



AGENDA

CANBY CITY COUNCIL MEETING

April 19, 2017

7:30 PM

Council Chambers

222 NE 2nd Avenue, 1st Floor

Mayor Brian Hodson

Council President Tim Dale

Councilor Tracie Heidt

Councilor Traci Hensley

Councilor Greg Parker

Councilor Tyler Smith

Councilor Sarah Spoon

WORK SESSION - 6:30 PM

Willow Creek Conference Room

222 NE 2nd Avenue, 1st Floor

The City Council will be meeting in a Work Session to review the Canby Park and Recreation Maintenance Funding Survey results. Pg. 1

CITY COUNCIL MEETING – 7:30 PM

1. CALL TO ORDER

- A. Invocation
- B. Pledge of Allegiance
- C. Window Safety Month Proclamation
- D. Clackamas Urban Lumber Report Presentation

Pg. 16

2. COMMUNICATIONS

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. You are first required to fill out a testimony/comment card prior to speaking and hand it to the City Recorder. These forms are available by the sign-in podium. Staff and the City Council will make every effort to respond to questions raised during citizens input before tonight's meeting ends or as quickly as possible thereafter. For Agenda items, please fill out a testimony/comment card and give to the City Recorder noting which item you wish to speak on.)

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 March 4, 2017 City Council Work Session
- B. Approval of Minutes of the April 5, 2017 City Council Work Session and Regular Meeting
- C. Reappointment to City Budget Committee Pg. 17
- D. Reappointment to Bike and Pedestrian Committee Pg. 19
- E. New Liquor License Application for Los Dos Amigos Fiesta Pg. 20

7. RESOLUTIONS & ORDINANCES

- A. Ord. 1459, Auth Contract w/Canby Excavating, Inc. for the Mulino and Willow Creek Pumping Station Improvements; and Declaring an Emergency Pg. 22
(2nd Reading)

8. NEW BUSINESS

9. CITY ADMINISTRATOR’S BUSINESS & STAFF REPORTS

10. CITIZEN INPUT

11. ACTION REVIEW

12. EXECUTIVE SESSION: ORS 192.660(2)(h) Litigation

13. ADJOURN

*The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Kim Scheafer 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.

Canby Parks and Recreation Advisory Board Park Maintenance Funding Recommendations

Funding Recommendation #1:

- ▶ Continue current percentage of General Fund allocation to parks
- ▶ Establish a \$5 a month park maintenance fee.
 - Include the fee on the monthly utility billing, as we do with the street maintenance fee.
 - This would generate approximately: \$280,560 per year, and would provide salaries and benefits for an additional 3 or 4 maintenance personnel, at our current salary levels for maintenance personnel.
 - The additional personnel would enable the City to maintain existing and planned parks at our current standards.
 - Annually adjust as per CPI (Consumer Price Index for Portland msa)

Alternative Recommendation:

- ▶ Continue current percentage of General Fund allocation to parks
- ▶ Prepare \$5 a month park maintenance fee measure for voter approval

Canby Parks and Recreation Advisory Board Park Maintenance Funding Recommendations

Oregon communities with established park maintenance fees:

- West Linn
- Gresham
- Medford
- Central Point
- Tigard
- Talent

All maintenance fees enacted by Council action, not voter approval.

Fees vary considerably from city to city, as do the percentage of general fund contributions for parks and recreation. All communities (except Talent, population 6,000, provide general fund monies for recreation as well as parks.)

Fees range from \$1 per customer (including residential, commercial, & industrial) to \$10 per customer per month. Most are included in utility billings.

Most fees are annually adjusted using a local Consumer Price Index (CPI)

Canby Parks and Recreation Advisory Board Park Maintenance Funding Recommendations

Alternative Funding Options Considered:

⦿ Local option levy (voter approval required)

- \$.20 per \$1000 assessed value would yield approximately \$280,992 per year and would provide 3-4 additional maintenance personnel at our current salary levels.
- The additional personnel would enable the City to provide and maintain existing and planned parks at our current standards.

The Park and Recreation Advisory Board considers this option a less stable form of funding and believes citizens do not look favorably upon new taxes/levies at this point in time.

