



Revised February 15, 2024

Solicitation ITB # PK-240209

# CONTRACT DOCUMENTS FOR COOL POOL PLASTER REPLACEMENT

**Issue Date: Monday, February 5, 2024**

**Due Date: Tuesday, February 20, 2024, 2:30 p.m. (Pacific Time)**

**Parks & Recreation Director ..... Kim Lyddane**  
**Parks & Facilities Maintenance Manager ..... Rick Barnett**  
**Contracts & Procurement Officer ..... Diane Murzynski, NIGP-CPP, CPPO**

**For more information on this project,  
email [contracts@albanyoregon.gov](mailto:contracts@albanyoregon.gov).**

**CITY OF ALBANY, OREGON**

**PK-240209, COOL Pool Plaster Replacement**

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## BIDDER'S SUBMITTAL CHECKLIST

Bids must be received by the time and date designated in the Invitation to Bid. It is the responsibility of the Bidder to submit the bid before the indicated deadline to the designated location. Bids received in the procurement email repository after the designated closing time will be determined nonresponsive and will not be accepted. The City is not responsible for late or mishandled delivery.

If Contractor obtains these documents by means of a website or copied from a Plan Center, it is the responsibility of the Contractor to check for addenda to this contract prior to bid opening. To be notified of addenda, Contractor may email [contracts@albanyoregon.gov](mailto:contracts@albanyoregon.gov) and request to be added to the Plan Holder's list.

**All bids must be submitted on City-provided forms that do not contain unauthorized alterations.**

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

A scanned copy of a bid bond is acceptable for the purposes of the bid opening.

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

- Signed Proposal (*two pages*) – *with all applicable blanks completed*
- Completed Schedule of Contract Prices – *signed by an authorized representative of the company who can "execute bids"*
- Bid Bond – *using City-provided Bid Bond form with no alterations*
- Employee Drug and Alcohol Testing Program Certification form
- Pay Equity Training Certificate (*Applicable if greater than \$500,000 and 50 or more employees*)
- Addenda Acknowledgement (*acknowledge on Proposal if addenda have been issued*)
- Evidence of Insurance

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

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

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



**NOTICE TO CONTRACTORS  
CITY OF ALBANY, OREGON  
INVITATION TO BID**

**Category of Bid: Construction  
Engineer's Estimate: \$95,000**

**Bids due at 2:30 p.m., Pacific Time, Tuesday, February 20, 2024**

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

**PK-240209, COOL Pool Plaster Replacement.** Replaster the outdoor pool, 400 linear feet, with curves and standing walls, and a depth that varies. Contractor must strip pool plaster around the water tile line; remove, haul and dispose of debris in a sustainable manner; replace wall fittings, fixtures, and drain covers; acid wash pool and apply bond coat for better bonding of new plaster; and plaster pool in commercial grade standard white marble pool plaster.

**Optional Prebid Meeting.** The meeting will be held onsite on Tuesday, February 13, 2024, 11:00 a.m. to 12:00 p.m., 705 Railroad Street SE, Albany. Contractors are encouraged to attend to more closely inspect the site and ask related questions.

Please note all questions must be submitted to [contracts@albanyoregon.gov](mailto:contracts@albanyoregon.gov) and Rick Barnett at [rick.barnett@albanyoregon.gov](mailto:rick.barnett@albanyoregon.gov), before Wednesday, February 14, 2024, 5:00 p.m. The last day for addenda will be Thursday, February 15, 2024, at 12:00 p.m.

Bids must be submitted to Diane Murzynski in the Finance Department, at [procurement@albanyoregon.gov](mailto:procurement@albanyoregon.gov) **not later than 2:30 p.m., on Tuesday, February 20, 2024.** Bids will be considered time-stamped and received by the City when received in the procurement email inbox. The email subject line must include the project number and name as follows: **PK-240209, COOL Pool Plaster Replacement.** The body of the email must plainly identify (1) the project name, (2) the bid opening time and date, (3) the bidder's name, and (4) the contractor's license number (per ORS 701). Immediately following the filing deadline, the bids will be opened and publicly read using a virtual hosted meeting, <https://global.gotomeeting.com/join/623409989>. Interested parties can also dial in using their phones (1-571-317-3122, access code 623-409-989). Bid totals will be posted on the City's website at <https://albanyoregon.gov/bids>.

Contract bid documents may be downloaded from the City of Albany website at <https://albanyoregon.gov/bids>. It is imperative those who download the contract bid documents check the website regularly for addenda, clarifications, and other pertinent notifications. All who are known by the City of Albany to have received a complete set of the contract bid documents will receive notification when additional items are posted. Please email [contracts@albanyoregon.gov](mailto:contracts@albanyoregon.gov) to be added to the Plan Holder's list.

