



CITY OF ALBANY, OREGON  
PUBLIC WORKS – ENGINEERING

# CONTRACT DOCUMENTS

FOR

**WC-21-02**

**STUTZMAN ROAD CANAL BANK REPAIR**

**Issue Date:** July 12, 2021

**Due Date:** Tuesday, July 27, 2021



**Public Works Director** ..... **Chris Bailey**  
**City Engineer** ..... **Staci Belcastro, P.E.**  
**Project Engineer** ..... **Aaron Hiemstra, P.E.**

**For more information on this project,  
contact Aaron Hiemstra, 541-704-2325.**

CITY OF ALBANY

**WC-21-02, STUTZMAN ROAD CANAL BANK REPAIR**

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## BIDDER'S SUBMITTAL CHECKLIST

Any bid submitted after the designated closing time or to any other location will be determined nonresponsive and will not be opened. It is the responsibility of the Bidder to deliver the bid by the indicated deadline to the designated location, as indicated in the Invitation to Bid. The City is not responsible for late or mishandled delivery.

If contractor obtains these documents by means of a website or copied from a Plan Center, it is the responsibility of the contractor to check for any addendums to this contract prior to bid opening. **To be notified of addendums, contractor may call 541-917-7676 and request to be added to the Plan Holder's list.**

Failure to include any signed addendums could result in the disqualification of your bid.

**All bids must be submitted on City-provided forms that do not contain unauthorized alterations.** Bids should be received in non-editable PDF format. The total size limit for each email submittal response should be less than 20 MB. An automated response will be generated back to the sender stating, "Proposal has been received by the City." If you do not receive a notification, you may contact Diane Murzynski at [diane.murzynski@cityofalbany.net](mailto:diane.murzynski@cityofalbany.net) or 541-917-7522. Bidders should submit responses within a reasonable amount of time before the bid opening date and time to ensure timely email delivery.

A scanned copy of a bid bond is acceptable for the purposes of the bid opening. Original bid bonds must be received by the city, within seven days after bid opening, addressed to City of Albany, PW Contracting Coordinator, PO Box 490, Albany, OR 97321, or 333 Broadalbin Street, Albany, OR 97321.

All bids must include the following submittals or may be considered nonresponsive:

- Signed Proposal (*two pages*) - *with all applicable blanks completed*
- Completed Schedule of Contract Prices - *signed by an authorized representative of the company who can "execute bids"*
- Bid Bond – *using City-provided Bid Bond form with no alterations*
- Employee Drug Testing Certification form
- Signed Addenda (*if Addenda have been issued*)
- Statement of Experience with In-water Work

***Submitted within two hours after bid closing time (required under ORS 279C.370):***

- First-Tier Subcontractor Disclosure form – signed and if "none" indicate as such

***Other than what is listed above, it is not necessary to submit any additional pages with the bid.***



NOTICE TO CONTRACTORS  
CITY OF ALBANY  
INVITATION TO BID

Category of Bid: Construction  
Engineer's Estimate:  
Bids due at 2:30 p.m., July 27, 2021

The City of Albany hereby extends an invitation to submit bids for:

**WC-21-02, Stutzman Road Canal Bank Repair:** This project includes repair of approximately 98 linear feet of bank failure along the Santiam-Albany Canal off Stutzman Road. Stabilization includes riprap placement of ODOT-specified riprap below the canal flowline and installing soil and vegetation material above the canal flow line.

Bids must be submitted to [procurement@cityofalbany.net](mailto:procurement@cityofalbany.net) **not later than July 27, 2021**. Bids will be considered time-stamped and received by the City when received in the procurement email inbox. The email subject line must include the project number and name as follows: **WC-21-02, Stutzman Road Canal Bank Repair**. The body of the email must plainly identify (1) the project name, (2) the bid opening time and date, (3) the bidder's name, and (4) the contractor's license number (per ORS 701). Immediately following the filing deadline, the bids will be opened and publicly read using a virtual hosted meeting, <https://global.gotomeeting.com/join/623409989>. Interested parties can also dial in using their phones (1-571-317-3122, access code 623-409-989). Bid totals will be posted on the City's website at <https://cityofalbany.net/bids>.

There will be a **mandatory pre-bid meeting** at 2:00 p.m., on July 22, 2021, on site at Red Bridge Road and the Canal.

Contract bid documents may be downloaded from the City of Albany website at <https://cityofalbany.net/bids>. It is imperative those who download the contract bid documents check the website regularly for addenda, clarifications, and other pertinent notifications. All who are known by the City of Albany to have received a complete set of the contract bid documents will receive notification when additional items are posted. Please call 541-917-7676 to be added to the Plan Holder's list.

Each bidder must have access to a current set of City of Albany *Standard Construction Specifications*, which can be found on the City's website at <http://www.cityofalbany.net/standard-construction-specifications>. All public improvements are required to conform to these specifications and bid prices must reflect these specifications. For project information, call Aaron Hiemstra at 541-704-2325.

All City contracts contain a statement declaring that the bidder agrees to comply with the provisions of ORS 279C.800 through 279C.870 regarding payment of prevailing wages. The City's contract contains a clause which incorporates by reference all of the provisions of ORS Chapter 279C which are applicable to public contracts. Bidders are expected to be familiar with these provisions including, but not limited to, recent changes to ORS Chapter 279C.

**No bid will be received or considered unless the bidder is licensed by the Construction Contractors Board for construction projects or licensed with the State Landscape Contractors Board for landscaping projects.**

A 10% bid bond, certified check, or cashier's check must accompany each bid on all projects and must be forfeited if the bidder fails to enter into a Contract with the City of Albany within 10 days after the date of the Notice of Award. A scanned copy must be submitted with the bid.

DATED this 12th day of July, 2021.

Diane M. Murzynski, CPPO, CPPB  
Purchasing Coordinator

PUBLISH: Daily Journal of Commerce on Monday, July 12, 2021  
Albany Democrat-Herald on Monday, July 12, 2021

## PROPOSAL

To the Honorable Mayor and City Council  
Albany, Oregon 97321

### BIDDER'S DECLARATION AND UNDERSTANDING

The undersigned Bidder declares that the Contract Documents for the construction of the proposed improvement have been carefully examined; that the site has been personally inspected; that the Bidder is satisfied as to the quantities of materials, items of equipment and conditions or work involved including the fact that the description of the quantities of work and materials as included herein is brief and is intended only to indicate the general nature of such items and to identify the said quantities with the detailed requirements of the Contract Documents; and that the Bidder's proposal is made according to the provisions and under the terms of the Contract Documents, which documents are hereby made a part of this proposal.

The Bidder further declares that the only persons or parties interested in this proposal are those named herein; that this proposal is in all respects fair and without fraud; that it is made without collusion with any official of the City of Albany, and that the proposal is made without any connection or collusion with any person making another proposal on this Contract.

The Bidder further declares by the signing of this proposal that all the provisions required by ORS 279C.800 through 279C.870 relating to the payment of prevailing wage rates for work performed under the Contract with the City of Albany must be complied with.

The Bidder further agrees that its own judgment has been exercised regarding the interpretation of subsurface information and all data which it believes pertinent from the Engineer, Owner, and other sources in arriving at these conclusions have been utilized.

The bidder further certifies that they have authority and knowledge regarding the payment of taxes and that to the best of their knowledge are not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" are those tax laws imposed by ORS 320.005 to 320.150 and ORS 403.200 to 403.250 and ORS Chapters 118, 314, 316, 317, 318, 321, and 323; the elderly rental assistance program under ORS 310.630 to 310.706; and any local tax laws administered by the Oregon Department of Revenue under ORS 305.620.

