

ORDINANCE NO. 1105

A BILL FOR AN ORDINANCE Authorizing the Mayor and Recorder of the City of Albany, Oregon, to enter into a contract with U. G. Hayne, of Albany, Oregon for the construction of a lateral sewer over the following described route, to-wit:

Beginning at a point at the West end of the lateral sewer in Block No. 90 in Monteith's Southern Addition to the City of Albany, Oregon, and extending Westerly through the middle of Block No. 89 of said Addition a distance of 350 feet to a point which is Easterly 50 feet distant from the West boundary line of said Block No. 89 in the City of Albany, Oregon.

and declaring an emergency:

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

WHEREAS, The City of Albany has heretofore ordered that a lateral sewer be constructed over the following described route, to-wit:

Beginning at a point at the West end of the lateral sewer in Block No. 90 in Monteith's Southern Addition to the City of Albany, Oregon, and extending Westerly through the middle of Block No. 89 of said Addition a distance of 350 feet to a point which is Easterly 50 feet distant from the West boundary line of said Block No. 89 in the City of Albany, Oregon.

said improvement to be made in accordance with the charter and ordinances of the City of Albany and the plans, specifications and estimates of Engineer Charles H. Leonard on file with the Recorder of the City of Albany, and

WHEREAS, It has been heretofore provided that the Recorder of the City of Albany give notice for bids for the making of said improvement in the manner provided by law and by ordinance, and

WHEREAS, After due notice and advertisement for bids made and given by the Recorder of the City of Albany according to law, to-wit: On the 24th. day of October, 1923, U. G. Hayne presented to the Council of the City of Albany, his bid for making said improvement, which bid was made in due form and in conformity with all conditions imposed by law and the Council; by which said bid U. G. Hayne proposed to furnish all materials and implements and perform the labor necessary to make the above described improvement, in accordance with the plans and specifications therefor, heretofore mentioned, and

WHEREAS, The said U. G. Hayne was the lowest and best bidder for said proposed improvement and said bid was the lowest and best bid therefor;

Section 1. That the bid of U. G. Hayne for said improvement by the construction of said lateral sewer be and the same is hereby accepted and the Mayor and Recorder of said City are hereby authorized to enter into a contract in writing with the said U. G. Hayne for the making of said improvement, which said contract shall be in words and figures, substantially as follows, to-wit:

THIS AGREEMENT OF CONTRACT Made and entered into at Albany, Linn County, Oregon, this _____ day of _____ 1923 by and between the City of Albany, Linn County, Oregon, one of the regularly organized and existing cities and towns of the State of Oregon and a municipal corporation of the State of

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Oregon, hereinafter designated as the party of the first; and U. G. Hayne of Albany, Linn County, Oregon, hereinafter designated as the party of the second part;

W I T N E S S E T H:

THAT WHEREAS, The City of Albany, Linn County, Oregon, the party of the first part, has heretofore caused to be prepared certain plans and specifications for the construction of a certain lateral sewer in and for the City of Albany, Linn County, Oregon, and U. G. Hayne the party of the second part, did on the 24th. day of October, 1923, file in the office of the City Recorder of the City of Albany, Oregon, his proposal to furnish material, labor and construct the lateral sewer referred to and described in the plans and specifications, now on file and of record in the office of the City Recorder of the City of Albany, Oregon, which said plans, specifications and proposal are hereby referred to and made a part hereof to the same extent as if said plans, specifications and proposal were incorporated herein.

WHEREAS, The said plans, specifications and proposal full and accurately describe the terms and conditions upon which the party of the second part proposed to furnish said materials and labor and perform said work, together with the manner and time of furnishing the same.

IT IS, THEREFORE, AGREED:

FIRST: That the plans, specifications and proposal now on file and of record in the office of the City Recorder of the City of Albany be and the same are hereby referred to and made a part hereof and that the same does in all particulars become a part of this agreement and contract between the parties hereto in all matters and things therein set forth and described and further, that the City of Albany, Oregon, and the party of the second part hereby accepts and agrees to the terms and conditions of said specifications and proposal filed.

SECOND: That the party of the second part agrees to remove at his own cost and expense and dispose of any and all excavated material that cannot be returned to the trenches in back-filling.

THIRD: That the party of the second part further agrees that he will promptly as due, make payment to all persons supplying to him labor or materials for the prosecution of the hereinabove described work and that said party of the second part shall not permit any lien or claim to be filed or prosecuted against the party of the first part for and on account of any material or labor furnished for said work.

FOURTH: The party of the second part also covenants and agrees that no person shall be employed on said work for more than eight hours in any one day or more than forty-eight hours in any one week, unless, in case of an emergency and when no other competent labor is available, and in case of an emergency the party of the second part hereby agrees that such labor shall

be paid double wages for over time.

FIFTH: It is further agreed that the party of the second part shall commence the work of said improvement with ten days after the signing of this contract and he shall prosecute said work with such vigor that all work embraced in said contract shall be entirely completed on or before the 1st. day of December, 1923, and the City of Albany, shall be deemed to suffer damages to the extent of Ten Dollars (\$10) per day for each and every day the work is delayed beyond said specified time and that the party of the second part shall furnish a bond in a sum equal to fifty per cent (50%) of the proposal of the contractor to be approved by the Mayor of the City of Albany, Oregon, having as surety some surety company authorized to do business in the State of Oregon, or a reliable individual justifying in twice the amount of said bond, conditioned for the faithful performance of said contract on the part of the party of the second part, and further indemnifying the City of Albany against any claim or lien for labor, work or materials on the part of any person, firm or corporation arising out of said contract.

IN WITNESS WHEREOF, The party of the first part by and through virtue of an ordinance regularly passed does cause these presents to be signed in duplicate and the party of the second part does hereby sign these presents in duplicate all as of the day and year first above written.

CITY OF ALBANY, OREGON.
a municipal corporation.

By _____
As Mayor Party of the First Part.

Attest:

Recorder of the City of
Albany, Oregon.

Party of the second part.

Section II. Now, Therefore, the Council hereby declares that it is necessary for the public peace, health and safety of the people of the City of Albany that the foregoing contract be entered into immediately and an emergency exists and the Council hereby declares that an emergency exists and this ordinance shall be in full force and effect from and after the date of its passage by the Council and approval by the Mayor.

Passed by the Council, October 29th. 1923.

Approved by the Mayor, October 30th. 1923.

P. A. Young,
Mayor

Attest: D. H. Bodine,
Recorder of the City of Albany, Oregon.

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STATE OF OREGON,)

) ss

County of Linn,)

I, D. H. Bodine, Recorder of the City of Albany, in Linn County, and State of Oregon, do hereby certify that the foregoing and annexed copy of Ordinance No. 1105 has been by me carefully compared with the original Ordinance Bill No. 1203 now on file in my office and that it is a true and correct copy of all and the whole of said Ordinance Bill No. 1203 passed by the Council, October 29th. 1923, and approved by the Mayor, October 30th. 1923.

WITNESS, my hand and official signature and the seal of the City of Albany, this 3/ day of December, 1924.

D. H. Bodine

Recorder of the City of Albany.