



COA-ITB#221022

# Invitation to Bid FOR Water and Wastewater Treatment Chemicals

**Issue Date:** Monday, October 24, 2022

**Due Date:** Tuesday, November 15, 2022, 2:00 p.m. (Pacific Time)

**Public Works Director** ..... **Chris Bailey**  
**Water Treatment Plant Supervisor** ..... **Chuck Leffler**  
**WRF Supervisor** ..... **Brian Stevens**  
**Purchasing Coordinator** ..... **Diane M. Murzynski, CPP, CPPO, CPPB**

**For more information regarding this Request for Proposals,  
email [contracts@cityofalbany.net](mailto:contracts@cityofalbany.net).**

**CITY OF ALBANY, OREGON**

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## BIDDER'S SUBMITTAL CHECKLIST

Bids must be emailed by the time and date designated in the Invitation to Bid. It is the responsibility of the bidder to email the bid by the indicated deadline to the designated location. The City is not responsible for late or mishandled delivery. Bids received after the designated closing time will be determined nonresponsive and will not be accepted. If the bidder obtains these documents by means of a website, electronic bulletin board, or copied from a plan center, it is the responsibility of the bidder to check for any addenda.

All bids must be received electronically in non-editable PDF format and must use City-provided forms, if applicable, without unauthorized alterations. The total size limit for each email submittal response must be less than 20 MB. An automated response will be generated back to the sender stating, "Bid has been received by the City." If you do not receive a notification, you may contact Diane Murzynski at [contracts@cityofalbany.net](mailto:contracts@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 email delivery is not late.

The following shall be received to be considered responsive:

- Cost Proposal
- Employee Drug Testing Program Certification
- Employee Background Check Program Certification
- Proposal Certifications
- Certification for Corporation or Independent Contractor
- Responsibility Certification
- Insurance Requirements
- Evidence of Insurance
- Acknowledgement of all addenda on Proposal Certifications

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



## CITY OF ALBANY, OREGON INVITATION TO BID (ITB)

### Water and Wastewater Treatment Chemicals Proposals Due by 2:00 p.m. (Pacific Time), Tuesday, November 15, 2022

Notice is hereby given that the City of Albany (City), Oregon, is requesting bids from Vendors to provide the City of Albany with water and wastewater treatment chemicals over a two-year term, beginning January 1, 2023, with the option to renew the contract up to an additional two, one-year terms.

The Invitation to Bid can be downloaded from the City of Albany website at <https://www.cityofalbany.net/bids>. The City will post all addenda on the City website. Prospective bidders are solely responsible for checking the website to determine if addenda or clarifications have been issued. For questions or clarifications regarding this ITB contact [contracts@cityofalbany.net](mailto:contracts@cityofalbany.net). To be added to the Plan Holders list, contact the Public Works Engineering Department at [pw.quotes@cityofalbany.net](mailto:pw.quotes@cityofalbany.net).

Bid responses must be submitted to Diane Murzynski, in the Finance Department, at [procurement@cityofalbany.net](mailto:procurement@cityofalbany.net), not later than 2:00 p.m. (Pacific Time), Tuesday, November 15, 2022. Submittals will be considered time-stamped and received by the City when received in the procurement email inbox. The email subject line should include the project name "Water and Wastewater Treatment Chemicals".

Bid totals will be posted on the City's website. The City may reject any bid not in compliance with all prescribed solicitation procedures and requirements and other applicable law and may reject any or all bids in whole or in part when the cancellation or rejection is in the best interest of the City, and at no cost to the City.

DATED THIS 24TH DAY OF OCTOBER 2022.

A handwritten signature in cursive script that reads "Diane M. Murzynski".

Diane M. Murzynski, CPP, CPPO, CPPB  
Purchasing Coordinator

PUBLISH: Albany Democrat-Herald, on Monday, October 24, 2022  
Daily Journal of Commerce, on Monday, October 24, 2022

## SECTION 1 – INSTRUCTIONS TO BIDDERS

### 1.1 ISSUING OFFICE AND SUBMITTAL LOCATION

The City Purchasing Coordinator will issue the Invitation to Bid (ITB) document and will be the sole point of contact for the City for questions, concerns, and protests.

Submittal Address & Process Questions:

City of Albany  
Finance Department  
Diane Murzynski, CPP, CPPO  
Purchasing Coordinator  
333 Broadalbin Street SW  
Albany, OR 97321  
[diane.murzynski@cityofalbany.net](mailto:diane.murzynski@cityofalbany.net)

Technical Questions:

Kindra Coggins  
PW Senior Administrative Supervisor  
[Kindra.coggins@cityofalbany.net](mailto:Kindra.coggins@cityofalbany.net)

### 1.2 ITB SCHEDULE

The City anticipates the following general timeline for receiving bids and selecting Vendor(s) to supply chemicals for City Water Treatment Plants. The timeline listed below may be changed if it is in the City's best interest to do so.

ITB Advertised	October 24, 2022
Solicitation Change Requests	October 31, 2022, 12:00 p.m.
Last Date for Questions	November 8, 2022, 12:00 p.m.
Last Date for Addenda	November 9, 2022, 12:00 p.m.
Bid Closing Date	November 15, 2022, 2:00 p.m.
Notice of Intent to Award	November 16, 2022
City Council – Award Contracts	December 14, 2022
Contract Begins	January 1, 2023

### 1.3 CHANGES TO THE SOLICITATION BY ADDENDA

The City of Albany reserves the right to make changes to the ITB by written addenda. Prospective Bidders are solely responsible for checking the website to determine whether any addenda have been issued. A Prospective Bidder may request a change in the ITB by submitting a written request to the address set forth above. The request must specify the provision of the ITB in question and contain an explanation for the requested change.

The Purchasing Coordinator will evaluate any request submitted but reserves the right to determine whether to accept the requested change. If in the Purchasing Coordinator's opinion, additional information or interpretation is necessary; such information will be supplied in the form of an addendum as stated above. Any addenda shall have the same binding effect as though contained in the main body of the ITB. Oral instructions or information concerning the scope of work of the project given out by City of Albany managers, employees, or agents to the prospective Bidders shall not bind the City of Albany.

1. All addenda, clarification, and interpretations will be posted on the City of Albany's website at [City of Albany Bids, ITBs, RFQs](#).
2. No addenda will be issued later than the date set in the ITB Schedule, except an addendum, if necessary, postponing the date for receipt of bids, withdrawing the invitation, modifying elements of the bid resulting from a delayed process, or requesting additional information, clarification.
3. Each Bidder shall ascertain, prior to submitting a bid, that the Bidder has received all addenda issued, and receipt of each addendum shall be acknowledged in the appropriate location on each addendum and included with the bid submittal.

### **1.3 TRADE SECRETS AND PUBLIC RECORDS LAW**

All information submitted by bidders will be public record and subject to disclosure pursuant to the Oregon Public Records Act, except such portions of the proposals for which proposer requests exception from disclosure consistent with Oregon law. All requests will be in writing, noting specifically which portion of the proposal the proposer requests exception from disclosure. Proposer must not copyright, or cause to be copyrighted, any portion of any said document submitted to the City of Albany as a result of this RFP. Proposer should not mark the whole proposal document "confidential". If a proposal contains any information that is considered a trade secret under ORS 192.501(2), bidders must mark each sheet of such information with the following legend: "This data constitutes a trade secret under ORS 192.501(2) and will not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192." Any proposal marked as a trade secret in its entirety will be considered nonresponsive.

### **1.4 CANCELLATION**

ORS 279B.100 provides for cancellation, rejection, or delay of bids when the cancellation or rejection is in the best interest of the city as determined by the city. The City of Albany reserves the right to cancel award of this contract at any time before execution of the contract by both parties if cancellation is deemed to be in the City of Albany's best interest. In no event shall the City of Albany have any liability for the cancellation of award.

### **1.5 COMPETITION**

Bidders are encouraged to comment, either with their bids or at any other time, in writing, on any specification or requirement within this ITB, which the respondent believes, will inordinately limit competition.

### **1.6 CONDITIONS OF SUBMITTAL**

1. The Bidder and each person signing on behalf of any Bidder certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief, no elected official, officer, employee, or person, whose salary is payable in whole or in part by the City of Albany, has a direct or indirect financial interest in the bid, or in the services to which it relates, or in any of the profits thereof other

- than as fully described in the Bidder's response to this solicitation.
2. The Bidder has examined all parts of the ITB, including all requirements and contract terms and conditions thereof, and, if its bid is accepted, the Bidder shall accept the contract documents thereto unless substantive changes are made in same without the approval of the Bidder.
  3. The Bidder, if an individual, is of lawful age; is the only one interested in this bid; and that no person, firm, or corporation, other than that named, has any interest in the bid, or in the proposed contract.
  4. The Bidder has examined the scope of services and conditions thoroughly and can provide the appropriate insurance, deposits, and bonds, as set forth in this ITB, if required.
  5. The Bidder has demonstrated quality experience providing the required goods and services.
  6. The Bidder will comply fully with the scope of services for the agreed contract.
  7. The Bidder can meet any and all registration and certification requirements as set forth and required in the Oregon Revised Statutes and this ITB.

### **1.7 BIDDER REQUESTS INTERPRETATION OF ITB DOCUMENTS**

1. Bidders shall promptly notify the City of Albany of any ambiguity, inconsistency, or error, which they may discover upon examination of the bid documents.
2. Bidders requiring clarification or interpretation of the bid documents shall make a written request to the Purchasing Coordinator at [contracts@cityofalbany.net](mailto:contracts@cityofalbany.net).
3. The City of Albany shall make interpretations, corrections, or changes of the bid documents in writing by published addenda. Interpretations, corrections, or changes of the bid documents made in any other manner will not be binding, and Bidders shall not rely upon such interpretations, corrections, and changes.
4. Should any doubt or difference of opinion arise between the City of Albany and a Bidder as to the items to be furnished hereunder or the interpretation of the provisions of this solicitation, the decision of the City of Albany shall be final and binding upon all parties.
5. To the maximum extent allowed by law, the City may waive bid irregularities or strict compliance with any requirement herein if it concludes such action to be in its best interest.