### CONTRACT EXECUTION, BONDS, AND INSURANCE

The Bidder agrees that if this proposal is accepted:

- A Contract with the City of Albany, Oregon, will be executed, within 10 days after the date of the Notice of Award, in the form of Contract annexed hereto, and will at that time, deliver to the City of Albany the 100 percent Performance Bond and 100 percent Payment Bond, and will, to the extent of this proposal, furnish all machinery, tools, apparatus, and other means of construction and do the work and furnish all the materials necessary to complete all work as specified or shown in the Contract Documents.
- A Request for Taxpayer Identification Number and Certification (W-9) will be completed as a condition of the City's obligation to make payment. In the event the Bidder shall fail to complete and return the W-9 to the City, payment to Bidder may be delayed, or the City may, in its discretion, terminate the Contract.
- Automatic Clearing House (ACH) Direct Payment Authorization. The City prefers to pay Contractor invoices via electronic funds transfers through the ACH network. To initiate this more timely, efficient, and secure payment method, Contractors must complete the City's ACH Vendor Direct Payment Authorization Form. This form is available on the City website at [https://www.cityofalbany.net/images/stories/finance/eft\\_form.pdf](https://www.cityofalbany.net/images/stories/finance/eft_form.pdf). Information provided on the form is exempt from public records disclosure under ORS 192.501(27).
- **For contracts that exceed \$500,000, the Contractor must elect retainage to be held in an interest-bearing escrow account, or an alternate method in lieu of cash retainage as a condition of payment and as required by ORS 279C.570(2).** Contractor must complete an Escrow Account Agreement if funds are to be held in an interest-bearing account, otherwise Contractor must provide a deposit of bonds, securities or other instruments, or Contractor must provide a surety bond in an amount equal to five percent of the total bid. City may recover from Contractor additional costs incurred in the handling of retainage alternatives, whether a deposit of bonds, securities, or other instruments, surety bond, or for an interest-bearing account, ORS 279C.560(3).

### CERTIFICATES OF INSURANCE

The Bidder agrees to furnish the Owner, before commencing the work under this Contract, the certificates of insurance as specified in the *Standard Construction Specifications*.

START OF CONSTRUCTION AND CONTRACT COMPLETION DATE

If awarded this contract, the Bidder agrees to begin work within 10 calendar days after the date of the Notice to Proceed for the Contract and to complete the construction, in all respects, as set forth in the Special Provisions of these Contract Documents.

LIQUIDATED DAMAGES

In the event the Bidder is awarded the Contract and fails to complete the work within the time stated above or extended time agreed upon, as more particularly set forth in the Contract Documents, liquidated damages must be paid to the City of Albany, Oregon, as provided under General Requirements, Subsection 108.06.00 of the City of Albany *Standard Construction Specifications*.

BID BOND

Accompanying this proposal is a certified check, cashier's check or Bidder's bond in the sum of (10% of Bid Total) \_\_\_\_\_ Dollars (\$\_\_\_\_\_), according to the General Requirements of the Contract Documents which is to be forfeited as liquidated damages, if, in the event that this proposal is accepted, and the Bidder fails to execute the Contract and furnish satisfactory Performance and Payment Bond under the conditions and within the time specified in the Contract Documents; otherwise said check or bond is to be returned to the Bidder.

SURETY

If the Bidder is awarded a construction Contract on this proposal, the Surety who provides the Performance Bond will be \_\_\_\_\_ whose address is (street and city) \_\_\_\_\_ and Payment Bond will be \_\_\_\_\_ whose address is (street and city) \_\_\_\_\_.

LUMP SUM OR UNIT PRICE WORK

The Bidder further proposes to accept as full payment for the work proposed herein the amounts computed under the provisions of the Contract Documents and based on the following lump sum or unit price amounts, it being expressly understood that the unit prices are independent of the exact quantities involved. The Bidder agrees that the lump sum prices and the unit prices represent a true measure of the labor and materials required to perform the work, including all allowances for overhead and profit for each type and unit of work called for in these Contract Documents.

BIDDER

The name of the Bidder submitting this proposal is \_\_\_\_\_ doing business at (street and city) \_\_\_\_\_, which is the address to which all communications concerned with this proposal and with the Contract must be sent.

In accordance with ORS 279A.120, Bidder hereby declares that it (circle correct designation) is / is not a resident Bidder. The names of the principal officers of the corporation submitting this proposal, or of the partnership, or of all persons interested in this proposal as principals are as follows:

\_\_\_\_\_  
*If Sole Proprietor or Partnership:* IN WITNESS hereto the undersigned has set his/her hand this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

\_\_\_\_\_  
Signature of Bidder Title

*If Corporation:* IN WITNESS WHEREOF the undersigned corporation has duly authorized the execution of this agreement on behalf of the corporation by the officer named below this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

\_\_\_\_\_  
*name of corporation*  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
*(please print name)*  
Title: \_\_\_\_\_

**SCHEDULE OF CONTRACT PRICES**

ITEM NO.	BID ITEMS	APPROX. QUANTITY	UNIT OF MEASURE	UNIT PRICE DOLLARS/CTS	TOTAL AMT. DOLLARS/CTS
1	Mobilization	1	Lump Sum		
2	Erosion Prevention and Sediment Control and Water Quality Protection	1	Lump Sum		
3	Unclassified Excavation	75	Cubic Yard		
4	Lower Bank Rehabilitation	1	Lump Sum		
5	Upper Bank Rehabilitation	1	Lump Sum		
6	Upper Bank Revegetation	1	Lump Sum		
<b>SUM OF EXTENDED TOTALS</b>					

**NOTE: Subject to change if addition or extensions are in error.**

Bidder's Signature	Company Name <i>(please print)</i>	Date
Bidder's Name <i>(please print)</i>	Mailing Address <i>(please print)</i>	CCB License Number
Bidder's Title <i>(please print)</i>	City, State Zip	Federal Tax ID Number
Telephone No.: _____	Fax No.: _____	Email: _____

**BID BOND**

BOND NO. \_\_\_\_\_

AMOUNT OF BID: \$ \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS, that \_\_\_\_\_  
hereinafter called the PRINCIPAL, and \_\_\_\_\_  
a corporation duly organized under the laws of the State of \_\_\_\_\_ having its principal  
place of business at \_\_\_\_\_, in the State of  
\_\_\_\_\_, and authorized to do business in the State of Oregon, as SURETY, are held firmly bound  
unto the City of Albany, Oregon, hereinafter called the OBLIGEE, in the sum of \_\_\_\_\_  
\_\_\_\_\_DOLLARS (\$\_\_\_\_\_), for the payment  
of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by  
these presents.

THE CONDITION OF THIS BOND IS SUCH THAT:

WHEREAS, the PRINCIPAL is herewith submitting his/her/its Bid Proposal for **WC-21-02, STUTZMAN ROAD  
CANAL BANK REPAIR**, said Bid Proposal, by reference thereto, being hereby made a part hereof.

NOW, THEREFORE, if the Bid Proposal submitted by the PRINCIPAL is accepted, and the Contract awarded to the  
PRINCIPAL, and if the PRINCIPAL executes the proposed Contract and furnishes such Performance Bond and  
Payment Bond as required by the Contract Documents within the time fixed by the documents, then this obligation  
shall be void; if the PRINCIPAL shall fail to execute the proposed Contract and furnish the bond, the SURETY hereby  
agrees to pay to the OBLIGEE the said sum as liquidated damages, within ten (10) days of such failure.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

\_\_\_\_\_  
PRINCIPAL

\_\_\_\_\_  
SURETY

By: \_\_\_\_\_

By: \_\_\_\_\_

Attorney in Fact



**EMPLOYEE DRUG TESTING PROGRAM CERTIFICATION**

**ORS 279C.505 (2)** requires that bidders shall demonstrate and disclose to the City of Albany that he/she has an employee drug testing program in place before a public contract can be awarded.

Therefore, by signing this Certification, the Bidder does hereby certify and confirm that, as the proposed general contractor for City of Albany Project **WC-21-02, Stutzman Road Canal Bank Repair** that he/she has an employee drug testing program in place that is consistent with, and satisfies the intent of, the above-referenced legislation.

**CONTRACTOR:** \_\_\_\_\_

**BY:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**FIRST-TIER SUBCONTRACTOR DISCLOSURE**

**PROJECT NAME:** Stutzman Road Canal Bank Repair

**BID NUMBER:** WC-21-02

**BID CLOSING DATE:** July 27, 2021

**TIME:** 2:30 p.m.

This form must be submitted at the location specified in the Invitation to Bid on the advertised bid closing date and within two working hours after the advertised bid closing time.