Canby Parks and Recreation Advisory Board Park Maintenance Funding Recommendations

Alternative Funding Options Considered(cont):

- ⊙ Establish a special park district specifically for Canby.
 - This district could potentially include all land within our Urban Growth Boundary (UGB) and possibly also include undesignated rural reserve lands adjacent to our UGB.
 - This would require voter approval and would be a property tax.

The Park and Recreation Advisory Board considers this option most suitable for a long term goal, which will require sustained focus and extensive marketing to achieve.

The Issue:

Inadequate sources of funds to maintain existing and planned Canby parks at our current level of maintenance.

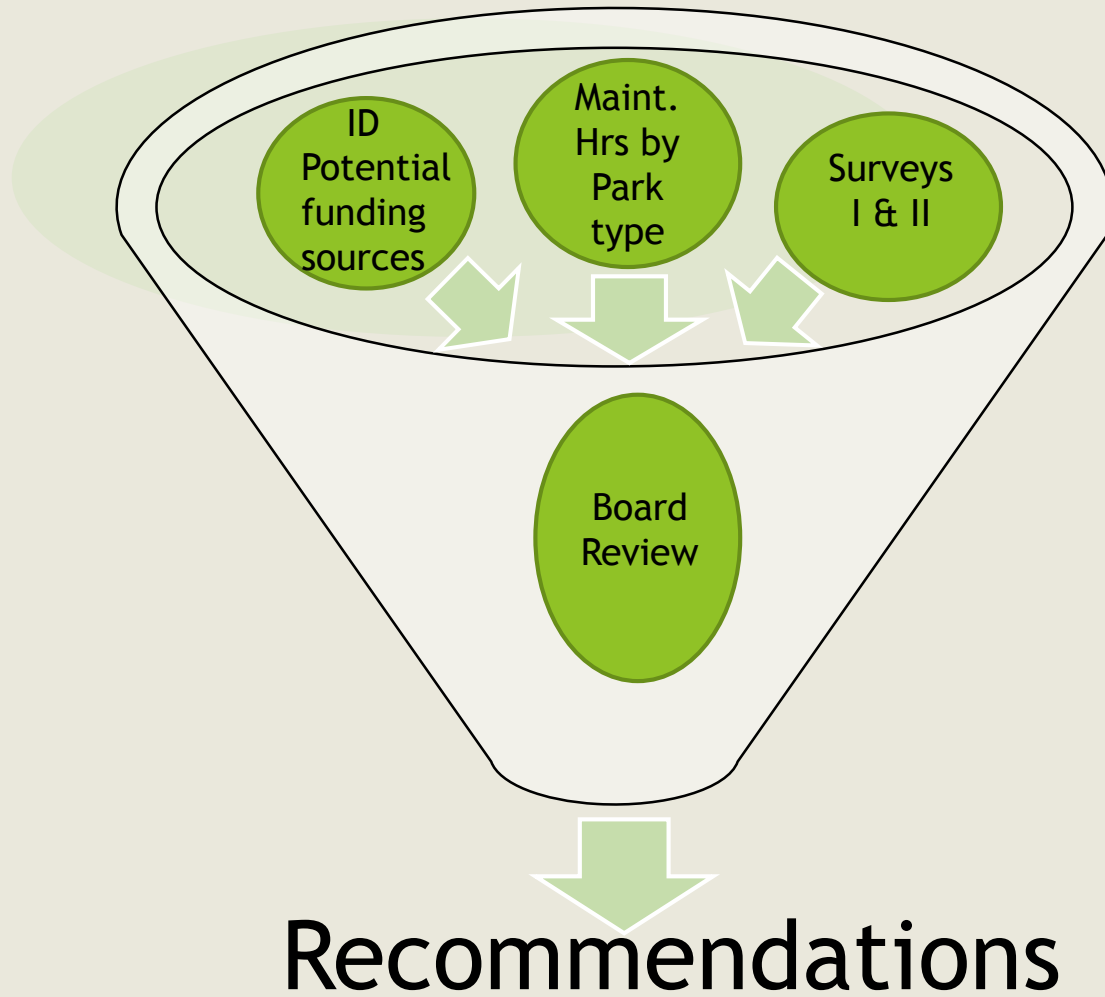
- ➔ Canby's general fund is unlikely to have additional funds available for park maintenance for several years due to existing obligations and constraints.
- ➔ Canby's current staffing for park maintenance is inadequate to provide for our current level of maintenance for existing and planned parks.
- ➔ Volunteers are not a sustainable solution for daily maintenance.
- ➔ Canby's System Development Charges cannot legally be used for park maintenance.
- ➔ Canby Area Park and Recreation District is unfunded and not likely to have future funding.