### **1.8 LATE BIDS, LATE WITHDRAWALS AND LATE MODIFICATIONS**

Bids received after the scheduled closing time for filing bids, as set forth in the Invitation to Bid will be rejected and will not be opened. A Bidder's requests for modification of a bid, or withdrawal of a bid, received after closing date and time is late. The City shall not consider late bids, late requests for modifications or late withdrawals.

### **1.9 MODIFICATION OR WITHDRAWAL OF BID**

A Bidder may modify their bid, in writing, prior to closing date and time. The Bidder shall initial and submit any correction or erasure to its bid prior to the opening, in accordance with the instructions for submitting a bid set forth in this solicitation document. Any modification must include the Bidder's statement that the modification amends and supersedes the Bidder's prior bid. The Bidder

shall mark the submitted modification with the following: (1) Bid Modification, and (2) Project Name.

A Bidder may withdraw their bid, by written notice submitted on the Bidder's letterhead, signed by the Bidder's authorized representative, delivered to the individual and location specified in this solicitation document for the receipt of bids. To be effective, the withdrawal must be received prior to closing date and time. The Bidder or Bidder's authorized representative may withdraw a bid by appearing in person before the Procurement Coordinator prior to closing date and time, with presentation of appropriate identification and evidence of authority to make the withdrawal satisfactory to the Procurement Coordinator. The Bidder shall mark a written request to withdraw a bid as follows: (1) Bid Withdrawal, and (2) Project Name. The City may return the unopened bid that has been withdrawn to the Bidder or the Bidder's authorized representative, after voiding any date and time stamp mark.

### **1.10 REJECTION OF BIDS**

The City of Albany reserves the right to reject any or all bids received as a result of this request. Bids may be rejected for one or more of the following reasons, including but not limited to:

1. Failure of the Bidder to adhere to one or more of the provisions established in this ITB.
2. Failure of the Bidder to submit a bid in the format specified herein.
3. Failure of the Bidder to submit a bid within the time requirements established herein.
4. Failure of the Bidder to adhere to ethical and professional standards before, during, or following the bid process.
5. Failure of the Bidder to submit a bid in compliance with the product specifications, functionality, or design specification requirements.

The City of Albany may reject any bid not in compliance with all prescribed public procurement procedures and requirements and may reject for good cause any or all bids upon a finding of the City of Albany that it is in the public interest to do so.

### **1.11 ALTERNATE BIDS**

Bids which contain conditions which will alter or modify the bid form, specifications, or other bid documents shall not be considered as responsive bids and are unacceptable.

### **1.12 FEDERAL EXCISE TAXES**

Prices bid shall exclude federal excise taxes from which municipal agencies are exempt.

### **1.13 DURATION OF BID**

Bid prices, terms and conditions shall be firm for a period of at least ninety (90) days from the deadline for receipt of submittal. The successful bid shall not be subject to future price escalation or changes of terms if accepted during the ninety (90) day period. Price decreases or changes in terms by others after the acceptance of a bid will not be considered.



## **1.14 AFFIRMATIVE ACTION**

By submitting a bid, the Bidder agrees to comply with the Fair Labor Standard 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); Oregon Revised Statutes (ORS); and all applicable requirements of federal, state and local civil rights and rehabilitation statutes, rules and regulations if awarded a contract by the City.

## **1.15 SUBCONTRACTS AND PROCUREMENT OF MATERIALS AND EQUIPMENT**

In all solicitations by competitive bidding or proposals for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the successful bidder of the successful bidder's obligations under this contract, Title VII of the Civil Rights Act of 1964, and other federal nondiscrimination laws.

## **1.16 CERTIFICATION OFFICE FOR BUSINESS INCLUSION AND DIVERSITY (COBID)**

The Oregon Business Development Department, through the Certification Office for Business Inclusion and Diversity, is the sole agency that may certify enterprises and businesses as disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, businesses that service-disabled veterans own and emerging small businesses that are eligible to perform public contracts in this state. Bidder agrees not to discriminate against a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a business that a service-disabled veteran owns, or an emerging small business enterprise certified under ORS 200.055 in awarding subcontracts as required by ORS 279A.110. A list of state certified DBE contractors is available at <https://www.oregon.gov/biz/programs/cobid/pages/default.aspx> and from the City's website at <https://cityofalbany.net/bids>. Bidders must consider MWESB vendors for subcontracting opportunities.

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

## **1.16 PAY EQUITY COMPLIANCE**

As required by ORS 279B.235, Contractor must comply with ORS 652.220 and shall not unlawfully discriminate against any of Contractor's employees in the payment of wages or other compensation for work of comparable character based on an employee's membership in a protected class. "Protected class" means a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability, or age. Contractor's compliance with this section constitutes a material element of this Contract and a failure to comply constitutes a breach that entitles the City to terminate this Contract for cause.

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

If the contract is valued at \$500,000 or more and the proposer has 50 or more employees, then the proposer is required to complete Pay Equity Training through the State of Oregon's DAS, at <https://www.oregon.gov/das/Procurement/Pages/PayEquity.aspx>, and must certify they have taken the training and provide a certificate as evidence before awarded a contract by the City.

### **1.17 COST OF ITB AND ASSOCIATED RESPONSES**

This ITB does not commit the City of Albany to pay any costs incurred by any Bidder in the submission or presentation of a Bid, or in making the necessary studies for the preparation thereof. Responses to this solicitation are purely voluntary. Bidders shall not include any such expenses as part of their Proposal.

### **1.18 SOLICITATION PROTESTS**

A protest of any provision in this ITB solicitation must be made in writing and emailed to Diane Murzynski, CPPO, Purchasing Coordinator, at [procurement@cityofalbany.net](mailto:procurement@cityofalbany.net) no later than the date listed in the ITB Schedule. Submittals will be reviewed upon receipt and will be answered in writing. Any protest must address the requirement, provision or feature of this RFP or its attachments, that the potential proposer believes is ambiguous, unclear, unfair, contrary to law or likely to limit competition. Such submittals will be reviewed upon receipt and will be answered in writing.

In addition to the information required by ORS 279B.405(4), a prospective proposer's written protest must include a statement of the desired changes to the procurement process or the solicitation document that the prospective proposer believes will remedy the conditions upon which the prospective proposer based its protest. No such protests or requests will be considered if received after the deadline or requests are incomplete. No oral, telegraphic, telephone protests or requests will be accepted.

### **1.19 BID DISCREPANCIES**

Discrepancies between the multiplication of units in work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Unless otherwise specified, Bidders shall bid on all bid items included in this solicitation document and the low Bidder shall be determined as noted in the Award Section. Except as provided herein, bids which are incomplete, fail to reply to all items required in this solicitation document, or found to be in error after clarification has been requested and before contract execution, will be rejected.

## **1.20 IDENTICAL BIDS**

If the City receives Bids identical in price, fitness, availability, and quality and chooses to award a contract, the City shall award the contract in accordance with ORS 279A.120 and OAR 137-046-0300. Tiebreaker preference for identical offers is awarded on the following order of precedence: 1) Goods and services manufactured, produced or to be performed in Oregon, and 2) Drawing lots among the identical Offers. The City shall provide the Bidders who submitted the identical bids notice of the date, time, and location of the drawing of lots and an opportunity for the Bids to be present when the lots are drawn.

## **1.21 COMPLIANCE WITH STATE OF OREGON LAWS**

By submitting a response to this solicitation, Bidder agrees that any terms and conditions stated within any Agreement awarded as a result of this solicitation shall include the following laws of the State of Oregon and are hereby incorporated by reference into the Agreement: ORS 279B.220 (Payment, contributions, liens, and withholding), ORS 279B.225 (Salvaging, recycling, composting or mulching yard waste material, if applicable), ORS 279B.230 (Payment for medical care and workers' compensation), and ORS 279B.235 (Hours of labor).

## **1.22 SAFETY DATA SHEETS (SDS)**

Bidder shall furnish Safety Data Sheets per OAR 437, Division 155, for all chemical items, if applicable, furnished to the City.

## **1.23 PROTEST OF AWARD OF CONTRACT**

A bidder may protest the award of a contract or the intent to award such a contract, whichever occurs first, if the following conditions are satisfied: (1) The bidder must be adversely affected because the bidder would be eligible to be awarded the contract in the event the protest is successful; (2) The reason for the protest is that all the lower bids/proposals, or higher-ranked bids/proposals are nonresponsive; (3) The City has failed to conduct the bid process in accordance with the criteria or processes described in the solicitation document and the specific criteria and process being protested must be included; (4) The City has abused its discretion in rejecting the protestor's bid/proposal as nonresponsive; (5) The City's evaluation of the proposals or the subsequent determination of award is otherwise in violation of ORS 279A or 279B.

Written protests must be delivered to the Purchasing Coordinator at [procurement@cityofalbany.net](mailto:procurement@cityofalbany.net), within seven (7) days after issuance of the notice of intent to award the contract, or if no notice of intent to award is issued, within forty-eight hours after award. The written protest must specify the grounds for protest, must be received by the deadline provided in the notice of intent to award, and must be complete meeting all conditions addressed above, to be considered by the City, pursuant to ORS 279B.410(2). City will not consider a protest of contract award that is incomplete and submitted after the above timeline.

## **1.24 NONAPPROPRIATION**

The City's obligation to award this bid is contingent upon appropriation or approval of funds.

## **1.25 AGREEMENT**

The successful Bidder will be required to sign an agreement to deliver to the City at the prices bid, providing the product specifications and conditions set forth herein, or an agreed upon statement of work, if applicable. It is the City's intent to award an agreement in substantially the form of the agreement attached to this bid document. Bidders may submit an alternative agreement for City's review. The City, at its sole determination, may approve the Bidder's offered agreement as is, require modifications, or reject the Bidder's agreement and require the City's agreement be executed for the purpose of this bid.

## **1.26 NOTICE TO PROCEED**

Work under the Agreement may not begin until the Notice to Proceed has been issued. The City will issue the Notice to Proceed after execution of the contract. The Notice to Proceed will state the date work under the Agreement will begin.

## **1.27 RECIPROCAL PREFERENCE LAW**

Oregon's reciprocal preference law, 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 which is equal to the percent of preference given to local Bidders in the Bidder's home state. The list prepared and maintained by the Oregon Department of Administrative Services pursuant to ORS 279A.120(4) will be used to determine whether the nonresident Bidder's state gives preference to in-state Bidders and the amount of such preference. For details, check Oregon's Reciprocal Preference Law website at: <https://www.naspo.org/reciprocity1>. Proposers in need of assistance in the application of this law should contact the State Procurement Office: State of Oregon, Department of Administrative Services, State Procurement Office, 1225 Ferry Street SE, U-140, Salem, OR 97301-4285. Phone: 503-378-4642.