List below the name of each subcontractor that will be furnishing labor or will be furnishing labor and materials and that is required to be disclosed, the category of work that the subcontractor will be performing and the dollar value of the subcontract.

Enter “**NONE**” if there are no subcontractors that need to be disclosed.  
 (*Attach additional sheets if needed.*)

\_\_\_\_\_

Failure to submit this signed form by the disclosure deadline will result in a nonresponsive bid.  
 A nonresponsive bid will not be considered for award.

Subcontractor's Name	Category of Work	Dollar Value
1.		\$
2.		\$
3.		\$
4.		\$
5.		\$
6.		\$
7.		\$
8.		\$
9.		\$

Form submitted by (bidder name): \_\_\_\_\_ Phone No.: \_\_\_\_\_  
*(Signature)*

Contact Name: \_\_\_\_\_ Company: \_\_\_\_\_

**ORS 279C.370 First-tier subcontractor disclosure.** (1)(a) Within two working hours after the date and time of the deadline when bids are due to a contracting agency for a public improvement contract, a bidder shall submit to the contracting agency a disclosure of the first-tier subcontractors that:

(A) Will be furnishing labor or will be furnishing labor and materials in connection with the public improvement contract; and  
 (B) Will have a contract value that is equal to or greater than five percent of the total project bid or \$15,000, whichever is greater, or \$350,000 regardless of the percentage of the total project bid.

(b) For each contract to which this subsection applies, the contracting agency shall designate a deadline for submission of bids that has a date on a Tuesday, Wednesday or Thursday and a time between 2 p.m. and 5 p.m., except that this paragraph does not apply to public contracts for maintenance or construction of highways, bridges or other transportation facilities.

(c) This subsection applies only to public improvement contracts with a value, estimated by the contracting agency, of more than \$100,000.

(d) This subsection does not apply to public improvement contracts that have been exempted from competitive bidding requirements under ORS 279C.335 (2).

(2) The disclosure of first-tier subcontractors under subsection (1) of this section must include the name of each subcontractor, the category of work that each subcontractor will perform and the dollar value of each subcontract. The information shall be disclosed in substantially the following [above] form:

(3) A contracting agency shall accept the subcontractor disclosure. The contracting agency shall consider the bid of any contractor that does not submit a subcontractor disclosure to the contracting agency to be a nonresponsive bid and may not award the contract to the contractor. A contracting agency is not required to determine the accuracy or the completeness of the subcontractor disclosure.

(4) After the bids are opened, the subcontractor disclosures must be made available for public inspection.

(5) A contractor may substitute a first-tier subcontractor under the provisions of ORS 279C.585.

(6) A subcontractor may file a complaint under ORS 279C.590 based on the disclosure requirements of subsection (1) of this section.

*State of Oregon WH-179 (08-10-10)*

**SAMPLE CONTRACT**

THIS CONTRACT is made between the CITY OF ALBANY, a municipal corporation, hereinafter called "City" and \_\_\_\_\_, hereinafter called "Contractor."

WITNESSETH:

The Contractor, in consideration of the sums to be paid and other covenants herein contained, agrees to perform and complete the work herein described and to furnish all necessary machinery, tools, apparatus, equipment, supplies, materials, and labor and perform all work in accordance with the applicable *Standard Construction Specifications*, the Special Specifications (aka Specifications, Special Provisions) found herewith, and in accordance with such alterations or modifications of the same as may be made by the City, and according to such directions as may from time to time be made or given by the Engineer under the authority and within the meaning and purpose of this Contract. This agreement shall be binding upon the heirs, executors, administrators, successors, and assigns of the Contractor.

The applicable Drawings, the applicable *Standard Construction Specifications*, all sections of Special Provisions, and the Schedule of Contract Prices bound herewith are hereby specifically referred to and by reference made a part hereof and shall by such reference have the same force and effect as though all of the same were fully inserted herein.

The Contractor must faithfully complete and perform all of the obligations of this Contract, and in particular, must promptly, as due, make payment of all just debts and obligations incurred in the performance of said Contract and must not permit any lien or claim to be filed or prosecuted against the City.

The Contractor must furnish to the City a 100% Performance Bond and a 100% Payment Bond. In addition to the required Payment Bond and Performance Bond, unless exempt under ORS 279C.836 (7), (8), or (9), the contractor is required to file a \$30,000 Public Works Bond with the Construction Contractor's Board to be used exclusively for unpaid wages determined to be due by BOLI. The general contractor is required to verify that subcontractors have filed a public works bond before permitting a subcontractor to start work on a project unless exempt under ORS 279C.836 (7), (8) or (9).

The Contractor, its subcontractors, if any, and all employers working under this Contract are subject employers under the Oregon Workers' Compensation Law and must comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers.

The Contractor agrees to protect, indemnify, and hold harmless the City against any and all loss, claims, or suits (including costs and attorney's fees) for or on account of injury to or death of persons, damage to, or destruction of property belonging to either the City or others occurring by reason of the act or neglect of the Contractor, Contractor's employees, or agents (including subcontractors) in connection with the performance of this Contract.

It is expressly understood that this Contract must be governed by the laws of the State of Oregon. The statutes of the State of Oregon for public works contracts, specifically but not exclusively ORS Chapter 279 A-C as amended or superseded, including the latest additions and revisions, are incorporated by reference as part of the contract documents, and the party contracting with the City of Albany hereby covenants and agrees to comply with all of the obligations and conditions applicable to public contracts pursuant to ORS 279 A-C, et seq, as though each obligation or condition were set forth fully herein. In addition, if the contract identified above calls for a public improvement as that term is defined by ORS 279A.010, the party contracting with the City of Albany further agrees to comply with all obligations and conditions applicable to public contracts for public improvements pursuant to ORS 279C, et seq, as though each obligation or condition were set forth fully herein. Contractor and its subcontractors, if any, agree to comply with the Oregon Consumer Information Protection Act, ORS Sections 646A.600 through 646A.628.

The Contractor further declares by the signing of this Contract that all the provisions required by ORS 279C.800 through 279C.870 relating to the payment of prevailing wage rates for work performed under the Contract with the City of Albany must be complied with, and that daily/weekly/holiday/weekend overtime will be paid, unless the amount of the contract is \$50,000 or less, in which case the prevailing wage rate requirement shall not apply. If Contractor fails, neglects, or refuses to make prompt payment for labor or services, the City can pay and withhold these amounts from payments due the contractor (ORS 279C.515). Contractor must indemnify the City from claims of damages resulting from actual or alleged violations of these obligations.

As required by ORS 279C.520, Contractor must comply with ORS 652.220 and ORS 659A, and must not unlawfully discriminate against any of Contractor's employees in the payment of wages or other compensation for work of comparable character on the basis of an employee's membership in a protected class. Contractor's compliance with this section constitutes a material element of this Agreement and a failure to comply constitutes a breach that entitles the City to terminate this Agreement for cause. Contracts valued at \$500,000 with employers that have 50 or more employees are required to take Pay Equity Training and submit a certificate as proof before awarded a contract. Contractor must certify they have taken the required Pay Equity Training and provide a certificate to the City.

The Contractor understands that if the price of this Contract exceeds \$500,000, the City will deposit amounts withheld as retainage into an interest-bearing escrow account for the benefit of the City as outlined in ORS 279C.570(2), unless the Contractor elects an alternative in lieu of cash retainage, such as bonds, securities or other instruments, or a deposit of a surety bond. The Contractor must receive interest on the retained moneys from the date the Contractor's related payment request is fully approved by the City until the date the retained moneys are paid by the City to the Contractor. Payment of retainage is deemed to be "paid" when the payment is transmitted to the Contractor.

In consideration of the faithful performance of all of the obligations herein set out, and in consideration of the faithful performance of this Contract, the City agrees to pay to the Contractor the amount earned, as determined from the actual quantities of work performed and prices and other basis of payment specified, taking into consideration any amounts that may be deductible, under the terms of the Contract.

