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RESOLUTION NO. 1101-94

**A RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT
FOR AN ULTRA VIOLET LIGHT DISINFECTION SYSTEM FOR
THE SEWAGE TREATMENT PLANT**

WHEREAS, the City currently uses chlorine gas as a disinfection agent for sewage treatment; and

WHEREAS, upon renewal of our National Pollutant Discharge Elimination System permit, the Department of Environmental Quality significantly lowered the amount of chlorine residual allowed in the effluent we discharge to the Sandy River; and

WHEREAS, the City is under a Stipulation and Final Order to bring the chlorine residual into compliance by December 1, 1994, and

WHEREAS, a study was conducted to determine the best means to meet the new chlorine limits, and the results of the study determined that ultra violet light provided the lowest life cycle costs and also eliminated the potential hazard of chlorine gas; and

WHEREAS, a project has been designed, an Advertisement for Bids has been published, bids have been received and opened, and the results have been properly analyzed; and

WHEREAS, City staff and our Consulting Engineer recommend the award to the lowest responsible bidder.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE THAT:

The Mayor is authorized to enter into a contract to install an ultra violet light disinfection system at the sewage treatment plant with the lowest responsible bidder, Triad Mechanical, and staff is authorized to issue the appropriate Notice to Proceed upon receipt of the required contract documents.


ADOPTED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE THIS 24TH DAY OF MAY, 1994.

YEAS: 6
NAYS: 0
ABSTAINED: 0


Paul Thalhofer, Mayor

Dated: _____

ATTEST:


Valerie J. Raglione, CMC
City Recorder

AGREEMENT

THIS AGREEMENT is between the City of Troutdale, Oregon, organized and existing under the law of the State of Oregon, Party of the First Part, (hereinafter called OWNER) and Triad Mechanical, Inc. (hereinafter called CONTRACTOR).

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

1. WORK.

1.1. CONTRACTOR shall complete Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Ultraviolet light (UV) disinfection system; structural modifications to the chlorine contact basin; a prefabricated sodium hypochlorite building; and all architectural, structural, mechanical, electrical, plumbing, HVAC, instrumentation and control work necessary to make complete and operable disinfection facilities.

2. ENGINEER.

2.1. CH2M HILL is hereinafter called ENGINEER and is to act as OWNER's representative, assume duties and responsibilities, and 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.

3. CONTRACT TIMES AND LIQUIDATED DAMAGES.

3.1. Contract Times:

3.1.1. CONTRACTOR shall complete Work, ready for final payment in accordance with paragraph 14.13 of the General Conditions on or before December 1, 1994.

3.2. Actual Damages:

3.2.1. 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 completed within the times specified in paragraph Contract Times above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions.

It is understood and agreed by the CONTRACTOR and the OWNER that the CONTRACTOR shall be responsible for reimbursement to the

OWNER for all costs, actual damages, attorneys fees, and engineering fees incurred by the OWNER resulting from the CONTRACTOR's performance, failure to perform, negligent performance, or failure to complete the Work within any time limit or extended time limit agreed upon.

The parties agree that the amount of such additional expense and damage incurred by reason of failure to complete the Work will be the actual damages incurred by the OWNER on account of expense due to the employment of engineers, inspectors, and other employees after the expiration of the time of completion, and on account of the value of the operation of the works dependent thereon. The CONTRACTOR shall reimburse the OWNER for the additional expense and damage incurred by the OWNER.

Furthermore, the CONTRACTOR shall reimburse the OWNER for all costs, actual damages, attorneys fees, and engineering fees incurred by the OWNER resulting from the CONTRACTOR's inappropriate performance, failure to perform, negligent performance, or failure to meet any other time limits including, but not limited to, system down time and coordination time with the OWNER. Such costs shall include, but not be limited to, fines for permit violations, costs for cleanup of spills, costs for repair or replacement of OWNER's equipment or facilities resulting from the CONTRACTOR's operations, and consequential damages. Such costs shall include, but not be limited to, costs of supervision, labor, materials and supplies, and energy.

It is expressly understood and agreed that these amounts are not to be considered in the nature of a penalty, but actual damages which have accrued against the CONTRACTOR. The OWNER shall have the right to deduct such damages from any amount due, or that may become due the CONTRACTOR, or the amount of such damages shall be due and collectible from the CONTRACTOR or his Surety.

4. CONTRACT PRICE.

4.1. OWNER shall pay CONTRACTOR for completion of the Work and in accordance with the conformed Bid, which is included as an Exhibit to this Agreement, an amount equal to the sum of the amounts determined pursuant to the following:

4.1.1. Total Contract Price:

Four hundred three thousand, four hundred seventy-five Dollars and no Cents (\$403,475).

