

# Council Business Meeting

January 16, 2018

**Title:** Approval of Personal Services Contract for the preliminary engineering of the Ashland Canal Piping project (2015-17)  
**From:** Paula C. Brown, PE Public Works Director  
[paula.brown@ashland.or.us](mailto:paula.brown@ashland.or.us)

## **Summary:**

Before the Council is a contract for professional engineering services. The contract is with Adkins Consulting Engineering, LLP for preliminary engineering of the Ashland Canal Piping project per the 2012 Water Master Plan. This project was released through an open request for qualifications (RFQ) based proposals. Adkins Consulting Engineering was selected as the best qualified among three proposers. Since selection, staff negotiated the scope of work and associated preliminary engineering costs with Adkins. Due to the scale of this project, staff has elected to complete only Phase 1A defined in the RFQ at this time. Additional phases of engineering services will be negotiated separately after the completion of Phase 1A and brought before Council for approval. The goal of this project is to replace the open-channel irrigation canal with below ground pipe(s) in order to improve the water quality in Ashland Creek and to assist with our goal for overall water conservation.

## **Actions, Options, or Potential Motions:**

Council has the option to approve this contract or refer back to staff for a new request for proposals. Potential motions include:

1. Move approval of a contract for professional engineering services for the preliminary engineering of the Ashland Canal Piping project with Adkins Consulting Engineering LLP.
2. Direct staff to reconsider a new solicitation for the preliminary engineering of the Ashland Canal Piping project

## **Staff Recommendation:**

Staff recommends Council move to approve the contract for professional engineering services for the preliminary engineering phase 1A of the Ashland Canal Piping project with Adkins Consulting Engineering LLP in the amount of \$192,257 and authorize the appropriate signatures on the contracts.

## **Resource Requirements:**

The 2017-19 Biennium Capital improvement Project (CIP) budget includes System Development Charges (SDC) funds for contracted services in the amount of \$1,452,000 for this project. This project is 100% SDC eligible.

Expenses for this project will be reimbursed through a low interest (1%) Department of Environmental Quality (DEQ) Clean Water State Revolving Fund loan of \$1.3 million authorized by Council at the August 1, 2017 business meeting.

## **Policies, Plans and Goals Supported:**

### *City Council Goals:*

- 29 *Promote conservation as a long-term strategy to protect the environment and public utility needs.*
- 30 *Deliver timely life-cycle capital improvements.*
- 31 *Maintain existing infrastructure and plan for future improvements to meet regulatory requirements and minimum life-cycle costs.*
- 32 *Implement recommendations of adopted master and capital plans.*
- 22 *Prepare for the impact of climate change on the community.*

## **Background and Additional Information:**

At the August 1, 2017 Business Meeting Council authorized a DEQ Clean Water State Revolving Fund loan of \$1.3 million to complete the Ashland Canal Piping project. Staff advertised the request for qualifications based proposals on August 30, 2017. Three proposals were received on October 3, 2017. Consultant interviews were held with Adkins Consulting Engineering and RH2 Engineering on November 9, 2017. Staff sent notice of intent to award a professional services contract, conditioned on Council approval to Adkins on November 15, 2017. Staff has met with Adkins numerous times to develop and finalize the project scope of work and cost. Adkins subsequently submitted a final scope and fee proposal on January 4, 2018 that was accepted by staff. Due to the complexity of this project, Staff also intends to enter into a personnel services contract with a Public Relations Firm to assist Staff with strategic communications and public outreach.

The remaining phases of this project to be negotiated separately after successful completion of Phase 1A include: Phase 1B Easements and Permitting, Phase 2 Final Engineering/Bidding Services and Phase 3 Construction Services. Current estimates to complete the remaining engineering services total \$470,000.00. Current estimates of construction costs range from \$1.3 to \$1.8 million.

## **2012 City of Ashland Comprehensive Water Master Plan**

The Ashland Canal is a regular source of seasonal irrigation water around the City. The Canal has also been infrequently used as a raw water source for the Water Treatment Plant (WTP). It was most recently used in 2015 due to dropping water levels in Reeder Reservoir. Prior to its use in 2009, the City hired Carollo Engineers to perform a series of tests on the raw water quality. The results of this testing revealed that the Talent Irrigation District (TID) source was acceptable for use as a raw water supply to the WTP at that time. It was also confirmed that the City could continue to use TID as an intermittent raw water source to help resolve seasonal supply deficiencies and meet future supply demands. The City's 2012 Comprehensive Water Master Plan identifies the need to pipe the Canal as soon as practical.