The Contractor agrees to complete the work within the time specified herein and to accept as full payment hereunder the amounts computed as determined by the Contract Documents and based on the said proposal.

Said improvements must be completed by the date specified in said Contract Documents and if not so completed, unless said time for completion is extended, as provided in the Contract Documents, or if extended, if the same is not completed within the time extended, the City will be caused to incur liquidated damages as specified in the Contract Documents. Liquidated damages must be retained out of any monies due or to become due under this agreement.

Payments must be made as provided in the Contract Documents. Notwithstanding anything in this agreement to the contrary, the City's obligation to pay money beyond the current fiscal year shall be subject to and dependent upon appropriations being made from time to time by the City Council for such purpose; provided, however, that the city manager or other officer charged with the responsibility for preparing the City's biennial budget must include in the budget for each fiscal year the amount of the City financial obligation payable in such year and the city manager or such other officer must use his/her best efforts to obtain the annual appropriations required to authorize said payments.

The Parties acknowledge that the parties and their counsel have reviewed this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

Should suit or action be undertaken to enforce any of the terms of this agreement or to seek damages for its breach, the prevailing party shall be entitled to an award of its reasonable attorney fees, costs, and expenses, including expert witness fees, incurred therein, and such costs and fees as may be required on appeal, including those incurred on appeal. Jurisdiction for litigation must be vested exclusively in the courts of Oregon, Oregon law must apply, and venue must lie in the Circuit Courts in and for Linn County, Oregon.

The date this Agreement is signed by the last party to sign it (as indicated by the date associated with that party's signature) will be deemed the date of this Agreement. If a party signs but fails to date a signature the date that the other party receives the signing party's signature will be deemed to be the date that the signing party signed this Agreement and the other party may inscribe that date as the date associated with the signing party's signature.

IN WITNESS WHEREOF, the undersigned duly authorized officials have caused this contract to be executed on behalf of their respective parties.

**CONTRACTOR:**

DATE: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

*(Note: Signatures of two officers are required for a corporation.)*

Construction Contractor's Board License Number

Tax Identification No.: \_\_\_\_\_

Telephone Number: (\_\_\_\_) \_\_\_\_\_

**CITY OF ALBANY, OREGON:**

DATE: \_\_\_\_\_

By: \_\_\_\_\_

Chris Bailey, Public Works Director

## PERFORMANCE BOND

BOND NUMBER: \_\_\_\_\_

TOTAL BID AMOUNT: \$ \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS that we, \_\_\_\_\_, as CONTRACTOR (Principal), and \_\_\_\_\_, a corporation, duly authorized to do a general surety business in the State of Oregon as SURETY, are jointly and severally held and bound unto the City of Albany, Oregon, (Obligee) in the sum of (100% of Contract) \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) for the payment of which we jointly and severally bind ourselves, our heirs, executors, administrators, and assigns or successors and assigns firmly by these presents.

THE CONDITION OF THIS BOND IS SUCH that, whereas the principal has made and entered into a certain contract, a copy of which is attached hereto, with the City of Albany, Oregon, which contract, together with the applicable plans, Standard Specifications, Special Provisions, and schedule of contract prices, is by this reference made a part, whereby the principal agrees to perform in accordance with the certain terms, conditions, requirements, plans, and specifications which are set out in the contract and all authorized modifications of the contract which increase the amount of the work and the amount of the contract. Notice to the surety of any of the immediately foregoing are waived.

NOW, THEREFORE, if CONTRACTOR must faithfully and truly observe and comply with the terms, conditions, and provisions of the Contract, in all respects upon the terms set forth therein, and within the time prescribed therein and must indemnify and save harmless the City of Albany, Oregon, its officers, employees, and agents against losses and expenses and any damages of every kind and description that shall be suffered or claimed to be suffered in connection with or arising out of the performance of the said Contract and must honor all claims for defective work within the warranty period(s) established by the *Standard Construction Specifications* and Special Provisions, after the acceptance of said Contract, then this obligation is to be void, otherwise to remain in full force and effect for the duration of the warranty period(s). The establishment and warranty periods for plantings must be two years as outlined in Section 107.15.02 of the *Standard Construction Specifications*. The warranty for all other work must be for a one-year period as outlined in Section 107.15.00.

PROVIDED, HOWEVER, that this bond is subject to the following further conditions:

a) Losses and expenses include but are not limited to attorney's fees to defend all claims, proceedings, lawsuits, and judgments arising out of or resulting from the fault of the principal, the principal's agents, representatives, or subcontractors, in the performance of or failure to perform this contract. However, principal must not be required to indemnify any indemnitee to the extent the damage, loss, or expense is caused by the indemnitee's negligence and must in all respects perform said contract according to law.

b) All material suppliers and all persons who must supply such laborers, mechanics, or subcontractors with material, supplies, or provisions for carrying on such work, must have a direct right of action against CONTRACTOR and SURETY on this bond, second only the right of the City of Albany, Oregon, under this bond, which right of action must be asserted in proceedings instituted in the name of the City of Albany, Oregon, to the use and benefit of the person, firm, or corporation instituting such action and all other persons, firms, or corporations having claims hereunder, must have the right to be made a party to such proceeding and to have such claim adjudicated in such action and judgment rendered thereon.

c) In no event shall SURETY be liable for a greater sum than the penalty of this Bond, or subject to any suit, action, or proceeding thereon that is instituted past the expiration of the warranty period(s) after the complete performance and acceptance of said Contract and final settlement thereof.

d) The said SURETY, for the value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract or to the work to be performed thereunder or the Specifications accompanying the same shall in any way affect its obligations of this bond; and it does hereby waive notice of any such

change, extension of time, alteration, or addition to the terms of the Contract, or to the work, or to the Contract Documents.

IN WITNESS THEREOF, the parties hereto have caused this bond to be executed this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

\_\_\_\_\_  
Principal

By: \_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Print or type*

\_\_\_\_\_  
Street/City Address

\_\_\_\_\_  
Surety

By: \_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Print or type*

\_\_\_\_\_  
Street/City Address

\_\_\_\_\_  
Telephone Number

Surety Witness:

By: \_\_\_\_\_

\_\_\_\_\_  
Street/City Address

**PAYMENT BOND**

BOND NUMBER: \_\_\_\_\_

TOTAL BID AMOUNT: \$ \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS that we, \_\_\_\_\_, as CONTRACTOR (Principal), and \_\_\_\_\_, a corporation, duly authorized to do a general surety business in the State of Oregon as SURETY, are jointly and severally held and bound unto the City of Albany, Oregon, (Obligee) in the sum of (100% of Contract) \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) for the payment of which we jointly and severally bind ourselves, our heirs, executors, administrators, and assigns or successors and assigns firmly by these presents.

THE CONDITION OF THIS BOND IS SUCH that, whereas the principal has made and entered into a certain contract, a copy of which is attached hereto, with the City of Albany, Oregon, which contract, together with the applicable plans, Standard Specifications, Special Provisions, and schedule of contract prices, is by this reference made a part, whereby the principal agrees to perform in accordance with the certain terms, conditions, requirements, plans, and specifications which are set out in the contract and all authorized modifications of the contract which increase the amount of the work and the amount of the contract. Notice to the surety of any of the immediately foregoing are waived.