The Challenge:

Identify additional funding source(s) for park maintenance to supplement the general fund

- Review park maintenance funding options available to Canby
- Review what options are successful in other comparable communities
- Review current level of park maintenance & determine future maintenance requirements for developed and undeveloped parks
- Determine if residents value park maintenance & if they are satisfied with current level of maintenance.
- Assess community level of support for each identified potential additional funding source.
- Make funding recommendation (s) to Canby City Council.

Advisory Board Process:



Maintenance Hours:

Number of employee hours per acre per month required to maintain current level of maintenance for developed parks like Legacy Park, and less developed parks and natural areas like the Willamette Wayside properties.

Employee Hrs:

Developed Parks: Average of approximately 9 hours per acre per month

Less developed parks & natural areas:

Average of approximately 0.7 hours per acre per month

Current acres of **developed parks**: 35

Maintenance hrs. required per month: 314

Maintenance hrs. required per year: 3,772

Current acres of **less developed parks & natural areas** : 120

Maintenance hrs. required per month: 83

Maintenance hrs. required per year: 996

* Current maintenance employees spend, on average, 1,379 hours annually on **non-park** ground maintenance.

Deferred Maintenance:

At our current staffing level certain annual maintenance operations cannot be completed for several of our park assets.

Park staff has estimated the number of maintenance hours that are being deferred annually. The annual estimates, however, do not include hours required to bring assets back to a fully maintained state.

Deferred maintenance includes a broad range of activities such as power washing, painting, mulching, tree trimming, turf maintenance, asset repairs, trail maintenance, and general cleaning.

Deferring maintenance has long term consequences for park assets, and can result in more expensive repairs needed in the long run.

*Deferred Annual Maintenance Hours: **2869***

Annual Maintenance Hours Summary

Current park maintenance hours: 4768

Deferred park maintenance hours: 2869

Total park maintenance/deferred maintenance hours needs: 7637

Planned parks needing additional maintenance staff in order to develop:

Simnitt: 2.4 acres

Faist: .3 acres

Dog park: 2.5 acres

Timber Park: 1.4 acres

Annual maintenance hour needs for planned pending parks: 713

Total (all park maint-current-deferred-pending) **8350 hours**

Most Viable Funding Sources for the City of Canby*

- Special Park District (ie Tualatin Hills)
 - Park maintenance fee (i.e. street maintenance fee)
 - Local option levy (i.e. Canby Swim Center)
- * Volunteers are most effective when employed for special events, not daily maintenance. Agencies who have the most effective volunteer programs have a volunteer coordinator on staff.
- * Canby has few facilities to charge fees for use, and we have no personnel to administer that option.

Selected Results From Both Surveys

- Approximately 91% of both mailed and online responses indicated that the current level of park maintenance was good to excellent.
- Approximately 95% of both mailed and online respondents indicated that they thought it is important to keep our parks well maintained.
- Approximately 62% of mailed responses and 78% of on line responses indicated support for additional funds for park maintenance.
- 67% of mailed responses & 85% online responses supported a Local Option Levy. \$0.15/1000 was the first choice and \$0.20 was a close second.
- 52% of mailed responses and 67% of online responses supported a monthly maintenance fee. \$5 a month was the clear choice.

** Although there was support for a special park district, the Board decided a district would be a more appropriate strategy for a long term solution.*

Supplementary Information

- Canby currently has 4.5 FTE (Full Time Employees) dedicated to city parks and ground maintenance. The 2016 national **average** for communities with less than 20,000 people is **9.3 FTE per 10,000 people**.
- If Canby met the national average, we would currently have **13 FTE**. If we met our own adopted park standards and maintained them at our current maintenance level Canby would still be far below the national average for communities of our size.
- Canby adopted park acres per 1000 people standard: 10
- Estimated additional acres of developed park land per year needed to meet this standard based on 20 yr. population growth estimates: 10
- Canby currently budgets \$60,000-\$75,000 per each maintenance employee (including benefits).

Supplementary Information (cont.)

