its convenience, provided that the ENGINEER is given (1) not less than ten (10) calendar days' written notice, (delivered by certified mail, return receipt requested) of intent to terminate, and (2) opportunity for consultation with the terminating party prior to termination.
 - c. If termination for default is effected by the OWNER an equitable adjustment in the price provided for in the Agreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due to the ENGINEER at the time of termination may be adjusted to cover any additional costs to the OWNER because of the ENGINEER'S default. If termination for default is effected by the ENGINEER, or if termination for convenience is effected by the OWNER, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to the termination, in addition to termination settlement costs reasonably incurred by the ENGINEER relating to commitments which had become firm prior to the termination.
 - d. Upon receipt of a termination action under paragraphs a. or b. above, the ENGINEER shall (1) promptly discontinue all affected work (unless the notice directs otherwise), and (2) deliver or otherwise make available to the OWNER reproducible data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the ENGINEER in performing this Agreement whether completed or in process.
 - e. Upon termination under paragraphs a. or b. above, the OWNER may take over the work and may award another party a contract to complete the work under this Agreement.
 - f. If, after termination for failure of the ENGINEER to fulfill contractual obligations, it is determined that the ENGINEER had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the OWNER. In such event, adjustment of the Agreement price shall be made as provided in paragraph c. of this clause.
9. The ENGINEER agrees to hold harmless and indemnify the OWNER against all claims, damages, losses and costs, including costs of defense, arising out of the negligent performances of engineering services under this Agreement. OWNER may make claim under applicable law against ENGINEER or ENGINEER'S insurance carriers for any loss, damage or cost arising out of ENGINEER'S negligent performance of services under this Agreement.

10. The ENGINEER agrees to acquire and maintain for the duration of this Agreement, Professional Liability Insurance in the nominal amount of \$1,000,000 per occurrence and \$2,000,000 aggregate.
11. The ENGINEER further agrees to obtain and maintain, at the ENGINEER'S expense, such insurance as will protect the ENGINEER from claims under the Worker's Compensation Act and such comprehensive general liability insurance as will protect the OWNER and the ENGINEER from all claims for bodily injury, death, or property damage which may arise from the performance by the ENGINEER or by the ENGINEER'S employees or agents.
12. The ENGINEER will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The ENGINEER will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin, such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; lay off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
13. ENGINEER covenants that he presently has no interest and shall not acquire interest, direct or indirect, which would conflict in any manner or degree with the performance of his services under this Agreement. Any interest on the part of the ENGINEER or his employees must be disclosed to the OWNER.
14. INDEPENDENT CONTRACTOR. It is agreed that ENGINEER is providing the services hereunder as an independent contractor and not as an employee of OWNER.

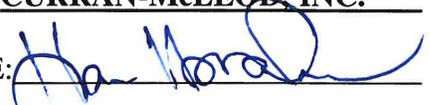
OWNER shall have no right to control the manner of the performance of the services, but may place restrictions on ENGINEER relating to use of OWNERS premises. As an independent contractor, ENGINEER shall not be eligible to receive benefits otherwise provided to employees of the OWNER.

15. The records and documents with respect to all matters covered by the Agreement shall be subject at all times to inspection, review or audit by the OWNER, County, Federal or State officials so authorized by law during the performance of this contract. Required records shall be retained for a period of three (3) years after termination of this Agreement
16. No member or delegate to the Congress of the United States and no Resident Commissioner or City Official shall be admitted to any share or part of this Agreement or to any benefit that may arise hereunder.
17. This CONTRACT shall be construed according to the laws of the State of Oregon. Any litigation between the OWNER and the ENGINEER or out of work performed under this CONTRACT shall occur in the Clackamas County Court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the District of Oregon.

18. This Agreement, including Exhibits A and B, represents the entire integrated agreement between the OWNER and the ENGINEER and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the OWNER and ENGINEER.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in duplicate on the respective dates indicated below.

OWNER: CITY OF CANBY ENGINEER: CURRAN-McLEOD, INC.

SIGNATURE: _____ SIGNATURE: 

NAME: _____ NAME: HASSAN IBRAHIM

TITLE: _____ TITLE: PRINCIPAL ENGINEER

DATE: _____ DATE: MARCH 12, 2020

CURRAN-McLEOD, INC.
CONSULTING ENGINEERS

6655 S.W. HAMPTON STREET, SUITE 210
PORTLAND, OREGON 97223

February 5, 2020

EXHIBIT "A"

Mr. Jerry Nelzen
City of Canby
P.O. Box 930
Canby, OR 97013

**RE: CITY OF CANBY
S IVY STREET SANITARY SEWER REPLACEMENT**

Dear Jerry:

We appreciate the opportunity to assist the City of Canby in providing a design engineering and construction management cost estimate for the above noted project. The work is located on S Ivy Street between SE 2nd Avenue and SE 13th Avenue beginning at the existing manhole located between SE 2nd Avenue and SW 2nd Avenue. We have reviewed the anticipated scope of work based on the removal of the existing 8" diameter sanitary sewer for the entire stretch from SE 2nd Avenue to SE 13th Avenue and replacing with approximately 2,000 lineal feet of 12" diameter sanitary sewer starting at the aforementioned existing manhole to SW 8th Avenue and approximately 1,600 lineal feet of 10" diameter sanitary sewer from SW 8th Avenue to SE 13th Avenue including removal, replacement and reconnection of all existing services. The work also includes restoring the pavement, curbs, sidewalks and site restoration of impacted areas south of SW 12th Avenue.