NOW, THEREFORE, if CONTRACTOR must make payment promptly, as due to all subcontractors and to all persons supplying to the Contractor or its subcontractors, equipment, supplies, labor, or materials for the prosecution of the work, or any part thereof, provided for in said contract; and must, in performing the contract, pay and cause to be paid not less than the State of Oregon Bureau of Labor and Industries (BOLI) prevailing wage rates in effect as of the date of the bid advertisement by City of Albany, Oregon, unless the amount of the contract is \$50,000 or less, in which case the prevailing wage rate requirement shall not apply; and pay per hour, day, and week for and to each and every worker who may be employed in and about the performance of the contract; and pay all contributions or amounts due to the State Accident Insurance Fund and the State Unemployment Trust Fund from such Contractor or subcontractors; and pay all sums of money withheld from the Contractor's employees and payable to the State Department of Revenue; and must pay all other just debts, dues, and demands incurred in the performance of the said contract; and must pay the City of Albany, Oregon such damages as may accrue to the City of Albany, Oregon, under the contract, then this obligation is to be void, otherwise to remain in full force and effect, provided that surety will remain liable to satisfy the claim of any worker affected by the failure of the principal or any subcontractor under the contract to pay the minimum rate of wage in accordance with the contract in the amount of minimum wages and an additional amount equal thereto as liquidated damages.

a) All material suppliers and all persons who shall supply such laborers, mechanics, or subcontractors with material, supplies, or provisions for carrying on such work, shall have a direct right of action against CONTRACTOR and SURETY on this bond, second only the right of the City of Albany, Oregon, under this bond, which right of action must be asserted in proceedings instituted in the name of the City of Albany, Oregon, to the use and benefit of the person, firm, or corporation instituting such action and all other persons, firms, or corporations having claims hereunder, must have the right to be made a party to such proceeding and to have such claim adjudicated in such action and judgment rendered thereon.

b) The said SURETY, for the value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract or to the work to be performed thereunder or the Specifications accompanying the same shall in any way affect its obligations of this bond; and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the Contract, or to the work, or to the Contract Documents.

IN WITNESS THEREOF, the parties hereto have caused this bond to be executed this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

\_\_\_\_\_  
Principal

By: \_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Print or type*

\_\_\_\_\_  
Street/City Address

\_\_\_\_\_  
Surety

By: \_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Print or type*

\_\_\_\_\_  
Street/City Address

\_\_\_\_\_  
Telephone Number

Surety Witness:

By: \_\_\_\_\_

\_\_\_\_\_  
Street/City Address



## SPECIAL PROVISIONS

### SECTION I: GENERAL REQUIREMENTS AND TECHNICAL SPECIFICATIONS

#### I-1. DESCRIPTION OF WORK

This project includes repair of approximately 98 linear feet of bank failure along the Santiam-Albany Canal off Stutzman Road. Stabilization includes placement of ODOT-specified riprap below the canal flowline and installing soil and vegetation material above the canal flow line.

Construction must be in conformance with the current edition of the City of Albany *Standard Construction Specifications*, the Construction Drawings, and these Special Provisions.

#### I-2. SITE CONDITIONS

Contractors are expected to closely inspect the site and warrants, as a result of the examination and site visit, the work can be performed in a good workmanlike manner to the satisfaction of the City. Failure to become acquainted with the physical conditions of the project will not relieve the Contractor from the responsibility of properly estimating the difficulty or cost of successfully performing the work.

#### I-3. REQUIRED PREBID MEETING

Contractors must attend the mandatory pre-bid meeting on July 22, 2021, at 2:00 p.m., on site at Red Bridge Road and the Canal.

Regardless of attendance, the Contractor acknowledges satisfaction as to the nature and location of the work. Failure to become acquainted with the physical conditions of the project will not relieve the Contractor from the responsibility of properly estimating the difficulty or cost of successfully performing the work. The contractor warrants, as a result of examination and investigation of all data, the work can be performed in a good workmanlike manner to the satisfaction of the City.

#### I-4. STANDARD CONSTRUCTION SPECIFICATIONS

Each bidder must have access to a current set of City of Albany *Standard Construction Specifications*, which can be found on the City of Albany's website at <http://www.cityofalbany.net/standard-construction-specifications> or a printed set may be purchased for \$100. All public improvements are required to conform to these specifications and bid prices must reflect these specifications.

#### I-5. AWARD OF CONTRACT

The Contract, if awarded, will be awarded to the lowest responsive, responsible bidder based on the lowest total bid amount, as determined by the City of Albany, and on the City's sole and absolute judgment to best serve its interest.

The City reserves the right to postpone the acceptance of the proposal and the award of the contract to a responsible bidder for a period not to exceed sixty (60) calendar days, or to reject any and all proposals received and further advertise the project for bids. The City may reject any bids not in compliance with all prescribed public contracting procedures and requirements, including the requirement to demonstrate the bidder's responsibility under ORS 279C.375(3)(b), and may reject for good cause any or all bids upon a finding of the City it is in the public interest to do so.

List of Subcontractors. Contractor is required to submit a list of subcontractors in accordance with ORS 279C.370. The City will submit a copy of this disclosure of first-tier subcontractors to the Bureau of Labor and Industries (BOLI) along with the completed BOLI form WH-81.

Failure to submit the list of subcontractors form by the disclosure deadline will result in a nonresponsive bid. A nonresponsive bid will not be considered for award. If no subcontractors need to be disclosed, this form must still be submitted indicating such.

Electronic Signature. Any signature (including any electronic symbol or process attached to, or associated with, a contract or other record and adopted by a person with the intent to sign, authenticate, or accept such contract or record) hereto or to any other certificate, agreement, or document related to this transaction, and any contract

formation or record-keeping through electronic means shall have the same legal validity and enforceability as a manually executed signature or use of a paper-based recordkeeping system to the fullest extent permitted by applicable law.

Communicable Diseases. Contractor understands the risk to have contact with individuals, who have been exposed to and/or have been diagnosed with one or more communicable diseases, including but not limited to COVID-19 or other medical conditions, diseases, or maladies that exist, and it is impossible to eliminate the risk that Contractor could be exposed to and/or become infected through contact with or close proximity with an individual with a communicable disease. CONTRACTOR KNOWINGLY AND FREELY ASSUMES ALL SUCH RISKS, both known and unknown, EVEN IF ARISING FROM THE NEGLIGENCE OF THE RELEASEES OR OTHERS, and assumes all full responsibility for Contractor's participation.

#### **I-6. CONTRACT COMPLETION TIME AND LIQUIDATED DAMAGES**

At the Contractor's option, the City will issue the Notice to Proceed any time after both parties have executed the contract. The Contractor will be required to give the City seven days advance notice of intent to begin construction. Once the Notice to Proceed is issued, the Contractor must complete the work in 14 calendar days, measured from the day work starts.

Regardless of the actual construction start date, all work specified in the contract documents must be completed, in every respect, by August 31, 2021, the ultimate completion date.

**Liquidated damages will be assessed against the Contractor for each day over the maximum number of calendar days allotted plus each day beyond the stated ultimate completion date until the work is satisfactorily completed and accepted by the City. The schedule of liquidated damages is listed in the *Standard Construction Specifications*, Section 108.06.00.**

#### **I-7. LATE COMPLETION PENALTY**

If the project is accepted as complete, including all punch list items, after the contract completion date, the Contractor will be assessed a late completion penalty, in addition to any liquidated damages, of \$1,000 per calendar day beyond the contract completion date until the project is completed in full.

#### **I-8. PRECONSTRUCTION CONFERENCE**

A preconstruction meeting will be required and will be held onsite. The meeting will be scheduled to take place a minimum of one week prior to beginning of construction. The Contractor must submit the following submittals at the preconstruction conference:

- Project Schedule
- Erosion and Sediment Control Plan

#### **I-9. PROJECT SCHEDULE**

A detailed construction schedule of all work relating to this project must be submitted in advance by email to the Engineer for discussion at the preconstruction conference. The schedule must show how the contractor plans to complete the project on or before the ultimate completion date. The Contractor must take appropriate measures to expedite work items that are behind schedule, including the use of outside forces to complete the work, without additional compensation.

#### **I-10. TEMPORARY TRAFFIC CONTROL**

All temporary traffic control must be in accordance with the current edition of the *Manual on Uniform Traffic Control Devices* (MUTCD); the ODOT *Short-Term Traffic Control Handbook*; City of Albany *Standard Construction Specifications*, Section 202; and as stated herein. The Contractor must provide traffic control devices as may be required at locations where construction is of short-term duration (i.e., street intersections and access to private property), as well as traffic control devices that are expected to be in place for the duration of the project.