## **1.28 INVOICES**

All invoices must be submitted in writing and given by mail or email to:

City of Albany  
Attn: Accounts Payable  
P.O. Box 490, Albany, Oregon 97321  
[accountspayable@cityofalbany.net](mailto:accountspayable@cityofalbany.net)

And when so addressed, will be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, bills will be deemed given at the time of actual delivery.

## **SECTION 2 – GENERAL PROVISIONS**

### **2.1 CONTRACT TERM**

The City requesting bids from Vendors to provide the City of Albany with water and wastewater treatment chemicals over a two-year term, beginning January 1, 2023, with the option to renew the contract up to an additional two, one-year terms, upon mutual agreement by both parties.

### **2.2 PROCUREMENT METHOD**

The City will use a procurement source selection method based on a formal, competitive invitation to bid process in accordance with ORS 279B.055. No grant funds are being used for this procurement.

### **2.3 ROYALTIES AND PATENTS**

Successful Bidders shall pay all royalty and license fees. Successful Bidders shall defend all suits or claims for infringement of any patent and shall hold the City harmless from loss of account thereof.

### **2.4 QUALITY**

All chemicals provided under the terms of this contract must meet ANSI/NSF Standard 60 and be of sufficient quality, when delivered, as to be suitable for the purpose or use for which they are being purchased. Chemicals found to be unsuitable for their intended purpose as a result of lack of quality, or premature deterioration of product quality, shall be returned to the Contractor at no cost to the City. If an item provided to the City is used for its intended purpose and its lack of adequate quality results in operating problems, the cost of remedying the problems shall be borne by the successful Bidder.

### **2.5 QUANTITIES**

The quantities indicated in the ITB are the City's estimated requirements based on previous usage and are in no way binding upon the City. The City reserves the right to increase or decrease each item. Items listed within this solicitation document shall be ordered on an "as needed basis" throughout the term(s) of the contract. The failure of the successful Bidders to make delivery of a product meeting the specifications and conditions set forth herein shall be a violation of this contract, giving the City the right to cancel the contract and purchase elsewhere with recourse to the successful Bidder(s).

### **2.6 CONTRACT ADMINISTRATION**

The Contract Administrator for payment and compliance of the contract work shall be Kindra Coggins or designee, [Kindra.coggins@cityofalbany.net](mailto:Kindra.coggins@cityofalbany.net).

## **2.7 FIXED PRICE CONTRACT WITH ECONOMIC PRICE ADJUSTMENT**

The resulting contract will be a fixed price contract with an economic price adjustment once annually at the request of the Contractor. Any change in pricing will be subject to a maximum increase in any one year for the period ending three months prior to the first day of the contract term, or three percent, whichever is lower, as posted in the U.S. Labor Statistics CPI-W, All Items, <https://www.bls.gov/cpi/latest-numbers.htm>.

In times of market volatility, City may negotiate “temporary” pricing adjustments with Contractor. Contractor shall be required to provide the driving cost component in the price increase request and will be required to support the basis of the increase, such as rates reflected on the PPI or CPI and vendor’s cost data. City may increase the pricing temporarily; however, the City reserves the right to request an equitable reciprocal adjustment to pricing annually if extreme and unforeseen volatility in the marketplace resulted in a unexpected price increase.

## **2.8 INDEPENDENT CONTRACTOR (ORS 670.600)**

The contractor shall provide all labor, equipment, material, and supervision necessary to perform the scope of services described in this RFP. The parties intend that contractor, in performing the services specified in this contract, shall act as an independent contractor, and shall have control of the work and the manner in which it is performed. Contractor is not considered an agent or employee of the City of Albany and is not entitled to participate in any pension plan, insurance, bonus, or similar benefits the City of Albany provide its employees.

## **2.9 CITY INSPECTION OF SERVICES**

All services, which include services performed, materials furnished or utilized in the performance of service, and workmanship in the performance of services, shall be subject to inspection by the City, at all times and all locations during the term of the contract. All inspections by the City shall be made in such a manner as not to unduly delay the work by the Contractor.

## **2.10 CONTRACTOR’S EMPLOYEES**

All personnel employed by the Contractor shall be courteous to the public. The City and the Contractor will promptly notify the other of any complaints received within 24 hours. The Contractor will utilize employees who can perform the work described in the scope of services in the RFP.

Contractor’s employees shall wear an easily identifiable badge with photo attached clearly visible for the public to read or provide identification, so individual is readily identifiable as an employee of the Contractor and shall not represent to anyone they are an employee of the City. Contractor must agree to follow all City required Oregon Health Authority (OHA) and OSHA requirements.

## **SECTION 3 – SPECIAL CONDITIONS**

### **3.1 GENERAL**

The City of Albany currently has multiple contracts with multiple contract completion dates. This ITB is an effort to consolidate those contracts to be more efficient.

All chemicals furnished under these specifications for the City of Albany shall comply with the provisions herein. Contractors may bid on one or all items and the City of Albany reserves the right to accept bids for each Item bid as separate and distinct bids. The materials shall be in accordance with the specifications proposed below by the City of Albany. Prices bid shall be the gross price of the material delivered.

The bid prices will be based on estimated quantities as shown in the Quantity Section of the Cost Proposal. Prices shall include delivery and any other charges or provisions anticipated by the Contractor and not shown in these specifications. The estimated quantities are given for informational and bidding purposes based on prior actual annual quantities. However, Contractor should not consider these estimates to be a guarantee of a minimum or maximum amount, nor entitle the Contractor to an adjustment to the unit price bid or to other compensation.

### **3.2 ORDERING**

Ordering will be conducted by the City's Representative(s), Treatment Plant Supervisors, in accordance with their plant requirements and immediate needs, either by oral or written calls on an "as needed basis" against contract(s) awarded by this ITB. If the primary chemical provider is unable to provide the required shipment for delivery, the City's Representative may order from the secondary chemical provider for a particular chemical.

The City Representative shall observe, monitor, and inspect the chemicals provided to the extent required to determine the provisions of the contract documents are being properly fulfilled.

Contractors outside the Albany, Oregon area shall accept long distance telephone orders on a collect basis or provide the City with a toll-free number.

### **3.3 INVOICING**

All notices, invoices, and payments shall be made in writing and invoiced in U.S. Dollars and reflect the same Unit of Measure (UOM) for the chemical as indicated on the Cost Proposal. Contractor must send invoices that align with the UOM on the Cost Proposal. For example, if the UOM bid was in gallons and pounds is used on the Bill of Lading, the UOM must be converted by the Contractor on the invoice to reflect gallons. Note, wet products must reflect gallons and dry products must reflect pounds.

Invoices should reflect the Unit Price bid limited to two decimal places. Contractor shall provide unit cost prices rounded to the nearest hundredth.

### **3.4 DELIVERY**

Delivery will, in most instances, be made within five (5) City business days after a call is made to the Contractor. Exceptions to this condition shall only be made when a request by the Contractor is

made and approved by the City's Representative. If a request is made and approved verbally, confirmation of both the request by the Contractor and approval by the City's Representative shall be made in writing.

Contractor must ensure the delivery of chemical(s) are in accordance with this timeline, five business days, unless approved by the City Representative. Provider acknowledges chemical deliveries are time sensitive and will be responsible for all aspects of the delivery prior to City acceptance and liability passing to the City. This includes date delivered, chemical unloading, and Third-Party Delivery service being compliant with these Contract Documents. The City reserves the right to order from another Supplier should the Chemical Provider not be able to deliver the chemical order timely. If the City must order from another Contractor to provide continuity of City services to citizens, the successful Bidder may be billed for the increase in unit cost for the unanticipated emergency chemical order.

The Contractor's driver shall provide one copy of the delivery statement, Bill of Lading, certified weight statement and applicable Safety Data Sheets to the City's operator prior to connection. The delivery statement must include verification of chemical concentration.

The Contractor shall provide all necessary trained and qualified personnel to be in continuous attendance during the transfer of chemical. The City will provide one operator to act as observer during the delivery and transfer who will assure City protocol is followed. The chemical transfer must meet the City's receiving tanks specifications as provided when contract is awarded. The Contractor's driver is responsible for cleanup of spilled material. Cleanup must be conducted in conformance with the City's safety procedures and conform with applicable EPA, regional, and/or local regulations and ordinances, as well as to any safety procedures and regulations the product manufacturer recommends. The City has wash-down water available for use by the driver at no cost. Any neutralizing agents, special equipment, or chemicals required for cleanup must be furnished by the Contractor.

All deliveries must comply with F.O.B. Destination – Albany, Oregon.

### **3.5 LOCATION OF DELIVERY AND RESTRICTIONS**

Delivery will be made to the City of Albany Vine Street Water Treatment Plant, "Vine", 300 Vine Street SW, Albany, OR 97321; Albany-Millersburg Joint Water Treatment Plant, "AM", 33883 Berry Drive NE, Albany, OR 97322; or City of Albany Water Reclamation Facility, "WRF", 405 Davidson Street NE, Albany, OR 97321, between the hours of 7:30 a.m. to 4:00 p.m. as directed by the Contract Administrator.

The Vine Street WTP delivery site is in a residential area and access may be difficult for large equipment. The Albany-Millersburg Joint WTP has less restrictive access. The successful Bidder(s) must be aware of site constraints at all locations and deliver materials only in equipment that is compatible with the access conditions. Compressors, blowers, pumps, or other auxiliary equipment needed to off-load bulk materials must be provided by the carrier and must be equipped with mufflers or other noise suppression. Should the successful Bidder require a Third-Party Delivery Service, the Supplier is required to convey to the Third-Party Delivery Service applicable delivery instructions, including site restrictions, unloading requirements and delivery date required.



AM WTP – All chemical deliveries should be off loaded in a containment area that is isolated prior to delivery. If the truck or trailer encounters a problem, it will be contained within an area that has a closed drain for procedures to be performed to treat a possible spill. Supplier should contact City Representative at the plant a minimum of 30 minutes prior to delivery.