## **Ashland Canal**

The portion of the Ashland Canal downstream of the Starlite Monitoring Station and terminating at Wright's Creek is owned and operated by the City of Ashland. The City of Ashland further divides the Canal into two sections: 1) The front section between the Starlite Monitoring Station and Terrace Street Pump Station, and 2) The back section from the Terrace Street Pump Station

to the terminus on Wright's Creeks. For the purposes of this project, the City is only piping the front section of the Canal (approximately 10,000 lineal feet) between the Starlite Monitoring Station and Terrace Street Pump Station.

The City has a contract with the Talent Irrigation District for approximately 1,369 acre feet of water annually. The front section of the Ashland Canal begins at the Starlite Monitoring Station and terminates in the wet well of the Terrace Street Pump Station. From there the City can; 1) Choose to pump to the Water Treatment Plant for potable water treatment, 2) Gravity feed into a siphon that conveys the water across the Ashland Creek drainage to the back section of the Canal, or 3) Gravity overflow through a pipe into Ashland Creek at Lithia Park. The siphon outfall is above Lantern Hill Drive. The back section of the canal terminates into Wright's Creek near Grandview Drive. In drought years the Ashland Canal water that is pumped from the Ashland Canal by the City's Terrace Street Pump Station up to the Water Treatment Plant, is treated to drinking water standards.

Raw water in an open Canal is vulnerable to contamination from a variety of sources. These contaminants increase treatment costs at the Water Treatment Plant and reduce the water quality of Ashland Creek. Additionally, open canals are susceptible to water losses through seepage and evaporation. Like many other local waterways, Ashland Creek routinely exceeds the State's maximums for E. coli bacteria in the summer months. The City routinely samples Ashland Creek for bacteria and posts public health notices along the Creek when Oregon Health Authority standards are exceeded. The Ashland Creek E. Coli Bacteria Study (2011 Rogue Riverkeeper) shows that the Ashland Canal is a major contributor of E. coli into Ashland Creek. The Study also shows that E. coli concentrations increase gradually from Tolman Creek Road to the Canal outfall into Ashland Creek. It is suggested that pet and/or animal waste adjacent to the Canal may be contributing the higher than normal levels of bacteria in the Canal which is then conveyed to Ashland Creek.

**Next Steps:**

If approved, staff will execute the contract and initiate kick off meetings. Staff will host a page on our website for project updates, schedule open meetings and begin dispersing information to various media sources. It is anticipated that this phase of the Canal Piping project will be complete within 12 months.

**Attachments:**

- Personal Services Contract between the City and Adkins Consulting Engineering, LLP

**Reference:**

- Request for Qualifications Based Proposals – Ashland Canal Piping Project (available upon request)