Temporary ramps must be installed and maintained at intersections and driveways for the duration of the project. At no time shall the flow of traffic be stopped completely without the approval of the Engineer. Approval for

short-term, temporary closures or detours, if given, will be limited to a specific instance and will not be approved as standard practice.

The Contractor must limit all construction traffic, including material delivery and spoil removal, to those streets where there are construction activities taking place. The City will immediately suspend work in the Contractor does not limit construction traffic to approved streets. Work will be allowed to resume only after the Contractor has submitted a construction traffic routing plan limiting construction traffic to approved streets. This plan will be reviewed and approved by the City prior to its implementation. Damage to streets resulting from unapproved construction traffic must be corrected by the Contractor at no expense to the City.

The Contractor must submit traffic control plans to the Engineer for review one week prior to commencing construction. The traffic control plan must include a description of the traffic control devices, signing, and flaggers that are to be provided. Work must not begin until the City approves the traffic control plans. Following approval, the plan must be adhered to at all times.

On streets where parking is normally allowed, the Contractor must furnish and place at least three “No Parking” signs on each side of each block of the street where parking is to be prohibited. The signs must be highly visible to motorists from all approaches to the area where parking will be restricted. The signs must be posted at least two full working days in advance of any construction activity and must state the date and times when parking will be prohibited.

Construction operations must not commence until all construction signing is in place. Construction signing required for the project must be furnished and maintained by the Contractor.

All public and private roadways and driveways within the project area must be fully opened to local traffic at the end of each workday and at all times when no work is taking place. When the progress of the work requires temporary closures of residential driveways, the Contractor must provide notice to the affected residential properties 48-hours in advance of the closure. Access to residential driveways must be reestablished as soon as possible. The Contractor must maintain continuous access to commercial and industrial properties except during paving operations. The Contractor must meet on-site with the manager of each business a minimum of 72-hours in advance of any work affecting access to their property and inform them of the measures taken to maintain access.

After working hours, construction equipment must be parked outside traveled portions of the roadways and must be isolated with construction fencing and lighted barricades.

In the event the Contractor fails to provide and maintain proper barricades, signs, and other traffic control devices within one hour after notification by the Engineer, the City may install the traffic control devices at the Contractor’s expense. The City will deduct two times (200 percent) the City’s actual cost, which will include all labor, equipment, and materials involved, from any payments due or coming due to the Contractor.

## **I-11. NOTIFICATIONS**

The Contractor shall provide written notice to the front office of the following agencies, three working days in advance of beginning construction. The written notice shall include the construction schedule and shall explain the extent and duration of expected traffic disruptions.

For Projects within unincorporated Linn County:

Agency	Address	Phone Number
U.S. Postal Service	525 Second Avenue SW, Albany, OR 97321	541-926-8829
Republic Services	1214 Montgomery Street SE, Albany, OR 97321	541-928-2551
Linn County Sheriff’s Office	1115 Jackson Street SE, Albany, OR 97322	541-967-3950

The Contractor shall notify the above-named agencies and the public of any schedule changes made by the Contractor, required by the City, or are the result of weather or other unforeseen circumstance. The Contractor shall submit a copy of each notification to the City for review and approval prior to delivering the notices.

The Contractor shall provide written notification to all affected residents and businesses three working days in advance of scheduled work that will result in traffic disruptions and blocked access to driveways or parking areas. Written notifications shall explain the extent and duration of the disruption of traffic and/or blocked access and shall include alternate routes or parking areas as appropriate.

## **I-12. STATEMENT OF IN-WATER WORK EXPERIENCE**

A copy of the Statement of Experience form for in-water work (see Appendix C) must be submitted with the bid. Failure to submit and meet the requirements outlined on the form will be grounds for rejection of the bid.

## **I-13. WORK ON PRIVATE PROPERTY**

Permits will be required for all plumbing, electrical, and site work on private property. Permits may be obtained from the Albany Building Department at City Hall, 333 Broadalbin Street SW, Albany, Oregon/ Lebanon Building Division at the Community Development Center, 853 Main Street, Lebanon Oregon, or are also available via the City's website, which is [ [www.cityofalbany.net](http://www.cityofalbany.net) / [www.ci.lebanon.or.us](http://www.ci.lebanon.or.us) ]. Payment for obtaining permits will be considered incidental to the appropriate bid items.

## **I-14. LOCATION OF UNDERGROUND UTILITIES**

The Contractor must determine the horizontal and vertical alignment of existing public and private utilities well enough in advance to make adjustments to the work. Special care must be taken to avoid compromising concrete thrust restraint on the existing water system. Locating utilities ahead of construction and providing protective measures where required are incidental to other bid items.

## **I-15. EXCAVATION AND BACKFILL REQUIREMENTS**

The City has acquired a permit from the Oregon DSL (See Appendix A) for authorization to work in the Canal. Contractor shall comply with all permit conditions.

A fill permit will be required to deposit excavated materials, in excess of 50 cubic yards at any one tax lot, from this project regardless of whether the site is publicly or privately owned. For property located within the city limits, fill permits may be obtained from the Public Works Department at City Hall, Third Avenue and Broadalbin Street, Albany, Oregon. For property located outside the City limits, fill permits may be obtained from the Linn County Building Department at the Linn County Court House, Fourth Avenue and Ellsworth Street, Albany, Oregon. All conditions of the fill permit shall be met by the Contractor during construction.

## **I-16. ARCHAEOLOGICAL CONSTRUCTION MONITORING**

Archaeological monitoring will be required for all excavation performed on this project and will be provided to the Contractor at the City's expense. The City's archaeologist must be present during all excavation requiring monitoring. The Contractor shall be responsible for coordinating with the City's archaeologist to provide monitoring:

Clayton Lebow  
Mid-Valley Archaeology, LLC  
1410 NW Harder Lane  
Albany, OR 97321  
Phone: 805-895-2958

## **I-17. WATER SUPPLY**

The Contractor shall be responsible for providing all the water necessary for this project, except for water used during water line flushing. Water may not be drawn from the Santiam-Albany Canal for use by Contractor without permission of the Engineer.

## **I-18. DIGITAL PROJECT FILES**

If requested by the Contractor, the City of Albany will provide the AutoCAD Civil 3D electronic files used to create the Construction Drawings. While these files include electronic surfaces and other data, they are not intended to be used for construction purposes. The City will require the Contractor to sign a City-provided release document acknowledging that the files are to be used at the Contractor's own risk.

## **I-19. PROTECTION OF EXISTING TREES**

Trees to remain in place shall be protected at all times. If roots three inches in diameter or greater are encountered during construction, including excavation and trenching activities, the root shall be protected and reported to the Engineer. If the root must be removed, the City Forester shall be consulted prior to pruning. Root pruning shall be accomplished by a sharp cut made with a hand saw or chain saw. Cut or exposed root ends shall be kept moist at all times until backfill is placed to cover the roots. Cut roots three inches or greater must be wrapped in burlap and kept moist for the entire time the roots are exposed. Cut or exposed roots shall be backfilled as soon as possible.

If the Contractor causes the destruction of trees that are to remain, the City will deduct the value of the tree as determined by the City Forester using the methods described in the International Society of Arboriculture's "Valuation of Landscape Trees, Shrubs, and Other Plants: A Guide to the Methods and Procedures for Appraising Amenity Plants."

## SECTION II: STATE AND FEDERAL CONTRACTING LAW

### II-1. PREVAILING WAGES

Contractor must comply with all of the provisions required by ORS 279C.800 through ORS 279C.870 relating to the payment of prevailing wage rates for work performed under the Contract with the City of Albany.

Each worker in each trade or occupation employed in the performance of this contract either by the contractor, subcontractor, or other person doing or contracting to do, or contracting for the whole or any part of the work on this contract, must be paid not less than the applicable state prevailing rate of wage, or the applicable federal prevailing rate of wage, whichever is higher.

Oregon law requires that the higher of the state prevailing wage rates (PWR) or federal Davis-Bacon rates be paid to workers on projects subject to both the state PWR law and federal Davis-Bacon Act.