Each bidder must have access to a current set of City of Albany *Standard Construction Specifications*, (updated June 2023) which can be found on the City's website at <https://albanyoregon.gov/standard-construction-specifications>. All public improvements are required to conform to these specifications and bid prices must reflect these specifications. For project information, email Rick Barnett at [rick.barnett@albanyoregon.gov](mailto:rick.barnett@albanyoregon.gov) and Diane Murzynski at [diane.murzynski@albanyoregon.gov](mailto:diane.murzynski@albanyoregon.gov).

All City contracts contain a statement declaring the bidder agrees to comply with the provisions of ORS 279C.800 through 279C.870 regarding payment of prevailing wages. The City's contract contains a clause which incorporates by reference all of the provisions of ORS Chapter 279C which are applicable to

public contracts. Bidders are expected to be familiar with these provisions including, but not limited to, recent changes to ORS Chapter 279C.

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

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

DATED THIS 5TH DAY OF FEBRUARY 2024.



Diane M. Murzynski, NIGP-CPP, CPPO, CPPB  
Contracts & Procurement Officer

PUBLISH: Daily Journal of Commerce on Monday, February 5, 2024  
City of Albany Website, February 5, 2024

## PROPOSAL

To the Honorable Mayor and City Council  
Albany, Oregon 97321

### BIDDER'S DECLARATION AND UNDERSTANDING

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

The Bidder further declares that the only persons or parties interested in this proposal are those named herein, that this proposal is in all respects fair and without fraud, that it is made without collusion with any official of the City of Albany, and that the proposal is made without any connection or collusion with any person making another proposal on this Contract. The Bidder, and each person signing on behalf of the Bidder, certifies they do not have a personal or organizational conflict of interest and have not participated in drafting the scope of work or writing the specifications required for the project.

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

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

The bidder further certifies that they have authority and knowledge regarding the payment of taxes and that to the best of their knowledge are not in violation of any Oregon Tax Laws as provided for in ORS 305.385(6). For purposes of this certification, "Oregon Tax Laws" are those tax laws imposed by ORS 320.005 to 320.150 and ORS 403.200 to 403.250 and ORS Chapters 118, 314, 316, 317, 318, 321, and 323; the elderly rental assistance program under ORS 310.630 to 310.706; and any local tax laws administered by the Oregon Department of Revenue under ORS 305.620.

### CONTRACT EXECUTION, BONDS, AND INSURANCE

The Bidder agrees that if this proposal is accepted:

- A contract with the City of Albany, Oregon, will be executed, within 10 days after the date of the Notice of Award, in the form of Contract annexed hereto, and will at that time, deliver to the City of Albany the 100 percent Performance Bond and 100 percent Payment Bond, and will, to the extent of this proposal, furnish all machinery, tools, apparatus, and other means of construction and do the work and furnish all the materials necessary to complete all work as specified or shown in the Contract Documents.
- A Request for Taxpayer Identification Number and Certification (W-9) will be completed as a condition of the City's obligation to make payment. In the event the Bidder fails to complete and return the W-9 to the City, payment to Bidder may be delayed, or the City may, in its discretion, terminate the Contract.



- 3. **Pollution Liability:** \$2,000,000 Per Incident/Claim  
\$2,000,000 Annual Aggregate
- 4. **Employers Liability:** \$1,000,000 Each Accident  
\$1,000,000 Disease Aggregate  
\$1,000,000 Disease Each Employee

ADDENDA ACKNOWLEDGEMENT

No(s) \_\_\_ Dated \_\_\_\_\_ No(s)\_\_\_ Dated \_\_\_\_\_ No(s)\_\_\_ Dated \_\_\_\_\_ No(s) \_\_\_\_\_ Dated \_\_\_\_\_  
 No(s) \_\_\_\_\_ Dated \_\_\_\_\_ No(s) \_\_\_\_\_ Dated \_\_\_\_\_

START OF CONSTRUCTION AND CONTRACT COMPLETION DATE

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

LIQUIDATED DAMAGES

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

BID BOND

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

SURETY

If the Bidder is awarded a construction Contract on this proposal, the Surety who provides the Performance Bond will

be \_\_\_\_\_ whose address is (street and city) \_\_\_\_\_ and Payment Bond will be \_\_\_\_\_ whose address is (street and city) \_\_\_\_\_.

LUMP SUM OR UNIT PRICE WORK

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

BIDDER

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



In accordance with ORS 279A.120, Bidder hereby declares that it (**circle correct designation**) is / is not a resident bidder.