## Contract for Personal Services

<p><b>CITY OF ASHLAND</b> 20 East Main Street Ashland, Oregon 97520 Telephone: 541/488-6002 Fax: 541/488-5311</p>	<p>CONSULTANT: Adkins Consulting Engineering, LLP</p> <p>CONTACT: Dan Scalas</p> <p>ADDRESS: 1435 Esplanade Ave Klamath Falls, OR 97601</p> <p>TELEPHONE: 541-884-4666</p>
DATE AGREEMENT PREPARED: January 4, 2018	EMAIL: dscalas@adkinsengineering.com
BEGINNING DATE: January 24, 2018	COMPLETION DATE: December 31, 2018
COMPENSATION: \$192,257.00	
SERVICES TO BE PROVIDED: Phase 1A Preliminary Engineering necessary for the Ashland Canal Piping project #2015-17 per the attached Exhibit C.	
<p><b>ADDITIONAL TERMS:</b> In the event of conflicts or discrepancies among the contract documents, the City of Ashland Contract for Personal Services will be primary and take precedence, and any exhibits or ancillary contracts or agreements having redundant or contrary provisions will be subordinate to and interpreted in a manner that will not conflict with the said primary City of Ashland Contract. <b>Completion of this contract does not guarantee the award of subsequent phases to same Consultant. This project is funded by an Oregon DEQ Clean Water State Revolving Fund loan, any requirements of the CWSRF loan must be met by Consultant.</b></p>	
<p><b>FINDINGS:</b> Pursuant to AMC 2.50.120, after reasonable inquiry and evaluation, the undersigned Department Head finds and determines that: (1) the services to be acquired are personal services; (2) the City does not have adequate personnel nor resources to perform the services; (3) the statement of work represents the department's plan for utilization of such personal services; (4) the undersigned consultant has specialized experience, education, training and capability sufficient to perform the quality, quantity and type of work requested in the scope of work within the time and financial constraints provided; (5) the consultant's proposal will best serve the needs of the City; and (6) the compensation negotiated herein is fair and reasonable.</p> <p>NOW THEREFORE, in consideration of the mutual covenants contained herein the CITY AND CONSULTANT AGREE as follows:</p>	
<ol style="list-style-type: none"> <li>1. <b>Findings / Recitations.</b> The findings and recitations set forth above are true and correct and are incorporated herein by this reference.</li> <li>2. <b>All Costs by Consultant:</b> Consultant shall, at its own risk and expense, perform the personal services described above and, unless otherwise specified, furnish all labor, equipment and materials required for the proper performance of such service.</li> <li>3. <b>Qualified Work:</b> Consultant has represented, and by entering into this contract now represents, that all personnel assigned to the work required under this contract are fully qualified to perform the service to which they will be assigned in a skilled and worker-like manner and, if required to be registered, licensed or bonded by the State of Oregon, are so registered, licensed and bonded.</li> <li>4. <b>Completion Date:</b> Consultant shall start performing the service under this contract by the beginning date indicated above and complete the service by the completion date indicated above.</li> <li>5. <b>Compensation:</b> City shall pay Consultant for service performed, including costs and expenses, the sum specified above. Payments shall be made within 30 days of the date of the invoice. Should the contract be prematurely terminated, payments will be made for work completed and accepted to date of termination.</li> <li>6. <b>Ownership of Documents:</b> All documents prepared by Consultant pursuant to this contract shall be the property of City.</li> <li>7. <b>Statutory Requirements:</b> ORS 279C.505, 279C.515, 279C.520 and 279C.530 are made part of this contract.</li> <li>8. <b>Living Wage Requirements:</b> If the amount of this contract is \$20,688.86 or more, Consultant is required to comply with chapter 3.12 of the Ashland Municipal Code by paying a living wage, as defined in this chapter, to all employees performing work under this contract and to any Subcontractor who performs 50% or more of the service work under this contract. Consultant is also required to post the notice attached hereto as Exhibit B predominantly in areas where it will be seen by all employees.</li> <li>9. <b>Indemnification:</b> Consultant agrees to defend, indemnify and save City, its officers, employees and agents harmless from any and all losses, claims, actions, costs, expenses, judgments, subrogations, or other damages resulting from injury to any person (including injury resulting in death), or damage (including loss or destruction) to property, of whatsoever nature arising out of or incident to the performance of this contract by Consultant (including but not limited to, Consultant's employees, agents, and others designated by Consultant to perform work or services</li> </ol>	

attendant to this contract). Consultant shall not be held responsible for any losses, expenses, claims, subrogations, actions, costs, judgments, or other damages, directly, solely, and proximately caused by the negligence of City.

**10. Termination:**

- a. Mutual Consent. This contract may be terminated at any time by mutual consent of both parties.
- b. City's Convenience. This contract may be terminated at any time by City upon 30 days' notice in writing and delivered by certified mail or in person.
- c. For Cause. City may terminate or modify this contract, in whole or in part, effective upon delivery of written notice to Consultant, or at such later date as may be established by City under any of the following conditions:
  - i. If City funding from federal, state, county or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services;
  - ii. If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract; or
  - iii. If any license or certificate required by law or regulation to be held by Consultant to provide the services required by this contract is for any reason denied, revoked, suspended, or not renewed.
- d. For Default or Breach.
  - i. Either City or Consultant may terminate this contract in the event of a breach of the contract by the other. Prior to such termination the party seeking termination shall give to the other party written notice of the breach and intent to terminate. If the party committing the breach has not entirely cured the breach within 15 days of the date of the notice, or within such other period as the party giving the notice may authorize or require, then the contract may be terminated at any time thereafter by a written notice of termination by the party giving notice.
  - ii. Time is of the essence for Consultant's performance of each and every obligation and duty under this contract. City by written notice to Consultant of default or breach may at any time terminate the whole or any part of this contract if Consultant fails to provide services called for by this contract within the time specified herein or in any extension thereof.
  - iii. The rights and remedies of City provided in this subsection (d) are not exclusive and are in addition to any other rights and remedies provided by law or under this contract.
- e. Obligation/Liability of Parties. Termination or modification of this contract pursuant to subsections a, b, or c above shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination or modification. However, upon receiving a notice of termination (regardless whether such notice is given pursuant to subsections a, b, c or d of this section, Consultant shall immediately cease all activities under this contract, unless expressly directed otherwise by City in the notice of termination. Further, upon termination, Consultant shall deliver to City all contract documents, information, works-in-progress and other property that are or would be deliverables had the contract been completed. City shall pay Consultant for work performed prior to the termination date if such work was performed in accordance with the Contract.