**WC-21-02, Stutzman Road Canal Bank Repair does not use federal funds and does not require Davis-Bacon rates. Only Oregon BOLI Prevailing Wage Rates apply to this project.**

Each year the Oregon Bureau of Labor and Industries (BOLI) publishes rates and amendments that are available by calling 971-673-0839 or online at the BOLI website at:

<https://www.oregon.gov/boli/employers/Pages/prevailing-wage-rates.aspx>

The publication that applies to this contract is the July 1, 2021, Prevailing Wage Rates for Public Works Contracts in Oregon.

Daily/weekly/holiday/weekend overtime must be paid. If a contractor fails to pay for any labor or services, the City can pay for this labor or services and withhold these amounts from payments due the contractor. ORS 279C.520; OAR 839-025-0020(2)(b).

Contractors and subcontractors are required to prepare weekly certified payroll reports and statements and submit them to the City by the fifth business day of each month (ORS 279C.845; OAR 839-025-0010). Contractor payment will be withheld until the City is in receipt of these certified weekly payroll reports. Information submitted on certified statements may be used only to ensure compliance with the provisions of ORS 279C.800 through ORS 279C.870.

### II-2. PERFORMANCE, PAYMENT, AND PUBLIC WORKS BONDS

In addition to the required payment bond and performance bond, unless exempt under ORS 279C.836 (7), (8), or (9), the contractor is required to file a \$30,000 Public Works Bond with the Construction Contractor's Board to be used exclusively for unpaid wages determined to be due by BOLI. The general contractor is required to verify that subcontractors, unless exempt, have filed a public works bond before permitting a subcontractor to start work on a project.

The Statutory Public Works Bond form is available from BOLI upon request or may be downloaded from <https://www.oregon.gov/boli/employers/Documents/public-works-bond.pdf>.

### II-3. RECIPROCAL PREFERENCE LAW

Oregon's reciprocal preference law, ORS 279A.120 and ORS 279A.125, requires public contracting agencies, in determining the lowest responsible bidder, to add a percent increase to each out-of-state bidder's bid price that is equal to the percent of preference given to local bidders in the bidder's home state. That is, if the low bidder is from a state that grants a 10 percent preference to its own in-state bidders, the Oregon agency must add 10 percent to that bidder's price when evaluating the bid.

For details, check Oregon's Reciprocal Preference Law website at:

<https://www.naspo.org/reciprocity1>

Bidders in need of any assistance in the application of this law should call the State Procurement Office at 503-378-4642, or contact them at State of Oregon - Department of Administrative Services, State Procurement Office, 1225 Ferry Street SE, U-140, Salem, OR 97301-4285.

## **II-4. AFFIRMATIVE ACTION/NONDISCRIMINATION**

By submitting a bid/proposal, the Bidder/Proposer agrees to comply with the Fair Labor Standards Act (FLSA); Title VII of the Civil Rights Act of 1964; Executive Order 11246, (as amended); Fair Employment Practices; Equal Employment Opportunity Act; Section 503 of the Rehabilitation Act of 1973, as amended; Vietnam Era Veterans' Readjustment Assistance Act of 1974; Americans with Disabilities Act; Age Discrimination in Employment Act of 1967 (ADEA); and Oregon Revised Statutes (ORS). By submitting a bid/proposal, the Bidder/Proposer specifically certifies, under penalty of perjury, that the Bidder/Proposer has not discriminated against minority, women, or emerging small business enterprises in obtaining any required subcontracts.

If the contract is awarded on the basis of the contractor's certification as a Disadvantaged Business Enterprise (DBE), Minority/Women Business Enterprise (MWBE) and Emerging Small Business (ESB) certifications (collectively known as MWESBs), the contractor must remain certified during the entire term of the contract. Contractors must include a similar provision in any subcontracts for the project.

## **II-5. PAY EQUITY COMPLIANCE AND TRAINING CERTIFICATION**

Pay Equity Compliance. As required by ORS 279C.520, Contractor must comply with ORS 652.220 and ORS 659A, and must not unlawfully discriminate against any of Contractor's employees in the payment of wages or other compensation for work of comparable character on the basis of an employee's membership in a protected class. Contractor's compliance with this section constitutes a material element of this Agreement and a failure to comply constitutes a breach that entitles the City to terminate this Agreement for cause. Contracts valued at \$500,000 with employers that have 50 or more employees are required to take Pay Equity Training and submit a certificate as proof before awarded a contract. Contractor must certify they have taken the required Pay Equity Training and provide a certificate to the City.

Free training is available through the state of Oregon's Department of Administrative Services. Details are available at <https://www.oregon.gov/das/Procurement/Pages/PayEquity.aspx>.

## **II-6. LICENSE REQUIRED FOR ASBESTOS ABATEMENT PROJECT**

This contract does not require the contractor or subcontractor to be licensed under ORS 468A.720, regarding asbestos abatement.

## **II-7. CONSTRUCTION AND DEMOLITION DEBRIS/YARD WASTE MATERIALS – ORS 279C.510**

The contractor is responsible for:

1. Salvaging or recycling construction and demolition debris, if feasible and cost-effective.
2. Composting or mulching yard waste material at an approved site, if feasible and cost-effective.

## **II-8. PROVISIONS CONCERNING ENVIRONMENTAL AND NATURAL RESOURCES LAWS**

Contractor is responsible to abide by ORS 279C.525 regarding enacted ordinances, rules, or regulations as set forth by the Albany Municipal Code, Oregon Department of Environmental Quality, Department of State Lands, Environmental Protection Agency, and/or the US Army Corps of Engineers, or any other federal, state, and local agency, in regards to the prevention of environmental pollution and preservation of natural resources.

## **II-9. PAYMENT, CONTRIBUTIONS, LIENS, WITHHOLDING – ORS 279C.505**

The contractor shall:

1. Make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in this contract.
2. Pay all contributions or amounts due the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the contract.
3. Not permit any lien or claim to be filed or prosecuted against the City on account of any labor or material furnished.
4. Pay to the Department of Revenue all sums withheld from employees under ORS 316.167

**II-10. PAYMENT OF CLAIMS BY PUBLIC OFFICERS, PAYMENT TO PERSONS FURNISHING LABOR OR MATERIALS, AND COMPLAINTS – ORS 279C.515; OAR 839-025-0020(2)(a)**

1. If the Contractor fails, neglects, or refuses to pay promptly a person's claim for labor or services that the person provides to the Contractor or a subcontractor in connection with this contract as the claim becomes due, the City may pay the amount of the claim to the person that provides the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of this contract.
2. If the Contractor or a first-tier subcontractor fails, neglects, or refuses to pay a person that provides labor or materials in connection with this contract within 30 days after receiving payment from the City or Contractor, the Contractor or first-tier subcontractor owes the person the amount due plus interest charges that begin at the end of the 10-day period within which payment is due under ORS 279C.580 (4) and that end upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest on the amount due is nine percent per annum. The amount of interest may not be waived.
3. If the Contractor or a subcontractor fails, neglects, or refuses to pay a person that provides labor or materials in connection with the public improvement contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580.