5. RETAINAGE.

5.1. Prior to Substantial Completion, OWNER shall retain from progress payments 5 percent of the value of Work completed. When Work has been 50 percent completed as determined by ENGINEER, and if the character and progress of the Work have been satisfactory to OWNER and ENGINEER, OWNER on recommendation of ENGINEER may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no additional retainage on account of Work completed. Following Substantial Completion, OWNER shall retain from progress payments an amount, not to exceed 5 percent of the value of the Work complete, sufficient to ensure completion of the Work and to pay all Liens, claims, or other obligations of the CONTRACTOR currently outstanding.

5.2. In lieu of the 5 percent retainage, provisions may be made as provided in ORS 279 for depositing with OWNER approved Bonds or securities of value equal to the retainage.

6. INTEREST.

6.1. Monies not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate allowed by law at the place of the Project.

7. CONTRACTOR'S REPRESENTATIONS.

7.1. In order to induce OWNER to enter into this Agreement, CONTRACTOR's representations are as set forth as follows:

7.1.1. CONTRACTOR has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, general nature of work to be performed by OWNER or others at the site that relates to Work required by the Contract Documents and local conditions, and federal, state, and local Laws and Regulations that in any manner may affect cost, progress, performance, or furnishing of Work.

7.1.2. CONTRACTOR has studied carefully reports of explorations and tests of subsurface conditions and drawings of physical conditions which are identified in the Supplementary Conditions as provided in paragraph 4.2 of the General Conditions, and accepts the determination set forth in paragraph 4.2 of the Supplementary Conditions of the extent of the technical data contained in such reports and drawings upon which CONTRACTOR is entitled to rely. CONTRACTOR acknowledges that such reports and drawings are not Contract Documents.

7.1.3. CONTRACTOR has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) examinations, investigations,

explorations, tests, and studies (in addition to or to supplement those referred to above) which pertain to the conditions (subsurface or physical) at or contiguous to the site or otherwise and which may affect the cost, progress, performance, or furnishing of the Work as CONTRACTOR deems necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of paragraph 4.2 of the General Conditions; and no additional or supplementary examinations, investigations, explorations, tests, reports, or similar information or data are or will be required by CONTRACTOR for such purposes.

7.1.4. CONTRACTOR has reviewed and checked information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and has included costs as defined by paragraph 4.3 of the General Conditions.

7.1.5. CONTRACTOR has correlated information known to CONTRACTOR and results of such observations, familiarizations, examinations, investigations, explorations, tests, and studies with Contract Documents.

7.1.6. CONTRACTOR has given ENGINEER written notice of conflicts, errors, ambiguities, or discrepancies that it has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR, and the Contract Documents are generally sufficient to indicate and convey understanding of terms and conditions for performing and furnishing Work.

8. CONTRACT DOCUMENTS.

8.1. The Contract Documents which comprise the entire Agreement between OWNER and CONTRACTOR concerning Work are defined in paragraph 1.10 of the General Conditions.

8.2. Exhibits to this Agreement include:

8.2.1. Conformed Bid Form signed by CONTRACTOR.

8.2.2. Executed Performance and Payment Bonds.

8.2.3. Documents submitted by CONTRACTOR prior to execution of Agreement.

8.3. Drawings consist of a cover sheet and sheets numbered 1 to 12, inclusive, with each sheet bearing the following general title: "Troutdale Sewage Treatment Plant Disinfection Facilities."

8.4. Addenda numbers 1 to 2, inclusive.

9. MISCELLANEOUS.

9.1 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 but without limitation monies that may become due and monies 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.

9.2. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect of all covenants, agreements, and obligations contained in the Contract Documents.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed three copies of this Agreement. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR.

OWNER: City of Troutdale

CONTRACTOR: Triad Mechanical, Inc.

By *Paul H. Hooper*
Mayor
Date 6-8-94

By *Nicholas D. Scovill*
Nicholas D. Scovill
Date June 1, 1994

(CORPORATE SEAL)

(CORPORATE SEAL)

Address for giving notices

Address for giving notices

104 SE Kibling
Troutdale, OR 97060

Triad Mechanical, Inc.
2133 N. Argyle
Portland, OR 97217-6803

(If OWNER is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Agreement.)

License No. 44255

Agent for service of process:

(If CONTRACTOR is a corporation, attach evidence of authority to sign.)