Estimates for park maintenance fee:

\$ 3 month= \$168,336 or 2.2-2.8 employees

\$4 month = \$224,448 or 3-3.7 employees

\$5 month= \$280, 560 or 3.7-4.7 employees

\$6 month=\$336,672 or 4.5-5.6 employees

There are approximately 4,676 utility billing customers

Estimates for local option levy:

\$0.10/1000 = \$140,461

\$0.15/1000 = \$210,692

\$0.20/1000 = \$280,992

\$0.25/1000 = \$351,153

Estimated assessed values for 2017/2018: \$1,404,614 (per 1000)

Supplementary Information (cont.)

Annual maintenance hours summary:

Employees assigned to park and grounds maintenance: 4.5 FTE

Annual park and grounds maintenance employee hours : 9360

Current maintenance hours for non park assets: 1379

Deferred non park maintenance hours: 992

Total current and deferred non park maintenance hours: 2371

1010 hours park maintenance deficit; the additional hours needed to meet current, deferred and pending park maintenance.

Notes:

Parks staff have not yet calculated cost estimates for hours needed to bring assets up to standard.

We have only 8 months of park maintenance data, so the data we do have does not include our busiest maintenance months.



Office of the Mayor

Proclamation

Window Safety Month

WHEREAS, every year around the nation, 4,000 children under 10 years of age fall from residential windows, resulting in broken bones, brain injuries and sometimes death. In Oregon the number is 50 children per year; and

WHEREAS, window fall prevention campaigns have demonstrated 66% and 83% reductions in the numbers of children falling from windows in the cities of Boston and Chicago; and

WHEREAS, the month of April has been designed as National Window Safety month with the goal of heightening year around awareness of what parent and caregivers should do to help keep their homes and families safe from the risk of window falls or injuries in the home; and

WHEREAS, together with the citizens of neighboring cities, Safe Kids Oregon, the Children's Hospital at Legacy Emanuel and community partners have together researched, developed and launched a similar statewide window fall prevention campaign, "STOP at 4: The Campaign to STOP Window Falls"; and

WHEREAS, the City of Canby supports the "STOP at 4" program.

NOW THEREFORE, I, Brian Hodson, by virtue of the authority vested in me as Mayor of the City of Canby, do hereby proclaim the month of April as:

WINDOW SAFETY MONTH

in the City of Canby and do urge all those in the Canby area to support and promote this observance.

Given unto my hand this 19th day of April 2017 in the City of Canby, Oregon.



Brian Hodson
Mayor

CITY OF CANBY
APPLICATION
BOARD/COMMITTEES/COMMISSIONS/COUNCIL

Date: 4/5/2017
Name: Jason Padden Occupation: Sales
Home Address: Canby, OR 97013
Employer: Sun Gro Horticulture Position: District Sales Manager
Daytime Phone: _____ Evening Phone: _____
E-Mail Address: _____
For which position are you applying? City Budget Committee

What are your community interests (committees, organizations, special activities)?
Please see attached

Experience and educational background: Please see attached

Reason for your interest in this position: Continue in my role as a member of the committee. Take an active role in making the City of Canby a better place for all.

List any other City or County positions on which you serve or have served: Please see attached

Information on any special membership requirements: N/A

Referred by (if applicable): N/A

Feel free to attach a copy of your resume and use additional sheets if necessary

RECEIVED
APR 15 2017

THANK YOU FOR YOUR WILLINGNESS TO SERVE CANBY

Please return to: City of Canby - Attn: City Recorder
PO Box 930
222 NE 2nd Avenue
Canby, OR 97013

Phone: 503.266.0733 Fax: 503.266.7961 Email: scheaferk@canbyoregon.gov

Note: Please be advised that this information may be made available to anyone upon a public records request and may be viewable on the City's web site. 10-1-16

City of Canby - City Recorder

Jason Padden

Contact Information

Address:

Canby, OR 97013

Phone:

Email:

Education

State University of New York

- Cobleskill, NY
- Bachelor of Technology, Plant Science, Nursery Management Concentration
- December 2004

State University of New York

- Cobleskill, NY
- Associate in Applied Science, Plant Science, Landscape Development Concentration
- December 2002

Community

Outreach/Volunteerism

- Lions Club: Member of both Canby and Oregon City clubs
- Canby United Methodist Church: Past member of Elections Committee, current member of Board of Trustees
- Society for Creative Anachronism: Member
- City of Canby: Past member of Urban Renewal Board, Street Maintenance Task Force, Library Board, and Bike and Pedestrian Committee