**II-11. CONTRACTOR'S RELATIONS WITH SUBCONTRACTORS – ORS 279C.580(3)(4)**

Contractor is required to include in each subcontract for property or services the contractor enters into with a first-tier subcontractor, including a material supplier, for the purpose of performing a construction contract:

1. A payment clause that obligates the contractor to pay the first-tier subcontractor for satisfactory performance under the subcontract within 10 days out of amounts the City pays to the contractor under this contract.
2. A clause that requires the contractor to provide a first-tier subcontractor with a standard form that the first-tier subcontractor may use as an application for payment or as another method by which the subcontractor may claim a payment due from the contractor.
3. A clause that requires the contractor, except as otherwise provided in this paragraph, to use the same form and regular administrative procedures for processing payments during the entire term of the subcontract. A contractor may change the form or the regular administrative procedures the contractor uses for processing payments if the contractor:
  - a. Notifies the subcontractor in writing at least 45 days before the date on which the contractor makes the change; and
  - b. Includes with the written notice, a copy of the new or changed form or a description of the new or changed procedure.
4. An interest penalty clause obligating the Contractor, if the contractor does not pay the first-tier subcontractor within 30 days after receiving payment from the City, to pay the first-tier subcontractor an interest penalty on amounts due in each payment the Contractor does not make in accordance with the payment clause included in the subcontract under paragraph (1.) above. A contractor or first-tier subcontractor is not obligated to pay an interest penalty if the only reason that the contractor or first-tier subcontractor did not make payment when payment was due is that the contractor or first-tier subcontractor did not receive payment from the City or Contractor when payment was due. The interest penalty applies to the period that begins on the day after the required payment date and that ends on the date on which the amount due is paid and is computed at the rate specified in ORS 279C.515(2).
5. A clause must be included in each of the Contractor's subcontracts requiring the first-tier subcontractor to include a payment clause and an interest penalty clause that conforms to the standards of this sub-section, paragraphs 1-4 above, in each of the first-tier subcontractor's subcontracts and to require each of the first-tier subcontractor's subcontractors to include such clauses in the first-tier subcontractors' subcontracts with each lower-tier subcontractor or supplier.
6. A mandate that all subcontractors, if they were awarded a subcontract on the basis of certification as a disadvantaged, minority-owned, women-owned, or emerging small business enterprise, to maintain certification through the term of the contract.



## **II-12. CONDITION CONCERNING HOURS OF LABOR – ORS 279C.520**

Any worker employed by the Contractor may not be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or when the public policy absolutely requires it, the employee must be paid at least time and a half pay as follows:

1. For all overtime in excess of eight hours in any one day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or for all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
2. For all work performed on Saturday and on any legal holiday specified in ORS 279C.540.

Contractor must give notice in writing to employees, who work on a public contract, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

Contractor must comply with the prohibition set forth in ORS 652.220, that compliance is a material element of the contract and that a failure to comply is a breach that entitles the contracting agency to terminate the contract for cause.

Contractor may not prohibit any of its employees from discussing the employee's rate of wage, salary, benefits, or other compensation with another employee or another person and may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits, or other compensation with another employee or person.

## **II-13. TIME LIMITATION ON CLAIM FOR OVERTIME – ORS 279C.545**

Any worker employed by the Contractor shall be foreclosed from the right to collect for any overtime provided in ORS 279C.540 unless a claim for payment is filed with the Contractor within 90 days from the completion of the contract, providing the contractor has:

1. Caused a circular clearly printed in boldfaced 12-point type and containing a copy of ORS 279C.545 to be posted in a prominent place alongside the door of the timekeeper's office or in a similar place that is readily available and freely visible to workers employed on the work; and
2. Maintained the circular continuously posted from the inception to the completion of the contract on which workers are or have been employed.

## **II-14. CONDITION CONCERNING PAYMENT OF MEDICAL CARE AND PROVIDING WORKERS' COMPENSATION – ORS 279C.530**

1. Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation furnishing medical, surgical, and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services.
2. All subject employers working under this Contract must comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor must ensure that each of its subcontractors complies with these requirements.

## SECTION III: TECHNICAL SPECIFICATIONS – BID ITEMS

### **Item No. 1 – Mobilization:**

See *Standard Construction Specifications*, Section 201.

Payment for this bid item will be on a lump-sum basis and will include all equipment, labor, materials, and incidentals required to complete the work.

### **Item No. 2 – Erosion Prevention and Sediment Control and Water Quality Protection:**

This item includes all work related to procuring, installing, and maintaining erosion prevention and sediment control (EPSC) measures for the duration of the project as shown on the Construction Drawings. The Contractor must submit an EPSC plan at the preconstruction conference for approval by the Engineer. This plan must include measures to achieve the followings goals:

- Prevent the erosion of exposed soils by wind or rain
- Prevent sediment-laden waters from running onto streets, or into storm drains, ditches, drainage features, wetlands, creeks, streams, lakes, or rivers.
- Quickly respond to rainfall events with additional measures as needed

The contractor shall use a turbidity curtain while any in-water work is in progress.

In the event the Contractor fails to provide and maintain EPSC measures that prevent sediment from leaving the construction site, the City may require that work be stopped immediately. The City will not grant contract extensions for work stoppages based on the Contractor's failure to provide and maintain EPSC measures that prevent sediment from leaving the construction site. If sediment-laden water continues to leave the site after one working day following notification by the Engineer, the City may install additional EPSC measures at the Contractor's expense. The City will deduct two times (200 percent) the City's actual cost, which will include all labor, equipment, and materials involved, from any payments due or coming due to the Contractor.

This item also provides for maintaining the water quality within the Canal during construction. This item includes installation and maintenance of a floating silt curtain around the project area and implementation of other water quality protection measures listed in the Construction Drawings and any other measure required to maintain water quality.

This item provides for working in the Santiam-Albany Canal and isolating the work area. This item includes installation of any isolation needed to perform in-water work. Contractor shall avoid trapping fish within the isolated work areas. If the Contractor observes fish stranded in the isolated work areas, the Contractor must notify the Engineer immediately. Regardless of the fish species, the Contractor will coordinate with Oregon Department of Fish and Wildlife for transport of these species out of the work area. Work in the isolated area will cease until threated or endangered species have been removed and the Engineer authorizes start of work.

Payment for this bid item will be on a lump-sum basis and will include all equipment, labor, materials, and incidentals required to complete the work.

### **Item No. 3 – Unclassified Excavation:**

See *Standard Construction Specifications*, Section 204 and the Special Provisions.

This item provides for the excavation and removal of bank material as per the Construction Drawings. Contractor shall prevent material from entering the Canal during excavation. All excavation material is to be removed offsite unless otherwise directed by the Engineer. Contractor must comply with the project EPSC plan and is subject to turbidity standards. If the standards are exceeded, the Engineer has the authority to stop work at no cost to the City until the Canal water quality is restored and the Contractor's excavation methods reassure the Engineer that no further material will nether the Canal.

Tree stumps must be removed or ground to a minimum of 12 inches below finish grade. Stump removal shall be considered incidental to this bid item.

Payment for this bid item will be on a neat line cubic-yard basis and will include all equipment, labor, materials, and incidentals required to complete the work.

**Item No. 4 – Lower Bank Rehabilitation:**

See the Construction Drawings

This item provides for the bank stabilization below the 272-foot water line as indicated in the Construction Drawings. This installation includes placing geotextile fabric, installation of Class 300 riprap, and 1”-minus washed gravel according to the details and notes presented in the Construction Drawings.

Payment for this bid item will be on a cubic-yard basis and will include all equipment, labor, materials, and incidentals required to complete the work.

**Item No. 5 – Upper Bank Rehabilitation:**

See Construction Drawings

This item provides for the bank stabilization above the 272-foot water line as indicated in the Construction Drawings. This installation includes placing geotextile fabric, soil backfill, and Biod-Mat according to the details and notes presented in the Construction Drawings.

Payment for this bid item will be on a lump-sum basis and will include all equipment, labor, materials, and incidentals required to complete the work.

**Item No. 6 – Lower Bank Revegetation:**

See Construction Drawings

This item provides for the installation of grass seed, native sedges, and willow cuttings as per the Construction Drawings.

This item provides for the restoration of the areas disturbed by construction. Contractor is directed to photograph and document all public and private areas to be disturbed in the course of this work prior to disturbance. At the direction of the Engineer, the contractor will restore areas where construction equipment has impact properties. Lawn and landscape areas shall be tilled or raked smooth and grass and/or plants shall be re-established. Areas compacted by construction equipment shall be restored to preconstruction grade and graded smooth.

Payment for this bid item will be on a lump-sum basis and will include all equipment, labor, materials, and incidentals required to complete the work.

## LIST OF APPENDICES

- A. STATE AND FEDERAL PERMITS – *Included as separate document*
- B. STANDARD CANAL LANGUAGE – *Included as separate document*
- C. STATEMENT OF EXPERIENCE – *Included as separate document*
- D. CONSTRUCTION DRAWINGS (11" × 17") – *Included as separate document*