- Vine WTP – Has one area for chemical delivery. Area 1 – Fluoride, Soda Ash, Totes of Aluminum Chlorohydrate (ACH), and Totes of Sodium Hypochlorite will be offloaded on 4th Street by the City using a forklift. Truckloads of Sodium Hypochlorite and ACH will also be offloaded in Area 1. Supplier should contact City Representative at the Plant a minimum of 30 minutes prior to delivery.

### **3.6 RENEWAL**

If the City determines that it is in the City's best interest, the City may elect to extend the contract for up to two additional, one-year renewal periods subject to the following conditions:

- a. Approval by the City and budget has been approved by the City Council
- b. Service has been determined by the City Representative to be satisfactory

## SECTION 4 – TECHNICAL SPECIFICATIONS

### 4.1 MULTIPLE CHEMICAL BID AWARDS

The water and wastewater treatment chemicals required in this ITB will supply chemicals for two Water Treatment Plant (WTP) facilities and one Water Reclamation Facility (WRF): 1) Vine Street Water Treatment Plant, 300 Vine Street, Albany, OR 97321; 2) Albany-Millersburg Joint (AMJ) Water Treatment Plant, 33883 Berry Drive NE, Albany, OR 97322; and 3) Albany-Millersburg (AM) Water Reclamation Facility, 405 Davidson Street NE, Albany, OR 97321. Some orders may be split between addresses.

The chemicals described on the Cost Proposal worksheet, Items 1 through 5, represent requirements of the Vine Street WTP; Items 6 through 11 represent requirements of the Albany-Millersburg Joint WTP; and Item 12 represents requirements of the Albany-Millersburg WRF.

Bidders are NOT required to bid on all Items. If Bidder is submitting a “NO BID”, Bidder should indicate it by checking the box in the appropriate Item column. Award of bid will be made per Item, to the lowest, responsive, responsible Bidder. This may result in multiple chemical contract awards to the low Bidder of each chemical category.

The City reserves the right to award to a primary and a secondary supplier/bidder per Item category. The low bidder will be determined the “Primary” supplier and will be awarded a contract to supply the chemical bid. The second low bidder will be determined the “Secondary” supplier and may be awarded a contract to supply the chemical, as a backup supplier, and used only when the Primary supplier is unable to deliver the chemical in the required quantity and at the desired date that is needed by the City. There is no guarantee of chemical order for secondary.

Chemicals bid must adhere to product specifications defined below. City reserves the right to cancel any bid award whereby the product bid does not comply with the product specification and intended use. City prefers domestically made products.

### 4.2 CHEMICAL SPECIFICATIONS

#### **ITEM 1: 50% Aluminum Chlorohydrate in 300-gallon totes. (Vine WTP)**

The Aluminum Chlorohydrate (ACH) shall be guaranteed to meet AWWA Standard B408, latest edition. The manufacturer shall provide a certified analysis of the liquid ACH. The ACH content in the liquid ACH products shall be 50 percent by weight expressed as  $Al_2O_3$ . Specific gravity shall be between 1.3 and 1.4.

Delivery shall be in 300-gallon totes. This material shall be certified as suitable for contact with, or treatment of, drinking water by an accredited certification organization in accordance with ANSI/NSF Standard 60, Drinking Water Chemicals – Health Effects. Payment of bulk deliveries shall be made for amounts delivered and determined by certified scale certificates.

Bid is for approximately 8,000 gallons delivered as Liquid ACH. Delivery shall be in totes of 300-gallon lots.

**ITEM 2: Sodium Hypochlorite (12.5 percent) in 300-gallon totes**

The Sodium Hypochlorite shall be guaranteed to meet AWWA Standard B300, latest edition. The Sodium Hypochlorite shall be liquid, filtered and have 12.5 percent of available chlorine by weight. Payment of bulk deliveries shall be made for amounts delivered and determined by certified scale certificates.

This bid is for approximately 18,000 gallons to be delivered and shall be shipped in 300-330-gallon tote bins. Individual orders shall be for approximately 300 gallons.

**ITEM 3: Dense Soda Ash**

The Dense Soda Ash shall be guaranteed to meet AWWA Standard B201, latest edition. The Soda Ash shall be granular Dense Soda Ash and shall be delivered in 2,000 lb. bag form. Payment of bag deliveries shall be made for amounts delivered and determined by certified scale certificates.

The bid is for approximately 80,000 pounds Dense Soda Ash to be delivered. Individual orders shall be for approximately 2,000 pounds of material.

**ITEM 4: Sodium Fluorosilicate**

The Sodium Fluorosilicate shall be guaranteed to meet AWWA Standard B-702, latest edition. The Sodium Fluorosilicate shall be granulated and shall be in 50-pound bags net weight.

The bid is for approximately 6,300 pounds Sodium Fluorosilicate to be delivered. Individual orders shall be approximately 2,000 pounds of material.

**Item 5: Low Salt Sodium Hypochlorite (12.5%) in 5,000-Gallon Tanker Truck Loads at all Locations (VINE WTP)**

Low Salt Sodium Hypochlorite shall be guaranteed to meet AWWA Standard B300, latest edition. The Sodium Hypochlorite shall be liquid, filtered, and have 12.5 percent of available chlorine by weight. Sodium Hypochlorite must be filtered to 203 microns with a certificate of analysis accompanying each manufactured batch. Payment of bulk deliveries shall be made for amounts delivered and determined by certified scale certificates.

The bid is for approximately 20,000 gallons of Low Salt Sodium Hypochlorite to be delivered.

**Item 6: 50% Aluminum Chlorohydrate**

The Aluminum Chlorohydrate (ACH) shall be guaranteed to meet AWWA Standard B408, latest edition. The manufacturer shall provide a certified analysis of the liquid ACH. The ACH content in the liquid ACH products shall be 50 percent by weight expressed as  $Al_2O_3$ . Specific gravity shall be between 1.3 and 1.4.

Delivery shall be in a stainless-steel tank in approximately 3,500- to 4,500-gallon lots. This material shall be certified as suitable for contact with, or treatment of, drinking water by an accredited certification organization in accordance with ANSI/NSF Standard 60, Drinking Water Chemicals – Health Effects. Payment of bulk deliveries shall be made for amounts delivered and determined by certified scale certificates.

The bid is for approximately 4,000 gallons of ACH to be delivered. Individual orders shall be for approximately 3,000 gallons.

**Item 7: 25% Sodium Hydroxide**

The Sodium Hydroxide shall be liquid form containing approximately 25 percent NaOH and shall be guaranteed to meet AWWA Specification B501, latest edition. The manufacturer shall provide an affidavit that the sodium hydroxide provided complies with all applicable requirements of AWWA Specification B501. This material shall be certified as a suitable for contact with, or treatment of, drinking water by an accredited certification organization in accordance with ANSI/NSF Standard 60, Drinking Water Chemicals – Health Effects.

Payment of bulk deliveries shall be made for amounts delivered and determined by certified scale certificates.

This bid is for approximately 30,000 gallons of Liquid Sodium Hydroxide to be delivered and shall be shipped in stainless steel tank in approximately 4,200-gallon lots.

**ITEM 8: Sodium Fluorosilicate**

The Sodium Fluorosilicate shall be guaranteed to meet AWWA Standard B-702, latest edition. The Sodium Fluorosilicate shall be granulated and shall be in 50-pound bags net weight.

The bid is for approximately 27,000 pounds Sodium Fluorosilicate to be delivered. Individual orders shall be for approximately 4,000 pounds of material.

**ITEM 9: 50% Citric Acid**

The manufacturer shall provide a certified analysis of the Citric Acid. The Citric Acid content in the aqueous solution product shall be 50 percent by weight expressed as  $C_6H_8O_7$ . Delivery shall be in a stainless-steel tank in approximately 3,500- to 4,000-gallon lots. This material shall be certified as suitable for contact with, or treatment of, drinking water by an accredited certification organization in accordance with ANSI/NSF Standard 60, Drinking Water Chemicals – Health Effects. Payment of bulk deliveries shall be made for amounts delivered and determined by certified scale certificates.

The bid is for approximately 5,000 gallons of Citric Acid to be delivered. Individual orders shall be for 2,500 gallons.

**ITEM 10: *Liquid Sodium Bisulfite (38 percent)***

The Sodium Bisulfite shall be guaranteed to meet AWWA Standard B601, latest edition. The manufacturer shall provide a certified analysis of the liquid Sodium Bisulfite. The Sodium Bisulfite content in the liquid products shall be 38 percent by weight expressed as NaHSO<sub>3</sub>. Specific gravity shall be between 1.2 and 1.4. Delivery shall be in a stainless-steel tank in approximately 1,000-gallons lots.

This material shall be certified as suitable for contact with, or treatment of, drinking water by an accredited certification organization in accordance with ANSI/NSF Standard 60, Drinking Water Chemicals – Health Effects. Payment of bulk deliveries shall be made for amounts delivered and determined by certified scale certificates.

The bid is for approximately 4,000 gallons of liquid Sodium Bisulfite to be delivered. Individual orders shall be for 1,000 gallons.

**Item 11: *Low Salt Sodium Hypochlorite (12.5%) in 5,000-Gallon Tanker Truck Loads at all Locations (AM WTP)***

Low Salt Sodium Hypochlorite shall be guaranteed to meet AWWA Standard B300, latest edition. The Sodium Hypochlorite shall be liquid, filtered, and have 12.5 percent of available chlorine by weight. Sodium Hypochlorite must be filtered to 203 microns with a certificate of analysis accompanying each manufactured batch. Payment of bulk deliveries shall be made for amounts delivered and determined by certified scale certificates.

The bid is for approximately 35,000 gallons of Low Salt Sodium Hypochlorite to be delivered.

**Item 12: *Low Salt Sodium Hypochlorite (12.5%) in 5,000-Gallon Tanker Truck Loads at all Locations (AM WRF)***

Low Salt Sodium Hypochlorite shall be guaranteed to meet AWWA Standard B300, latest edition. The Sodium Hypochlorite shall be liquid, filtered, and have 12.5 percent of available chlorine by weight. Sodium Hypochlorite must be filtered to 203 microns with a certificate of analysis accompanying each manufactured batch. Payment of bulk deliveries shall be made for amounts delivered and determined by certified scale certificates.

The bid is for approximately 105,000 gallons of Low Salt Sodium Hypochlorite to be delivered.