Preliminary Cost Estimate:

Item No.	Description	Quantity	Unit	Unit Price	Total
A. Sanitary Sewer & Site Restoration					
A.1	Mobilization, Bond & Insurance	All	LS	\$29,200	\$29,200
A.2	Traffic Protection & Direction of Traffic	All	LS	\$2,500	\$2,500
A.3	Erosion Control	All	LS	\$1,500	\$1,500
A.4	Site Restoration	All	LS	\$5,000	\$5,000
A.5	Trench Stabilization (if needed)	50	CY	60	3,000
A.6	Sawcut Asphalt/Concrete Surfaces (all depth)	2,000	LF	2	4,000
A.7	12" PVC Pipe w/ Crushed Rock Backfill	2,000	LF	110	220,000
A.8	10" PVC Pipe w/ Crushed Rock Backfill	1,600	LF	100	160,000
A.9	Reconnect Existing Laterals w/ 12"x6" Tee-Wye, 6" PVC Pipe, Fittings & 6" Cleanout, Installed Complete	20	Each	2,500	50,000
A.10	Reconnect Existing Laterals w/ 10"x6" Tee-Wye, 6" PVC Pipe, Fittings & 6" Cleanout, Installed Complete	20	Each	2,500	50,000

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 February 5, 2020
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A.11	Connect to Exist Manhole & Construct Channel	16	Each	2,000	32,000
A.12	Remove Existing Manhole & Dispose	2	Each	3,000	6,000
A.13	48" Diameter Standard Manhole	2	Each	5,500	11,000
A.14	Type "C" Concrete Curb	100	Each	50	5,000
A.15	4" Concrete Driveway Approach	120	SY	65	7,800
A.16	6" Concrete Driveway Approach	150	SY	80	12,000
A.17	½" Asphalt Concrete Trench Patching (5" Depth)	2,000	SF	7	14,000
A.18	Open Trench Rock Excavation	100	CY	150	15,000
				Construction Cost	\$628,000
				Contingency(5%)	\$32,000
				Engineering & Contingencies	\$75,500
				Total Construction Cost	\$735,500

Following is an estimate of all design phase engineering costs to be used as a budget guideline:

Design Phase Engineering Cost Estimate:

Research & Field Coordination	\$4,300
Layout & Design	23,700
Graphics, 9 sheets	14,500
Contract Documents & Specifications	<u>3,200</u>
Total Engineering Design Phase	\$45,700

Following is an estimate of all construction phase engineering costs to be used as a budget guideline:

Construction Phase Engineering Cost Estimate:

Construction Staking	10,000
Geotechnical/Field Testing	4,500
Contract Administration	4,700
Inspection, (total 6 weeks)	6,900
As-Built & Project Closeout	<u>3,700</u>
Total Engineering Construction Phase	\$29,800

Mr. Jerry Nelzen
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This work can be completed under the terms and conditions of the current executed mutual Engineering Services Contract with the City upon your authorization, or a separate contract can be drafted for your approval. The design engineering phase cost will be billed based on a lump sum and billed as percent complete while the construction engineering phase will be billed hourly based on the standard hourly rates schedule not to exceed the estimated cost amount.

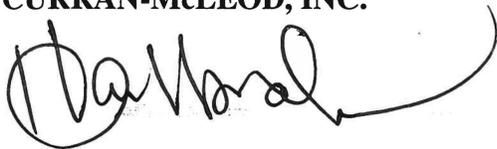
Excluded from our estimates are the costs of DEQ review and BOLI fee. Those expenses will be billed directly to the City and are estimated at approximately \$2,500 .

We are confident that the design phase on this project can be accomplished within 30 to 45 days from the date of authorization to proceed. As you requested, the construction work can proceed through the early fall or winter months in order to get more competitive prices.

If you have any questions or need anything additional or clarification , please call and we can meet with you and discuss at your convenience.

Very truly yours,

CURRAN-McLEOD, INC.

A handwritten signature in black ink, appearing to read "Hassan A. Ibrahim", with a large, sweeping flourish extending to the right.

Hassan A. Ibrahim, P.E.

STANDARD HOURLY RATES

Effective January 1, 2019

Senior Principal Engineer	\$ 138.00
Principal Engineer	128.00
Project Engineer/Manager	125.00
Design Engineer/Manager	90.00
Design Technician/Inspector	80.00
Graphics Technician	75.00
Word Processing	65.00
Sub-Consultants	At Cost

REIMBURSABLE EXPENSES

CURRAN-McLEOD, INC. does not routinely invoice any reimbursable expenses. Auto expense, meals, travel, lodging, communication, publishing, and miscellaneous operating costs are all included in our established hourly rates and project budgets.