Leadership Roles

- NFHS Volleyball Official: Certified Official, 2007-Present
- City of Canby Budget Committee: Citizen Member, 2013-Present
- Lions Club: Project Coordinator, have served as President and Vice President, 2007-Present
- Canby City Council: Elected Council Member, 2009-2011
- Oregon Association of Nursery's: Served as President, Vice President, Treasurer, and State Board Representative, 2007-2011

Awards

- Lions Vision and Fellowship 2010
- Sun Gro Sales Excellence 2011
- Lion of the Year (Canby Club) 2016

Career Summary: District Sales Manager with over 17 years of more than just sales experience. Project management, event planning, and team building are just a few of my diverse skill sets. I have a passion for learning and expanding my experiences to add new tools to an already large tool chest. Tools I then use to help strengthen and bolster any organization I am a member of.

Work Experience:

Sun Gro Horticulture, Agawam, MA

District Sales Manager-Oregon, California N, Hawaii, September 2009-Present

- Manage a sales territory totaling \$8 million annually.
- Maintain existing accounts by visiting customer sites, answering questions, and help diagnose and solve challenges as they arise.
- Add new business to territory by researching new accounts, building relationships with key managers and staff, set and monitor plant growth trials, and negotiate pricing and contacts.
- Build sales budgets, forecasts, and reports on territory performance.
- Manage an expense account.
- Coordinate customer events and corporate booth for multiple trade shows.
- Work on special projects and help train coworkers on new programs and procedures.

Terra Nova Nurseries Inc., Canby, OR

Shipping Department Manager, September 2005-September 2009

- Managed 2 full time and 10 part-time employees.
- Oversaw the processing of all domestic and international shipments.
- Negotiated contracts with carriers.
- Worked with USDA and ODA on order inspections.
- Ordered shipping supplies and maintained plant tag inventory.
- Grew and maintain garden writer and trade show plant material.
- Helped developed a live inventory and order system.

Terra Nova Nurseries Inc., Canby, OR

Customer Service/Sales Rep, February 2005-September 2005

- Placed orders and contacted customers regarding existing orders.
- Answered customer questions. Coordinated tradeshow and worked booth.

Brandywine Nursery Inc., Mount Vernon, WA

Internship/Nursery Manager, August 2004-February 2005

- During internship I was promoted to Nursery Manager.
- Managed crews and set daily work schedules.
- Helped with sales, delivered local order and coordinated long hall trucking.
- Managed time cards, pesticide records, and developed bilingual paperwork for digging and loading crews.

Related Experience:

- Excellent public speaking abilities
- Planned and manages numerous conferences and large events
- Trained in conflict resolution
- Trained in the facilitation of team building and communication workshops and activities
- Proficient in Microsoft Word, Excel, and PowerPoint

**CITY OF CANBY
APPLICATION
BOARD/COMMITTEES/COMMISSIONS/COUNCIL**

Date: 4/8/2017
Name: Mindy Montecucco Occupation: Dental Hygienist
Home Address: Canby, OR 97013
Employer: _____ Position: Dental Hygienist
Daytime Phone: _____ Evening Phone: _____
E-Mail Address: _____

For which position are you applying? Bike/Ped Committee

What are your community interests (committees, organizations, special activities)?
Avid Cyclist, 2013 Clackamas County Active Transportation Planning Citizen Advisory
Committee, Canby Bike/Ped Committee since 2012, Oregon City Trail Alliance, vice President
2013-2016

Experience and educational background: _____
B.A.OHSU, OSU, Canby High, 20 cycling, Cycle Oregon, Montana Bicycle Ride

Reason for your interest in this position: _____
I want to continue the work of the committee in improving safe walking and
cycling opportunities for the citizens of Canby and to help with the Bike Hub
and Logging Road projects

List any other City or County positions on which you serve or have served: _____
See above

Information on any special membership requirements: _____

Referred by (if applicable): _____

Feel free to attach a copy of your resume and use additional sheets if necessary


THANK YOU FOR YOUR WILLINGNESS TO SERVE CANBY
*Please return to: City of Canby - Attn: City Recorder
PO Box 930
222 NE 2nd Avenue
Canby, OR 97013*