**11. Independent Contractor Status:** Consultant is an independent contractor and not an employee of the City.

Consultant shall have the complete responsibility for the performance of this contract. Consultant shall provide workers' compensation coverage as required in ORS Ch 656 for all persons employed to perform work pursuant to this contract. Consultant is a subject employer that will comply with ORS 656.017.

**12. Assignment and Subcontracts:** Consultant shall not assign this contract or subcontract any portion of the work without the written consent of City. Any attempted assignment or subcontract without written consent of City shall be void. Consultant shall be fully responsible for the acts or omissions of any assigns or Subcontractors and of all persons employed by them, and the approval by City of any assignment or subcontract shall not create any contractual relation between the assignee or subcontractor and City.

**13. Default.** The Consultant shall be in default of this agreement if Consultant: commits any material breach or default of any covenant, warranty, certification, or obligation it owes under the Contract; its QRF status pursuant to the QRF Rules or loses any license, certificate or certification that is required to perform the Services or to qualify as a QRF if consultant has qualified as a QRF for this agreement; institutes an action for relief in bankruptcy or has instituted against it an action for insolvency; makes a general assignment for the benefit of creditors; or ceases doing business on a regular basis of the type identified in its obligations under the Contract; or attempts to assign rights in, or delegate duties under, the Contract.

**14. Insurance.** Consultant shall at its own expense provide the following insurance:

- a. Worker's Compensation insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers
- b. Professional Liability insurance with a combined single limit, or the equivalent, of not less than \$2,000,000 for each claim, incident or occurrence. This is to cover damages caused by error, omission or negligent acts related to the professional services to be provided under this contract.
- c. General Liability insurance with a combined single limit, or the equivalent, of not less than \$2,000,000 for each occurrence for Bodily Injury and Property Damage.
- d. Automobile Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000, for each accident for Bodily Injury and Property Damage, including coverage for owned, hired or non-owned

vehicles, as applicable.

e. **Notice of cancellation or change.** There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without 30 days<sup>1</sup> written notice from the Consultant or its insurer(s) to the City.

f. **Additional Insured/Certificates of Insurance.** Consultant shall name The City of Ashland, Oregon, and its elected officials, officers and employees as Additional Insureds on any insurance policies, excluding Professional Liability and Workers' Compensation, required herein, but only with respect to Consultant's services to be provided under this Contract. The consultant's insurance is primary and non-contributory. As evidence of the insurance coverages required by this Contract, the Consultant shall furnish acceptable insurance certificates prior to commencing work under this contract. The certificate will specify all of the parties who are Additional Insureds. Insuring companies or entities are subject to the City's acceptance. If requested, complete copies of insurance policies; trust agreements, etc. shall be provided to the City. The Consultant shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

15. **Governing Law; Jurisdiction; Venue:** This contract shall be governed and construed in accordance with the laws of the State of Oregon without resort to any jurisdiction's conflict of laws, rules or doctrines. Any claim, action, suit or proceeding (collectively, "the claim") between the City (and/or any other or department of the State of Oregon) and the Consultant that arises from or relates to this contract shall be brought and conducted solely and exclusively within the Circuit Court of Jackson County for the State of Oregon. If, however, the claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon filed in Jackson County, Oregon. Consultant, by the signature herein of its authorized representative, hereby consents to the in personam jurisdiction of said courts. In no event shall this section be construed as a waiver by City of any form of defense or immunity, based on the Eleventh Amendment to the United States Constitution, or otherwise, from any claim or from the jurisdiction.