## EXHIBIT A – COST PROPOSAL

<b>Section 1 - Vine Street WTP:</b>						
<b>Item</b>	<b>Estimated Annual Quantity</b>	<b>Unit of Measure (UOM)</b>	<b>Description</b>	<b>Unit Price</b>	<b>No Bid</b>	<b>Extended Amount</b>
1	8,000	Gallons	50% Aluminum Chlorohydrate in 300-gallon totes		<input type="checkbox"/>	
2	18,000	Gallons	12.5% Sodium Hypochlorite in 330-gallon totes – filtered		<input type="checkbox"/>	
3	80,000	Pounds	Dense Soda Ash 2,000 lb. Super Stack		<input type="checkbox"/>	
4	6,300	Pounds	Sodium Fluorosilicate		<input type="checkbox"/>	
5	20,000	Gallons	12.5% Filtered Low Salt Sodium Hypochlorite		<input type="checkbox"/>	
<b>Section 2 - AM WTP:</b>						
6	4,000	Gallons	50% Aluminum Chlorohydrate		<input type="checkbox"/>	
7	30,000	Gallons	25% Sodium Hydroxide		<input type="checkbox"/>	
8	27,000	Pounds	Sodium Fluorosilicate		<input type="checkbox"/>	
9	5,000	Gallons	50% Citric Acid		<input type="checkbox"/>	
10	4,000	Gallons	38% Sodium Bisulfite		<input type="checkbox"/>	
11	35,000	Gallons	12.5% Filtered Low Salt Sodium Hypochlorite		<input type="checkbox"/>	
<b>Section 3 - AM WRF:</b>						
12	105,000	Gallons	12.5% Filtered Low Salt Sodium Hypochlorite		<input type="checkbox"/>	

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

**Unit Price bid is limited to two decimal places. Contractor shall provide unit cost price rounded to the nearest hundredth.**

Items 1-5 are chemicals needed for the Vine Street WTP, Items 6-11 are chemicals required for the Albany- Millersburg Joint WTP, and Item 12 is required for the Albany-Millersburg WRF. Technical Specifications are described in Section 4 of this ITB. **Order may be split between site locations.**

The City requests your best bid, F.O.B. Destination – Albany, Oregon. All offers are bid in U.S. Dollars.

Bid award will be made per Item number, based on low bid. Award will be made to the lowest, responsive, responsible Bidder “per Item”. The results could be an award of bid to multiple Contractors for the different chemicals requested above.

**If submitting a “NO BID”**, please check the box in the appropriate Item row.

**Unforeseen Situation/Emergency Use:** In the event of an unforeseen situation or emergency, the City may request the Successful Bidder to provide delivery of contracted items within a short time frame at contracted prices.

Please indicate below if your company would be willing to provide delivery in a short time frame:

- Yes, my company is willing to provide delivery in a short time frame for an unforeseen situation or emergency.

Please indicate the time frame: \_\_\_\_\_ hours \_\_\_\_\_ days

- No, my company is not willing to provide delivery in a short time frame for an unforeseen situation or emergency.

## EXHIBIT B – EMPLOYEE DRUG TESTING PROGRAM CERTIFICATION

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 Proposer does hereby certify and confirm that, as the proposed Contractor for the City of Albany's **WATER AND WASTEWATER TREATMENT CHEMICALS** that he/she has an Employee Drug Testing Program in place.

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

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

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

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



## **EXHIBIT C – EMPLOYEE BACKGROUND CHECK PROGRAM CERTIFICATION**

Bidders shall demonstrate and disclose to the City of Albany that he/she has an Employee Background Check Program in place before a public contract can be awarded.

Therefore, by signing this Certification, the Proposer does hereby certify and confirm that, as the proposed Contractor for the City of Albany's **WATER AND WASTEWATER TREATMENT CHEMICALS**, that he/she has an Employee Background Check Program in place.

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

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

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

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

## EXHIBIT D – PROPOSAL CERTIFICATIONS

The undersigned hereby proposes and if selected agrees to furnish the services described in accordance with the ITB, exhibits, attachments, and addenda, if applicable, for the term of the Agreement and certifies that the proposer is not in any way involved in collusion and has no known actual or apparent conflict of interest in submitting a proposal.

### **Certifications**

**Non-Collusion** The undersigned Proposer hereby certifies that it, its officers, partners, owners, providers, representatives, employees and parties in interest, including the affiant, has not in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Proposer, potential Proposer, firm or person, in connection with this solicitation, to submit a collusive or sham bid, to refrain from bidding, to manipulate or ascertain the price(s) of other Proposers or potential Proposers, or to secure through any unlawful act an advantage over other Proposers or the City. The fees, prices, and Response submitted herein have been arrived at in an entirely independent and lawful manner by the Proposer without consultation with other Proposers or potential Proposers or foreknowledge of the prices or Responses to be submitted in response to this solicitation by other Proposers or potential Proposers on the part of the Proposer, its officers, partners, owners, providers, representatives, employees or parties in interest, including the affiant.

**Discrimination** The undersigned Proposer has not discriminated and will not discriminate against any minority, women, or emerging small business enterprise or against a business enterprise that is owned or controlled by or that employs a disabled veteran in obtaining a required subcontract.

**Conflict of Interest** The undersigned Proposer and each person signing on behalf of the Proposer certifies they do not have a personal or organizational conflict of interest. Proposer certifies they have not participated in drafting the scope of work or writing specifications required for the project.

In the case of a sole proprietorship, partnership, or corporation, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief, no member of the City Council, officer, employee, or person, whose salary is payable in whole or in part by the City, has a direct or indirect financial interest in the award of this Response, or in the services to which this Response relates, or in any of the profits, real or potential, thereof, except as noted otherwise herein.

**Work Furnished** The undersigned hereby submits this Response to furnish all work, services, systems, materials, and labor as indicated herein and agrees to be bound by all related contract documents.

**Public Record** Proposer agrees that proposal may be released in total as public information in accordance with the requirements of the laws covering the same. Any proprietary information has been clearly marked.

**Disadvantaged Business Enterprises (DBE)** (*check applicable box*):  Yes  No **Type of DBE** \_\_\_\_\_

**Reciprocal Preference Law – Residency** (*check one box*)  Resident Bidder (Oregon)  Non-Resident Bidder

**Addenda Acknowledgement** – No(s). \_\_\_\_ Dated \_\_\_\_ No(s). \_\_\_\_ Dated \_\_\_\_ No(s). \_\_\_\_ Dated \_\_\_\_

### **Signature Block**

The undersigned hereby certifies that the information contained in these certifications and representations is accurate, complete, and current.

\_\_\_\_\_  
Contractor Name/Title

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

\_\_\_\_\_  
Mailing Address, City, State, Zip

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

\_\_\_\_\_  
Fax Number

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Contractor Signature

\_\_\_\_\_  
Date

**EXHIBIT E – CERTIFICATION FOR CORPORATION OR INDEPENDENT CONTRACTOR**

**A. Contractor is a Corporation, Limited Liability Company, or a Partnership**

I certify under penalty of perjury that Contractor is a (check one):

- Corporation     Limited Liability Company     Partnership     Nonprofit Corporation authorized to do business in the State of Oregon

Signature: \_\_\_\_\_

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

**B. Contractor is a Sole Proprietor Working as an Independent Contractor**

Contractor certifies under penalty of perjury, that the following statements are true:

1. If Contractor is providing services under this Contract for which registration is required under ORS Chapter 71 (Architects and Landscape Contractors) or 701 (Construction Contractors), Contractor has registered as required by law.
2. Contractor is free to determine and exercise control over the means and manner of providing the service subject to the right of the City to specify the desired results.
3. Contractor is responsible for obtaining all licenses or certifications necessary to provide the services.
4. Contractor is customarily engaged in providing services as an independent business.
5. Contractor is customarily engaged as an independent contractor if at least three of the following statements are true.

**C. Independent Contractor.** You must check at least three to establish that you are an independent contractor.

- A. Contractor’s services are primarily carried out at a location that is separate from Contractor’s residence or primarily carried out in a specific portion of the residence which is set aside as the location of the business.
- B. Contractor bears the risk of loss related to the services provided under this Contract.
- C. Contractor provides services to two or more persons within a 12-month period or Contractor routinely engages in business advertising solicitation or other marketing efforts reasonably calculated to obtain new contracts for similar services.
- D. Contractor makes a significant financial investment in the business.
- E. Contractor has the authority to hire additional persons to provide the services and has authority to fire such persons.

Contractor Signature: \_\_\_\_\_

Name/Title: \_\_\_\_\_ Date: \_\_\_\_\_

## EXHIBIT F –RESPONSIBILITY CERTIFICATION

Failure to complete and sign this form may result in the rejection of the submitted offer. The Bidder will notify Purchasing within 30 days of any change in the information provided on this form.

**The Bidder certifies to the best of its knowledge and belief that neither it nor any of its principals:**

- Are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from submitting bids or proposals by and federal, state, or local entity, department or agency;
- Have within a five-year period preceding the date of this certification been convicted of fraud or any other criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) contract embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- Are presently indicted for or otherwise criminally charged with commission of any of the offenses enumerated in Paragraph 2 of this certification;
- Have, within a five-year period preceding the date of this certification had a judgment entered against contractor or its principals arising out of the performance of a public or private contract;
- Have pending in any state or federal court any litigation in which there is a claim against contractor or any of its principals arising out of the performance of a public or private contract; and
- Have within a five-year period preceding the date of this certification had one or more public contracts (federal, state, or local) terminated for any reason related to contract performance.

**The Bidder certifies to the best of its knowledge that:**

- Contractor can perform the work as indicated in the ITB for the Contract Term.
- Contractor has experience with similar projects and had a satisfactory record of performance.
- Contractor has available the appropriate financial, material, equipment, facility and personnel resources and expertise, or can obtain the resources and expertise, necessary to meet all contractual responsibilities.

ATTESTATION:

SIGNATURE OF AUTHORIZED PERSON:

*(notarization is not required)*

Contractor Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name/Title \_\_\_\_\_

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

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

## EXHIBIT G – INSURANCE REQUIREMENTS

Contractor must at all times maintain in force at Contractor's expense the insurance noted below. Evidence of Insurance shall be provided with Bid Response. Coverages underlined AND marked with an "X" as "Required" are mandatory. Bidder shall not alter this form.