Phone: 503.266.0733 Fax: 503.266.7961 Email: scheaferk@canbyoregon.gov

*Note: Please be advised that this information may be made available to anyone upon a public records
request and may be viewable on the City's web site. 10-1-16*

RECEIVED
APR 10 2017

Memo

To: Mayor Hodson & Members of City Council
From: Bret J. Smith, Chief of Police 
CC: Kim Scheafer, City Recorder
Date: March 31, 2017
Re: Liquor License Application / Los Dos Amigos Fiesta

I have reviewed the attached liquor license application completed by the applicant, Maria Anaya, for the business, "Los Dos Amigos Fiesta", located at 102 N. Ivy Street, Canby, Oregon.

On March 31, 2017, I spoke with applicant, Ms. Anaya and we discussed the laws involving the sale of alcoholic beverages. She told me she and the restaurant staff has received training on the Oregon liquor laws and everyone has prior experience in the liquor industry.

Ms. Anaya said she will ensure the employees follow the liquor laws and she understands the consequences for failure to comply with the rules as set forth by Oregon State law.

It is my recommendation that the Canby City Council approve this application to the Oregon Liquor Control Commission (OLCC).



OREGON LIQUOR CONTROL COMMISSION
LIQUOR LICENSE APPLICATION

Pd #100 CK # 2942 **KH**

Application is being made for:

LICENSE TYPES

- Full On-Premises Sales (\$402.60/yr)
- Commercial Establishment
 - Caterer
 - Passenger Carrier
 - Other Public Location
 - Private Club
- Limited On-Premises Sales (\$202.60/yr)
- Off-Premises Sales (\$100/yr)
 - with Fuel Pumps
- Brewery Public House (\$252.60)
- Winery (\$250/yr)
- Other: _____

ACTIONS

- Change Ownership
- New Outlet
- Greater Privilege
- Additional Privilege
- Other _____

90-DAY AUTHORITY

Check here if you are applying for a change of ownership at a business that has a current liquor license, or if you are applying for an Off-Premises Sales license and are requesting a 90-Day Temporary Authority

APPLYING AS:

- Limited Partnership
- Corporation
- Limited Liability Company
- Individuals

CITY AND COUNTY USE ONLY

Date application received: 3.30.17

The City Council or County Commission:

City of Canby
(name of city or county)

recommends that this license be:

- Granted
- Denied

By: _____
(signature) (date)

Name: _____

Title: _____

OLCC USE ONLY

Application Rec'd by: [Signature]

Date: 3-7-17

90-day authority: Yes No

1. Entity or Individuals applying for the license: [See SECTION 1 of the Guide]

- ① Maria S. Anaya ANAYA ③ Restaurants INC
- ② Gustavo Anaya ④ _____

2. Trade Name (dba): Los Dos Amigos Fiesta

3. Business Location: 102 W Ivy St. Canby Clatsop OR 97013
(number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: Same
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: 1-503-266-1441
(phone) (fax)

6. Is the business at this location currently licensed by OLCC? Yes No

7. If yes to whom: _____ Type of License: _____

8. Former Business Name: Sugar plum resturant and bakery

9. Will you have a manager? Yes No Name: Maria S. Anaya
(manager must fill out an Individual History form)

10. What is the local governing body where your business is located? Canby
(name of city or county)

11. Contact person for this application: Maria S. Anaya
(name) (phone number(s))
(address) (fax number) (e-mail address)

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:
① [Signature] Date 1-29-17 ③
② GUSTAVO ANAYA Date 1-29-17 ④

RECEIVED
Date FEB 23 2017

ORDINANCE NO. 1459

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH CANBY EXCAVATING, INC. FOR THE MULINO AND WILLOW CREEK PUMPING STATION IMPROVEMENTS; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Canby has heretofore advertised and received bids for the 2017 Sanitary Sewer Pumping Station Improvements; and

WHEREAS, the notice of call for bids was duly and regularly published in the Oregon Daily Journal of Commerce on March 3, 2017; and

WHEREAS, bids were received and opened on March 23, 2017 at 2:00 PM in the City Hall Conference Room and the following six bids were read aloud:

	<i>Bidder</i>	<i>Sch. A Mulino PS</i>	<i>Sch. B Willow Cr PS</i>	<i>Total Bid</i>
1	Canby Excavating	\$ 806,715.00	\$ 317,760.00	\$1,124,475.00
2	McClure & Sons, Inc.	829,227.00	409,231.00	1,238,458.00
3	Stettler Supply Company.	886,672.00	401,111.00	1,287,783.00
4	J.W. Fowler Co.	877,738.00	415,608.00	1,293,346.00
5	R.L. Reimers Co.	915,720.00	381,715.00	1,297,435.00
6	Emery & Sons	1,099,098.00	357,880.00	1,456,978.00

WHEREAS, the Canby City Council, acting as the City’s Contract Review Board, met on Wednesday, April 5, 2017, and considered the bids and reports and recommendations of the City staff, including the staff recommendation that the low responsive bid be selected; and

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

WHEREAS, the Canby City Council on November 16, 2016 approved Resolution 1251 creating an Advance Financing District to reimburse the Sewer Reserve Fund a portion of the cost of this project for construction of the gravity sewer line on SE 13th Avenue; now therefore

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. The Mayor and City Administrator are hereby authorized and directed to make, execute, and declare in the name of the City of Canby and on its behalf, an appropriate contract with Canby Excavating Inc. for the 2017 Sanitary Sewer Pumping Station Improvements, for the bid amount of \$1,124,475. A copy of a contract with Canby Excavating, Inc. is attached hereto and marked as Exhibit “A” and by this reference incorporated herein.

2nd Reading

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.

Section 3. Due to the need to provide prompt and continuous sanitary sewer collection to support growth and maintain the peace, health and safety of the community, an emergency is hereby declared to exist, and this ordinance shall be effective upon its passage by the Council.

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, April 5, 2017 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, April 19, 2017 commencing at the hour of 7:30 PM in the Council Meeting Chambers located at 222 NE 2nd Avenue, 1st Floor, 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 19th day of April 2017, by the following vote:

YEAS _____ NAYS _____

Brian Hodson
Mayor

ATTEST:

Kimberly Scheafer, MMC
City Recorder

CONTRACT FOR CONSTRUCTION

THIS AGREEMENT is dated as of the ___ day of _____ in the year 2017, by and between the:

CITY OF CANBY
(Hereinafter called OWNER) and

CANBY EXCAVATING, INC
(Hereinafter called CONTRACTOR)

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

ARTICLE 1 - WORK

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

CITY OF CANBY
Sanitary Sewer Pumping Station Improvements:
Sch. A: MULINO PUMP STATION
Sch. B: WILLOW CREEK PUMP STATION

The scope of work consists of construction of two pumping stations and associated controls, piping and site improvements:

Schedule A: The Mulino Road Pump Station work includes construction of approximately 1,400 lineal feet of 8" gravity sewer line, including 100 feet of a 14" casing bored under an existing railroad, a 350 gpm duplex submersible pumping station with a 10 foot diameter by 20 foot deep fiberglass wet well, CMU control building with engine generator, and approximately 2,400 lineal feet of 6" force main and utility services in a common trench.

Schedule B: The Willow Creek Pump Station includes a 350 gpm duplex submersible pumping station with a 10 foot diameter by 20 foot deep fiberglass wetwell, auxiliary generator with environmental enclosure, controls and approximately 670 lineal feet of 6" HDPE force main installed by pipe bursting an existing 4" PVC force main.

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 successful bidder agrees to be substantially complete with all work on:

**Schedule A: Mulino Pump Station within 150 days of the Notice to Proceed; and
Schedule B: Willow Creek Pump Station within 180 days of the Notice to Proceed,**

and to achieve final completion of both schedules A and B within 30 calendar days after issuance of the Notice of Substantial Completion on each phase.

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 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

One Million, One Hundred Twenty Four Thousand, Four Hundred Seventy Five Dollars

(\$1,124,475.00) as shown in the 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
Sanitary Sewer Pumping Station Improvements:
Sch. A: MULINO PUMP STATION
Sch. B: WILLOW CREEK PUMP STATION

8.9 Addenda number(s) .

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 Ave
P.O. Box 930
Canby, OR 97013**

CONTRACTOR:

**CANBY EXCAVATING, INC
P.O. Box 848
Canby, OR 97013**

Signed: _____

Signed: _____

Name: _____

Name: _____

Title: _____

Title: _____

Attest: _____