

ORDINANCE NO. 1199

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH HCI INDUSTRIAL & MARINE COATINGS, INC. FOR THE WASTEWATER TREATMENT PLANT CLARIFIER COATING REPAIRS; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Canby has heretofore solicited bids for clarifier coating system repairs at the Wastewater Treatment Plan; and

WHEREAS, the solicitation documents were sent to four contractors with experience to complete this type of work; and

WHEREAS, four bids were received and opened on December 13, 2005 at 2:00 PM by the City of Canby in the Canby City Hall including the following:

HCI Industrial & Marine Coatings	Brush Prairie, WA	\$36,000
Long Painting Company	Portland, OR	\$38,900
S & K Painting, Inc.	Clackamas, OR	\$74,000
F. D. Thomas Inc.	Medford, OR	\$109,000

WHEREAS, the low responsive bid was received from HCI Industrial & Marine Coatings, Inc. in the amount of thirty six thousand dollars; and

WHEREAS, the Canby City Council, acting as the City's Contract Review Board, met on Wednesday, January 4th, 2006, and considered the bid and reports and recommendations of the City staff, including the staff recommendation that the low responsive bid be selected; and

WHEREAS, the Canby City Council determined that the low responsive bid was that of HCI Industrial & Marine Coatings, Inc.; now therefore

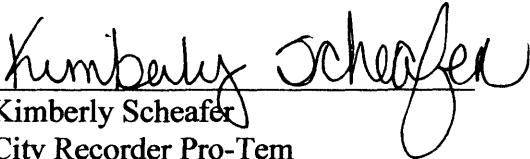
THE CITY OF CANBY ORDAINS AS FOLLOWS:

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 HCI Industrial & Marine Coatings, Inc. for clarifier coating system repairs as specified, for the bid amount of \$36,000. A copy of the contract with HCI Industrial & Marine Coatings, Inc. is attached hereto and marked as Exhibit "A" and by this reference incorporated herein.

Section 2. Inasmuch as it is in the best interest of the citizens of Canby, Oregon, to

complete this project as soon as possible, an emergency is hereby declared to exist and this ordinance shall therefore take effect immediately upon its enactment after final reading.

SUBMITTED to the Canby City Council and read the first time at a regular meeting therefore on Wednesday, January 4, 2006; ordered posted as required by the Canby City Charter and scheduled for second reading on Wednesday, January 18th, 2006, after the hour of 7:30 pm at the Council Chambers at the Canby City Hall, 182 N. Holly, Canby, Oregon.



Kimberly Scheafer
City Recorder Pro-Tem

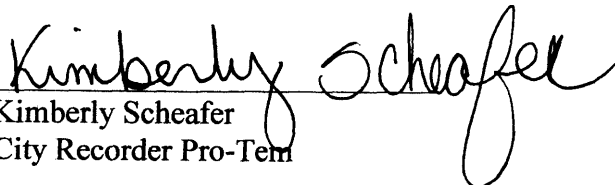
PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 18th day of January, 2006, by the following vote:

YEAS 6 NAYS 0



Melody Thompson, Mayor

ATTEST:



Kimberly Scheafer
City Recorder Pro-Tem

CONTRACT FOR CONSTRUCTION

THIS AGREEMENT is dated as of the ____ day of _____ in the year 2005 by and between

CITY OF CANBY
(hereinafter called OWNER) and

HCI INDUSTRIAL & MARINE COATINGS, 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
WASTEWATER TREATMENT PLANT
CLARIFIER COATING REPAIRS**

The project consists of spot surface preparation and re-coating of one 54' diameter by 17 foot sidewall depth secondary clarifier including spot repair of the coating systems on the mechanism, launders and bridge, and re-coating the equipment and concrete walls of the structure.

ARTICLE 2 - ENGINEER

The Project has been designed by CURRAN-McLEOD, INC., Consulting Engineers, who is hereinafter called ENGINEER and who will assume all duties and responsibilities and will have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE 3 - CONTRACT TIME

- 3.1 The Work will be substantially completed within 30 calendar days after the date when the Contract Time commences to run as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within 60 days after the date when the issuance of the Certificate of Substantial Completion.
- 3.2 **Liquidated Damages:** OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not substantially complete within the time specified in paragraph 3.1

above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving in a legal proceeding the actual loss suffered by OWNER if the Work is not substantially complete on time.

Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER or the OWNER may withhold from amounts due the CONTRACTOR Two Hundred Dollars (\$200.00) for each day that expires after the time specified in paragraph 3.1. for substantial completion until the Work is substantially complete.

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

Thirty six thousand and Dollars

And No/100 cents (\$36,000) per clarifier as shown in the attached Bid Proposal.

ARTICLE 5 - PAYMENT PROCEDURES

CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

- 5.1 Progress Payments will not be approved.
- 5.2 OWNER shall make one payment of 95% of the contract amount upon Substantial Completion, less such amounts as ENGINEER shall determine in accordance with paragraph 14.02 of the General Conditions.
- 5.2 Final Payment: Upon final completion and acceptance of the Work in accordance with paragraph 14.07 of the General Conditions, OWNER shall pay the remainder of the value of the Contract Work completed, as recommended by ENGINEER as provided in said paragraph 14.07.

ARTICLE 6 - INTEREST

All monies not paid when due hereunder shall bear interest at the maximum rate allowed by law at the place of the Project, when requested in accordance with ORS 279.

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 (pages ---- to -----, inclusive)
- 8.2 Exhibits to this Agreement.
- 8.3 Performance and other Bonds (pages----- to ----- , inclusive)
- 8.4 Notice of Award.
- 8.5 General Conditions of the Construction Contract (pages ----to ----, inclusive).
- 8.6 Supplementary Conditions (pages ----- to----- , inclusive).

- 8.7 Technical Specifications.
- 8.8 Drawings bearing the following general title: N/A
- 8.9 Addenda numbers ----- to-----
- 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.

EXHIBIT 'A'

IN WITNESS WHEREOF, the parties hereto have signed four counterparts of this Agreement.

This Agreement will be effective on JANUARY 30, 2006.

OWNER:

CONTRACTOR

CITY OF CANBY

HCI Industrial & Marine Coatings, Inc.

By *[Signature]*

By *[Signature]*

Title City Administrator

Title PRESIDENT

Address 182 N Holly, PO BOX 930
Canby, OR 97013

Address 15500 NE CAPLES
PO BOX 1373
BRUSH PRARFE, WA 98606

Attest:

[Signature: Kimberly Schaefer]

(Corporate Seal)

Attest *[Signature]*