16. THIS CONTRACT AND ATTACHED EXHIBITS CONSTITUTE THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. CONSULTANT, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT HE/SHE HAS READ THIS CONTRACT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

17. **Nonappropriations Clause.** Funds Available and Authorized: City has sufficient funds currently available and authorized for expenditure to finance the costs of this contract within the City's fiscal year budget. Consultant understands and agrees that City's payment of amounts under this contract attributable to work performed after the last day of the current fiscal year is contingent on City appropriations, or other expenditure authority sufficient to allow City in the exercise of its reasonable administrative discretion, to continue to make payments under this contract. In the event City has insufficient appropriations, limitations or other expenditure authority, City may terminate this contract without penalty or liability to City, effective upon the delivery of written notice to Consultant, with no further liability to Consultant.

**Certification.** Consultant shall sign the certification attached hereto as Exhibit A and herein incorporated by reference.

<b>Consultant:</b>	<b>City of Ashland</b>
By _____	By _____
Signature	Department Head
_____	_____
Print Name	Print Name
_____	_____
Title	Date
W-9. One copy of a W-9 is to be submitted with the signed contract.	Purchase Order No. _____













Client: City of Ashland  
 Project: Ashland Canal Piping  
 Prepared by: Dan Scalas, P.E.  
 Date: 12/20/2017

Task No.	Task Description	Hours																	Expenses		Totals			
		Project Manager	Project Engineer	QA/QC Engineer	*Senior Engineer	Engineering Technician	Surveyor	Two Man Survey Crew	*Environmental Scientist	*Biologist	Environmental Technician	*Principal Geotechnical Engineer	*Senior Engineering Geologist	*Senior Geologist	*Project Geotechnical Engineer	*Geotechnical Engineer II	*Technician (Geotech)	*Flagger (Geotech)	*Clerical (Geotech)	Miscellaneous Charges		Mileage		
1A	Preliminary Engineering																							
a	Topographic Survey (research, survey, data processing, drafting)	4				40	48	220													\$4,608	1024	\$ 46,300	
b	Site Review and Understanding	10	8		1																	128	\$ 2,348	
c	Existing Infrastructure Analysis	4	16		4																		\$ 3,053	
d	Wetland Work	16																					\$ 2,000	
	Wetland Determination				1				1	34	4										\$420	975	\$ 4,069	
**	Wetland Delineation				2					44	12												\$ 5,771	
**	Agency Coordination	8	24		4				4	8													\$ 5,704	
e	Preliminary Geotechnical																						\$600	
	Familiarization with project										8	6							2				\$ 2,581	
	Field observations										15	15		9				4					\$ 6,674	
	Soil conditions										4	2		2				2					\$ 1,447	
	Identify problematic areas										4	4		4				1					\$ 1,993	
	Preliminary design recommendations										6	3		3	4			6					\$ 2,684	
	Report preparation										10	6						8					\$ 3,251	
**	Consultation time for preliminary engineering										8			4				2					\$ 2,149	
f	Conduct One Ditch Loss Measurement	2	12			10																128	\$ 2,480	
g	30% Preliminary Plans (estimated 54 sheets)	40	150	10	4	500															\$300	384	\$ 66,713	
h	Preliminary Cost Estimate	10	16	2	4	24																	\$ 6,093	
i	Preliminary Engineering Report (Inventory, analysis, screening, water savings, trail impacts, design criteria, construction scope and schedule)	4	24	1	2	120															\$100	384	\$ 13,941	
j	Public Relations	40																					640	\$ 5,000
	<b>Total Hours</b>	138	250	13	22	694	48	220	5	86	16	55	36	0	22	4	0	0	25					
	<b>Billing Rate</b>	\$125	\$115	\$125	\$178	\$85	\$95	\$172	\$103	\$103	\$75	\$189	\$162	\$162	\$135	\$92	\$70	\$59	\$49				0.54	
	<b>Total</b>	\$17,250	\$28,750	\$1,625	\$3,920	\$58,990	\$4,560	\$37,840	\$513	\$8,824	\$1,200	\$10,395	\$5,832	\$0	\$2,970	\$367	\$0	\$0	\$1,215	\$6,028	\$1,978	\$192,257		