**Workers' Compensation** insurance in compliance with ORS 656.017, which requires subject employers to provide workers' compensation coverage in accordance with ORS Chapter 656 or CCB (Construction Contractors Board) for all subject workers. Contractor and all subcontractors of Contractor with one or more employees must have this insurance unless exempt under ORS 656.027. **Employer's Liability Insurance with coverage limits of not less than \$1,000,000 must be included. If Contractor does not have coverage, and claims to be exempt, Contractor must indicate exemption below with qualified reasons for exemption, ORS 656.027.** Out-of-state Contractors with one or more employees working in Oregon in relation to this Contract must have Workers' Compensation coverage from a state with extraterritorial reciprocity, or they must obtain Oregon specific Workers' Compensation coverage ORS 656.126.  Check this box if Contractor is exempt and provide qualified reason: \_\_\_\_\_

**Professional Liability** insurance covering any damages caused by error, omission or any negligent acts of the Contractor, its subcontractors, agents, officers, or employees' performance under this Contract. **Combined single limit per occurrence shall not be less than \$2,000,000. Annual aggregate limit shall not be less than \$2,000,000.** If coverage is on a claims-made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability insurance coverage, or Contractor shall provide **Tail Coverage**.

- If this box is checked, the limits shall be \$1,000,000 per occurrence and \$1,000,000 in annual aggregate.  
 Required by City     Not Required by City (Needs Finance Insurance Review and Approval.)

**Commercial General Liability** insurance with coverage satisfactory to the City on an occurrence basis. **Combined single limit shall not be less than \$2,000,000 per occurrence for Bodily Injury and Property Damage and annual aggregate limit for each shall not be less than \$3,000,000.** Coverage may be written in combination with Automobile Liability Insurance (with separate limits). **Annual aggregate must be on a "per project basis"**. A combination of primary and **Excess/Umbrella insurance** may be used to meet the required limits of insurance.

- If this box is checked, the limits shall be \$1,000,000 per occurrence and \$2,000,000 in annual aggregate.  
 If this box is checked, the limits shall be \$5,000,000 per occurrence and \$5,000,000 in annual aggregate.  
 Required by City     Not Required by City (Needs Finance Insurance Review and Approval.)

**Automobile Liability** covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability insurance (with separate limits). **Combined single limit per occurrence shall not be less than \$2,000,000.** Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

- If this box is checked, the limits shall be \$1,000,000 per occurrence.  
 If this box is checked, the limits shall be \$5,000,000 per occurrence.  
 Required by City     Not Required by City (Needs Finance Insurance Review and Approval.)

**Pollution Liability** covering Contractor's or appropriate subcontractor's liability for bodily injury, property damage and environmental damage resulting from sudden accidental and gradual pollution and related cleanup costs incurred by Contractor, all arising out of the Goods delivered or Services (including transportation risk) performed under this Contract is required. If this coverage is on a claims-made basis, the policy must provide a 24-month extended reporting period. **Coverage must have a limit of not less than \$2,000,000 per incident/claim and \$2,000,000 policy annual aggregate.**

- Required by City     Not Required by City (Needs Finance Insurance Review and Approval.)

**Cyber Liability – Technology Errors & Omissions, Network Information Security & Privacy Liability** for the duration of the contract and for the period of time in which Contractor (Business Associates or subcontractors) maintains, possesses, stores or has access to City data. **Coverage must include limits of not less than \$5,000,000.**

- If this box is checked, the limits shall be \$2,000,000.
- If this box is checked, the limits shall be \$5,000,000.
- Required by City       Not Required by City (Needs Finance Insurance Review and Approval.)

**Garage Keepers Legal Liability** – Coverage for vehicles, including equipment and contents left in vehicles during storage or safekeeping. **Coverage must include a combined single limit of not less than \$500,000 per location.**

- Required by City       Not Required by City (Needs Finance Insurance Review and Approval.)

**Garage Liability** – Coverage for vehicles driven during storage or safekeeping. **Combined single limit per occurrence shall not be less than \$2,000,000.**

- Required by City       Not Required by City (Needs Finance Insurance Review and Approval.)

**Excess or Umbrella Liability Insurance** – A combination of liability and excess or umbrella insurance may be used to meet the required limits of insurance required by City. Contractor must indicate such on the certificate of insurance or within the endorsements.

**Sexual Abuse and Molestation** – If coverage is excluded under the Commercial General Liability policy, evidence of separate Sexual Abuse and Molestation **coverage of not less than \$1,000,000 per claim, incident or occurrence and \$2,000,000 in the aggregate must be provided.**

- Required by City       Not Required by City (Needs Finance Insurance Review and Approval.)

Coverage must be provided by an insurance company authorized to do business in Oregon or rated by A.M. Best’s Insurance Rating of no less than A-VII or City approval. Contractor’s coverage will be primary in the event of loss and state the deductible or retention level. Contractor shall provide a current Certificate of Insurance and renewal upon expiration of any of the required coverages. Contractor shall immediately notify the City of any change in insurance coverages.

**Additional Insured** – City must be included by name as an Additional Insured by endorsement for any General Liability policy on a primary and non-contributory basis. Such coverage will specifically include products and completed operations coverage.

**Description of Operations** shall state: “Project Name: The City of Albany, its officers, employees, and agents are additional insureds with respect to Contractor’s activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance, (include the number). This form is subject to policy terms, conditions, and exclusions.” A copy of the endorsement shall be attached to the Certificate of Liability Insurance. Contractor shall provide complete copies of insurance policies if requested by the City.

**Certificate holder shall be listed as: City of Albany, P.O. Box 490, Albany, OR 97321.**

**Insurance Renewals** – Certificate(s) of Insurance renewals shall be emailed to City of Albany, Finance Dept., Diane Murzynski, at [insurance@cityofalbany.net](mailto:insurance@cityofalbany.net).

**Signature Block:**

Contractor’s Acceptance: \_\_\_\_\_ Date: \_\_\_\_\_

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

ATTACHMENT A – *SAMPLE CONTRACT*

**STANDARD TERMS AND CONDITIONS  
TO SUPPLY WATER AND WASTEWATER TREATMENT CHEMICALS  
TO THE CITY OF ALBANY, OREGON**

**ARTICLE I: SCOPE**

For consideration set forth in Article V of this Agreement, the firm of \_\_\_\_\_, hereinafter referred to as CONTRACTOR, agrees to supply Water and Wastewater Treatment Chemicals, as defined in the Invitation to Bid and the Contractor's Cost Proposal, to the City of Albany, Oregon, a municipal corporation, hereinafter referred to as CITY.

The term of this contract shall be for two (2) years, beginning January 2023 through December 2024, with an option to extend the contract for two (2) additional one-year periods.

This Agreement incorporates all these Standard Terms and Conditions, the promises, representations, and obligations set forth in the following Order of Precedence: Contract Amendments, City Standard Terms and Conditions, Addenda and Clarifications, Invitation to Bid, including Exhibits and Attachments, and Contractor's Proposal and Cost Worksheet.

The CITY shall assist the CONTRACTOR by providing any and all information within its possession or control that may be reasonably helpful in the performance of the services provided herein. In the event of a conflict between the attachment(s) and this document, the terms of this document shall control. Unless modified in writing as set forth in Article IV by the parties hereto, the duties of the CONTRACTOR and the CITY shall not be construed to exceed those services and duties specifically set forth in this Agreement.

In consideration of the mutual promises contained herein, it is agreed to as follows, and is effective upon its execution by and between both parties hereto.

- A. CONTRACTOR will provide services with the degree of skill and diligence normally employed by professionals performing the same or similar services at the time the services are performed and for the professional and technical adequacy and accuracy of designs, drawings, specifications, documents, if applicable, and other work products furnished under this agreement. CONTRACTOR must, at all times during the term of this Agreement, be duly licensed to perform the Work, and if there is no licensing requirement for the profession or Work, be duly qualified and competent. CONTRACTOR will demonstrate the ability to meet or exceed all federal, state, and local laws, codes, and regulations.
- B. Lead Contractor. \_\_\_\_\_ will serve as the lead contractor to the City of Albany for the services described under the terms of this Agreement. Any change in the designation of this role must be approved by CITY.
- C. Documents/Work Products Produced. CONTRACTOR agrees that all documents and work products produced by CONTRACTOR in the fulfillment of its obligations under this Agreement, and all information, documents and material, gathered or compiled in meeting those

obligations, will be considered property of CITY, with an unlimited, royalty free license for CITY use, and will be provided to CITY upon completion of this Agreement or termination of the Agreement pursuant to Article XI.

- D. Compliance with Law. CONTRACTOR covenants and agrees to comply with all of the obligations and conditions applicable to public contracts of this type pursuant to ORS Chapter 279 A and B as though each obligation or condition were fully set forth herein. In addition, CONTRACTOR covenants and agrees that in the performance of its duties hereunder, it will comply with all other state and federal requirements applicable to contracts of this type. If any provision of this Agreement will be deemed to be not in compliance with any statute or rule of law, such provision will be deemed modified to ensure compliance with said statute or rule of law.
- E. Oregon Workers' Compensation Law. CONTRACTOR, its subcontractors, if any, and all employers working under this Agreement 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 unless such employers are exempt under ORS 656.126. CONTRACTOR must ensure that each of its subcontractors complies with these requirements.
- F. Record Retention and Review. CONTRACTOR must maintain books, records, documents and other evidence of accounting procedures and practices which sufficiently and properly reflect all direct costs of any nature expended in the performance of this Agreement. These records will be subject during regular business hours of CONTRACTOR to inspection, review, or audit by personnel duly authorized by CITY upon reasonable advance written notice from CITY to CONTRACTOR. CONTRACTOR will retain all records related to this Agreement for six (6) years following the date of final payment or completion of any required audit, whichever is earlier, and make them available for inspection by persons authorized under this provision. CONTRACTOR will be responsible for any audit exceptions or disallowed costs incurred by CONTRACTOR or any of its subcontractors.
- G. Oregon Consumer Information Protection Act. CONTRACTOR, and any of its subcontractors, agree to comply with the Oregon Consumer Information Protection Act, ORS Sections 646A.600 through 646A.628.
- H. Taxpayer Identification Number. CONTRACTOR agrees to complete a Request for Taxpayer Identification Number and Certification (W-9) as a condition of CITY's obligation to make payment. If CONTRACTOR fails to complete and return the W-9 to CITY, payment to CONTRACTOR may be delayed, or CITY may, in its discretion, terminate the Contract.
- I. ACH Direct Payment Authorization. CITY prefers to pay CONTRACTOR invoices via electronic funds transfers through the Automated Clearing House (ACH) network. To initiate this more timely, efficient, and secure payment method, CONTRACTORS must complete CITY's ACH Vendor Direct Payment Authorization available on CITY website at <https://www.cityofalbany.net/purchasing>. Information provided on the form is exempt from public records disclosure under ORS 192.501(27).
- J. Pay Equity Compliance. As required by ORS 279B.235, CONTRACTOR must comply with ORS 652.220 and will 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 CITY to terminate this Agreement for cause.

Contracts valued at \$500,000 with Contractors that have 50 or more employees are required to complete Pay Equity Training through the State of Oregon's Department of Administrative Services, at <https://www.oregon.gov/das/Procurement/Pages/PayEquity.aspx>, and submit a certificate as proof before awarded a contract. CONTRACTOR certifies that they have taken the required Pay Equity Training and have provided a certificate to CITY.

- K. Preference for Recycled Materials. As required by ORS 279A.125, CONTRACTOR will use where applicable, recycled materials if (a) The recycled product is available; (b) The recycled product meets applicable standards; (c) The recycled product can be substituted for a comparable non-recycled product; and (d) The recycled product's costs do not exceed the costs of non-recycled products by more than five percent.
- L. Compliance with Tax Laws. CONTRACTOR 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.
- M. 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.
- N. Debarment and Suspension. CONTRACTOR, its subcontractors, if any, will certify that during the term of an award of contract by City resulting from this procurement process, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal or state department or agency.
- O. Conflict of Interest. CONTRACTOR will prohibit any employee, governing body, subcontractor, or organization from participating in this contract if the employee or entity has an actual or potential conflict of interest with regards to the funding provided under this agreement. CONTRACTOR must disclose in a timely manner and in writing to CITY all violations of Federal criminal law involving fraud, bribery, or gratuity potentially affecting funds provided under the agreement.

### **ARTICLE III: RESPONSIBILITY OF CITY**

- A. Authorization to Proceed. CITY will authorize CONTRACTOR upon execution of the contract to start work on any of the services defined in Article I.
- B. Access to Records, Facilities, and Property. CITY will comply with reasonable requests from CONTRACTOR for inspection or access to City's records, facilities, and properties by

providing any and all information within its possession or control that may be reasonably helpful in the performance of the services provided herein.

- C. Timely Review. CITY will examine all studies, reports, specifications, proposals, and other documents presented by CONTRACTOR, obtain advice of an attorney, accountant, auditor, risk consultant and any other Contractors as CITY deems appropriate for such examination and render in writing decisions pertaining thereto in a timely manner so as not to unreasonably delay the services of CONTRACTOR.

#### **ARTICLE IV: MODIFICATIONS**

CITY or CONTRACTOR will not make modifications in the attached Agreement or these Standard Terms and Conditions except in writing as an amendment to the agreement. Said modifications will be agreed to by both parties, with scope of work, schedule, and compensation to be negotiated at the time the modification is proposed by either party. Modifications that do not meet these requirements will not be binding, and no further compensation will be allowed for any work performed.

#### **ARTICLE V: COMPENSATION**

CITY agrees to pay for the goods and/or services procured in Article I in accordance with the compensation provisions described in this Agreement and set forth in the Cost Proposal, Exhibit A.

Invoices shall be directed to the City of Albany, Attention: Accounts Payable, P.O. Box 490, Albany, OR 97321. Invoices may be emailed to [accountspayable@cityofalbany.net](mailto:accountspayable@cityofalbany.net).

If payment is not made within 30 days, interest on the unpaid balance will accrue beginning on the 31st day at the rate of one percent (1%) per month or the maximum interest rate permitted by law, whichever is less. Such interest is due and payable when the overdue payment is made, unless delay in payment is due to a contested billing. CITY has the right to appeal or ask for clarification on any CONTRACTOR billing within 30 days of receipt of billing. Until said appeal is resolved or clarification is accepted, no interest will accrue on that portion of the billing. In the event of a contested billing, only that portion so contested will be withheld, and the undisputed portion will be paid in accordance with this Article V.

Notwithstanding anything in this Agreement to the contrary, CITY's obligation to pay money beyond the current fiscal year will 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 CITY's biennial budget must include in the budget for each fiscal year the amount of CITY financial obligation payable in such year and the City Manager or such other Officer will use his/her best efforts to obtain the annual appropriations required to authorize said payments.

#### **ARTICLE VI: INDEMNIFICATION**

CONTRACTOR agrees to indemnify, defend, and hold harmless CITY, its agents, officers and employees, from and against any and all liability, claims, suits, loss, damages, costs, and expenses arising out of or resulting from the negligent or intentional acts, errors, or omissions of CONTRACTOR, its subcontractors, officers, employees, or agents.

#### **ARTICLE VII: INSURANCE**

Before the Agreement is executed and work begins, CONTRACTOR must furnish CITY a

Certificate of Insurance for the coverage and limits set out below which is to be in force and applicable to the project for the duration of the contract. The issuing insurance companies must have a minimum current A.M. Best rating of A- VII or approved by CITY. The Certificate must state that any insurance coverage shown cannot be suspended, voided, canceled by either party, or reduced in coverage or limits without 30 days prior written notice has been given to CITY. Required insurance coverage(s) must continue in effect throughout the term of the contract, or until final acceptance of the entire project, or through the products-completed operations required period.

**A. Minimum Scope of Insurance**

Coverage must be at least as broad as:

1. Commercial General Liability: Insurance Services Office (ISO) form CG 0001 with an edition date of 10-2001 or later, providing Commercial General Liability – Occurrence Form. With CG 25 03 (Amendment Aggregate Limits of Insurance per Project) or equivalent attached.
2. Automobile Liability: Insurance Services Office (ISO) form CA 0001, providing Business Automobile Coverage on owned, non-owned and hired vehicles.
3. Pollution Liability: Insurance covering bodily injury, property damage and environmental damage resulting from sudden accidental and gradual pollution and related cleanup costs incurred by Contractor, all arising out of the goods delivered or services (including transportation risk) performed under this contract.
4. Workers’ Compensation: Insurance as required by Oregon Revised Statutes and including Employers Liability Insurance.

**B. Minimum Limits of Insurance**

CONTRACTOR must maintain limits no less than:

1. Commercial General Liability \$2,000,000 Each Occurrence  
\$2,000,000 Personal Injury  
\$3,000,000 General Aggregate  
\$3,000,000 Products/Completed Operations Aggregate

The General Aggregate and Products/Completed Operations Aggregate must apply separately on a “per project basis”. A combination of primary and Excess/Umbrella insurance may be used to meet the required limits of insurance.

2. Automobile Liability \$2,000,000 Per Occurrence
3. Pollution Liability \$2,000,000 Per Incident/Claim
4. Employers Liability \$1,000,000 Each Accident  
\$1,000,000 Disease Aggregate  
\$1,000,000 Disease Each Employee

**C. Insurance Requirements for Subcontractors**

Should CONTRACTOR subcontract any part of the Contract, CONTRACTOR will require those subcontractors or affiliates, if not covered under CONTRACTOR’s insurance, to obtain and keep in force for the duration of the Contract, insurance equal to the minimum values indicated above.

**D. Deductibles and Self-Insured Retentions**

Any deductible or self-insured retention must be declared to and approved by CITY. At the option of CITY, either: the insurer will reduce or eliminate such deductible or self-insured retention as respects CITY, its officers, employees and agents; or CONTRACTOR will procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

#### **E. Other Insurance Provisions**

The policies are to contain, or be endorsed to contain, the following provisions:

1. Additional Insured Clause - The Commercial General Liability insurance coverage required for performance of this contract must be endorsed to name City of Albany and its officers, agents and employees as Additional Insured on any insurance policies required herein with respect to CONTRACTOR's or any subcontractor's activities being performed under the Agreement. The Certificate of Insurance must include the additional insured endorsement. Coverage must be primary and non-contributory with any other insurance and self-insurance.
2. Any failure to comply with reporting provisions of the policies must not affect coverage provided to CITY, its officers, employees, or agents.
3. Workers' Compensation and Employers Liability Coverage – The insurer must agree to waive by endorsement, all rights of subrogation against the City of Albany, its officers, employees, and agents for losses arising from work performed by CONTRACTOR for CITY.

#### **F. Excess/Umbrella Insurance**

A combination of primary and Excess/Umbrella insurance may be used to meet the required limits of insurance. Indication of use must be provided either on the certificate of insurance or within the endorsements

#### **ARTICLE VIII: ASSIGNMENT**

This Agreement is to be binding upon the heirs, successors, and assigns of the parties hereto and is not to be assigned by either party without first obtaining the written consent of the other. No assignment of this Agreement will be effective until the assignee assumes in writing the obligations of the assigning party and delivers such written assumption to the other original party to this Agreement.

Use of subcontractors by CONTRACTOR or subsidiary or affiliate firms of CONTRACTOR for technical or professional services will not be considered an assignment of a portion of this Agreement, and CONTRACTOR will remain fully responsible for the work performed, whether such performance is by CONTRACTOR or subcontractors. No subcontractors will be used without the written approval of CITY. Nothing herein will be construed to give any rights or benefits hereunder to anyone other than CITY and CONTRACTOR.

#### **ARTICLE IX: INTEGRATION**

These terms and conditions and the attachments represent the entire understanding of CITY and CONTRACTOR as to those matters contained herein. No prior oral or written understanding will be of any force or effect with respect to those matters covered herein. The agreement may not be modified or altered except in writing as specified in Article IV.

## **ARTICLE X: SUSPENSION OF WORK**

CITY may suspend, in writing, and without cause, all or a portion of the work under this Agreement. CONTRACTOR may request that the work be suspended by notifying CITY, in writing, of circumstances that are interfering with the progress of work. CONTRACTOR may suspend work on the project in the event CITY does not pay invoices when due. The time for completion of the work will be extended by the number of days work is suspended. In the event that the period of suspension exceeds 90 days, the terms of the Agreement are subject to renegotiation and both parties are granted the option to terminate work on the suspended portion of the project, in accordance with Article XI.

## **ARTICLE XI: EARLY TERMINATION OF WORK**

- A. CITY may terminate this Agreement for convenience at any time for any reason deemed appropriate in its sole discretion. Termination is effective immediately upon notice of termination given by CITY.
- B. Either party may terminate this Agreement in the event of a material breach by the other party that is not cured. Before termination is permitted, the party seeking termination must give the other party written notice of the breach, its intent to terminate, and fifteen (15) calendar days to cure the breach. If the breach is not cured within 15 calendar days, the party seeking termination may terminate immediately by giving written notice that the Agreement is terminated.
- C. If no notice of termination is given, relationships and obligations created by this Agreement will be terminated upon completion of all applicable requirements of this Agreement.

## **ARTICLE XII: REMEDIES AND PAYMENT ON EARLY TERMINATION**

- A. If CITY terminates pursuant to Article XI(A), CITY will pay CONTRACTOR for work performed in accordance with the Agreement prior to the termination date. No other costs or loss of anticipated profits will be paid.
- B. If CITY terminates pursuant to Article XI(B), CITY is entitled all remedies available at law or equity. In addition, CONTRACTOR must pay CITY all damages, costs, and sums incurred by CITY as a result of the breach.
- C. If CONTRACTOR justifiably terminates the Agreement pursuant to Article XI(B), CONTRACTOR's only remedy is payment for work prior to the termination. No other costs or loss of anticipated profits will be paid.
- D. If CITY's termination under Article XI(B) above was wrongful, the termination will be automatically converted to one for convenience and CONTRACTOR will be paid as if the Agreement was terminated under Article XI(A).
- E. In the event of early termination, CONTRACTOR's work product before the date of termination becomes property of CITY.
- F. In the event of termination, CONTRACTOR must perform such additional work as is necessary for the orderly filing of documents and closing of the project. The time spent on such additional work must not exceed 10 percent (10%) of the time expended on the terminated portion of the project prior to the effective date of termination. CONTRACTOR will be compensated for work actually performed prior to the date of termination plus work required for filing and

closing as described in this Article.

- G. Upon termination, CONTRACTOR must provide to CITY all work products, material, documents, etc., gathered or compiled, related to the project, whether in CONTRACTOR'S possession at the time of termination or received later.

### **ARTICLE XIII: NOTICES**

All notices and demands of a legal nature that either party may be required or may desire to serve upon the other party must be in writing and will be served upon the other party by personal service, by facsimile transmission, email followed by mail delivery of the notice, by overnight courier with proof of receipt, or by certified mail, return receipt requested, or by postage prepaid. Notices must be addressed as follows:

City:

M. Sean Kidd  
City Attorney  
260 Ferry Street SW, Suite 202  
Albany, Oregon 97321  
[sean@longdel.com](mailto:sean@longdel.com)

With copy to:

City of Albany  
Attn: Peter Troedsson, City Manager  
P.O. Box 490  
Albany, Oregon 97321  
[peter.troedsson@cityofalbany.net](mailto:peter.troedsson@cityofalbany.net)

### **ARTICLE XIV: FORCE MAJEURE**

Neither CITY nor CONTRACTOR will hold the other responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of the other or the other's employees and agents.

### **ARTICLE XV: DISPUTE COSTS**

In the event either party brings action to enforce the terms of this Agreement or to seek damages for its breach or arising out of any dispute concerning the terms and conditions hereby created, the prevailing party will be entitled to an award of its reasonable attorney fees, costs, and expenses, including expert witness fees, incurred therein, including such costs and fees as may be required on appeal.

### **ARTICLE XVI: CONFLICT AND SEVERABILITY**

In the event of any inconsistency between the terms of this Agreement and the terms listed in any additional attachments to this Agreement, the terms of this Agreement will control. Any provision of this document found to be prohibited by law will be ineffective to the extent of such prohibition without invalidating the remainder of the document.

### **ARTICLE XVII: CONSTRUCTION**

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 will not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

### **ARTICLE XVIII: NON-DISCRIMINATION/EQUAL EMPLOYMENT OPPORTUNITY**

During the term of this Agreement, CONTRACTOR agrees as follows: CONTRACTOR will not

discriminate against any employee or applicant for employment because of creed, religion, race, color, sex, marital status, sexual orientation, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their creed, religion, race, color, sex, national origin, or the presence of any sensory, mental or physical handicap. Such action will include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

#### **ARTICLE XIX: COURT OF JURISDICTION**

The laws of the State of Oregon will govern the validity of this Agreement, its interpretation and performance, and other claims related to it. Venue for litigation will be in the Circuit Courts in and for Linn County, Oregon.

#### **ARTICLE XX: EFFECTIVE DATE**

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; provided, however, if only one party dated this Agreement, then such date is the date of this Agreement.

#### **ARTICLE XXI: ELECTRONIC SIGNATURES**

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 recordkeeping through electronic means will 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.

**WATER AND WASTEWATER TREATMENT CHEMICALS AGREEMENT**

**CONTRACTOR:**

Date: \_\_\_\_\_

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

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

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

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

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

Mailing  
Address \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

\_\_\_\_\_

Email

\_\_\_\_\_

Social Security No. (if individual)

\_\_\_\_\_

Tax Identification No. (if incorporated)

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

**CITY OF ALBANY, OREGON:**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Chris Bailey, Public Works Director

APPROVED AS TO FORM:

By: \_\_\_\_\_  
M. Sean Kidd, City Attorney



## **ATTACHMENT B – DEFINITIONS**

The following definitions are as used in these contract documents, except where the context otherwise clearly requires.

CIP means Capital Improvement Program.

CITY, OWNER means the City of Albany, Oregon.

CITY'S REPRESENTATIVE or DESIGNEE, or CONTRACT ADMINISTRATOR means the person or persons designated by the City to administer this contract and monitor compliance hereunder.

COBID means Certification Office for Business Inclusion and Diversity.

COMPLETED WORK means all meetings conducted, minutes prepared and approved, exercise completed, after-action reports and improvement reports prepared and approved, and final bill submitted to and received by the City of Albany.

CONTRACT DOCUMENTS mean all written documents existing at the time of contract execution and setting forth the obligations of the parties, including the Request for Proposals, Personal Service Agreement, Scope of Services, Proposal Certifications, Statement for Corporation or Independent Contractor, Proposer Representations and Certification Regarding Debarment, Suspension and Other Responsibility Matters, Certification of Insurance Requirements, References, Cost Proposal, Proposal Response, and other attachments, exhibits, or addenda applicable to the final Contract Documents. In addition, written amendments to the Contract Documents executed by the parties from time to time, and any documents expressly incorporated by reference elsewhere in Contract Documents enumerated above.

CONTRACTOR, CONSULTANT, PROPOSER, RESPONDENT, VENDOR, SUPPLIER, FIRM, COMPANY means the person or business that has undertaken to perform the work subject of this contract and by whom or on whose behalf the contract was signed.

DBE means Disadvantaged Business Enterprise. Disadvantaged Business Enterprises include small businesses that are at least 51% owned by Minorities: Blacks, Hispanics, Native Americans, Asian-Pacific Americans and Subcontinent Asian Americans; Women; and Other individuals on a case-by-case basis.

DEI means Diversity, Equity, and Inclusion. Diversity is the presence of differences that may include race, gender, religion, sexual orientation, ethnicity, nationality, socioeconomic status, language, (dis)ability, age, religious commitment, or political perspective.

DELIVERABLE means the acceptable product or service as identified in the statement of work; received as requested at the right: time, place, quality, quantity, and price. A deliverable must be measurable to determine that all conditions and acceptable performance are met.

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM includes firms that are certified as a DBE from the Certification Office for Business Inclusion and Diversity, or COBID.

FOIA means Freedom of Information Act.

MWESB means Minority-owned, Women-owned, or Emerging Small Business.

OAR means Oregon Administrative Rules.

OHA means Oregon Health Authority.

ORS means Oregon Revised Statutes.

OSHA means Occupational Safety and Health Administration.

PROTECTED CLASS means a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability, or age.

RESIDENT BIDDER means a Bidder that has paid unemployment taxes or income taxes in the State of Oregon during the 12-calendar months immediately preceding submission of a bid, has a business address in the State of Oregon, and has stated in the bid that the Bidder is a "Resident Bidder" as defined in ORS 279A.120(1).

REQUIREMENTS CONTRACT means a form of indefinite delivery/indefinite quantity contract where all actual purchase requirements for specific supplies or services during the contract period are filled by the selected vendor, with deliveries to be scheduled by placing orders with the vendor.

RESPONSIBLE PROPOSER means a person who has submitted an Offer and meets the standards set forth in OAR 137-047-0640 and that has not been debarred or disqualified by the Contracting Agency under OAR 137-047-0575. When used alone, Responsible means meeting the aforementioned standards and is also defined in ORS 279B.110.

RESPONSIVE PROPOSAL means an Offer or Proposal that substantially complies in all material respects with all prescribed procurement procedures and applicable solicitation requirements. When used alone, Responsive means having the characteristic of substantially complying in all material respects with applicable solicitation requirements.

SPECIFICATIONS mean the directions, requirements, explanations, terms, and provisions pertaining to the various features of the work, the manner and method of proposing for the work, the manner and method of performance of the work, and the manner and method of payment all as they appear in the contract documents.

STATEMENT OF TIME means a period of time, unless stated as a number of City business days, will include Saturdays, Sundays, and holidays. The word "day" as used in this RFP document, and any resulting contract awarded as a result of this process, will constitute a calendar day of 24 hours measured from midnight to the next midnight.

STATEMENT OF WORK or SOW mean the formal document that defines the entire scope of the work involved for a vendor or contractor and clarifies deliverables, costs, and timeline, and provides direction on the specific services that the contractor is expected to perform by detailing the work

activities and deliverables.

SUBSTANTIAL COMPLETION means a stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or use the Work or a portion thereof for its intended use.

WORK means all tasks specified or necessarily implied in these Contract Documents to perform and complete their intended result. The term encompasses all labor, materials, supplies, tools, equipment, fuel, administrative and support services, overhead, and other direct and indirect expenses necessary to achieve the result intended by the Contract Documents.