The names of the principal officers of the corporation submitting this proposal, or of the partnership, or of all persons interested in this proposal as principals are as follows:

\_\_\_\_\_

*If Sole Proprietor or Partnership:* IN WITNESS hereto the undersigned has set his/her hand this \_\_\_ day of \_\_\_\_\_ 2024.

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

\_\_\_\_\_  
Title

*If Corporation:* IN WITNESS WHEREOF the undersigned corporation has duly authorized the execution of this agreement on behalf of the corporation by the officer named below this \_\_\_\_\_ day of \_\_\_\_\_ 2024.

\_\_\_\_\_  
*name of corporation*

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

Name \_\_\_\_\_

*(please print name)*

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

**SCHEDULE OF CONTRACT PRICES**

ITEM NO.	BID ITEMS	QUANTITY	UNIT OF MEASURE	UNIT PRICE DOLLARS/CTS	TOTAL AMT. U.S. DOLLARS/CTS
1	Mobilization	1	LS		
2	Strip Pool Plaster	1	LS		
3	Replace Wall Fittings, Returns and Fixtures	1	LS		
4	Plaster Pool	1	LS		
5	Acid Wash Pool	1	LS		
6	Apply Bond Coat	1	LS		
7	Demolition	1	LS		
<b>SUM OF EXTENDED TOTALS</b>					

**NOTE: Subject to change if addition or extensions are in error. (Unit price prevails.)**

**All Items must be bid to be responsive.**

**Project will be awarded to the lowest responsible, responsive bidder based on the sum of extended totals above.**

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

**BID BOND**

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

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

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

THE CONDITION OF THIS BOND IS SUCH THAT:

WHEREAS, the PRINCIPAL is herewith submitting his/her/their Bid Proposal for **PK-240209, Albany COOL Pool Plaster Replacement**, said Bid Proposal, by reference thereto, being hereby made a part hereof.

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

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_ 2024.

\_\_\_\_\_  
PRINCIPAL

\_\_\_\_\_  
SURETY

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

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

Attorney in Fact

**EMPLOYEE DRUG AND ALCOHOL TESTING PROGRAM CERTIFICATION**

The City of Albany requires that Bidders demonstrate and disclose that they have an Employee Drug and Alcohol Testing Program in place before a public contract can be awarded, **ORS 279C.505(2)**.

Therefore, by signing this certification, the Bidder does hereby certify and confirm that, as the proposed general contractor for City of Albany Project, **PK-240209, Albany Community Pool Plaster Replacement**, he/she/they has an Employee Drug and Alcohol Testing Program in place. City requires assurance that the Contractor conducts random drug and alcohol testing for employees no less frequently than annually and assigned employees have successfully passed a minimum 12-panel drug test to satisfy the intent of this certification and the above legislation.

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

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

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

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

**FIRST-TIER SUBCONTRACTOR DISCLOSURE**

**PROJECT NAME:** COOL Pool Plaster Replacement

**BID NUMBER:** PK-240209

**BID CLOSING DATE:** Tuesday, February 20, 2024

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

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

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

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

\_\_\_\_\_

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **SAMPLE CONTRACT**

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

### WITNESSETH:

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

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

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

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

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

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

Contractor, its subcontractors, if any, must certify that during the term of this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any local, state, or federal department or agency.

Contractor must agree to abide by all applicable federal requirements for procurement, as defined in 2 CFR Part 200 and Appendix II to Part 200 – Contract Provisions for Non-Federal Entity Contracts under Federal Awards, if any federal funds are used for the Project.

It is expressly understood that this Contract must be governed by the laws of the State of Oregon. The statutes of the State of Oregon for public works contracts, specifically but not exclusively ORS Chapter 279 A-C as amended or superseded, including the latest additions and revisions, are incorporated by reference as part of the contract documents, and the party contracting with the City of Albany hereby

covenants and agrees to comply with all of the obligations and conditions applicable to public contracts pursuant to ORS 279 A-C, et seq, as though each obligation or condition were set forth fully herein. In addition, if the contract identified above calls for a public improvement as that term is defined by ORS 279A.010, the party contracting with the City of Albany further agrees to comply with all obligations and conditions applicable to public contracts for public improvements pursuant to ORS 279C, et seq, as though each obligation or condition were set forth fully herein. Contractor and its subcontractors, if any, agree to comply with the Oregon Consumer Information Protection Act, ORS Sections 646A.600 through 646A.628.

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

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

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

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

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

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

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

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

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

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

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

**CONTRACTOR:**

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

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

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

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

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

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

**CITY OF ALBANY, OREGON:**

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

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

Kim Lyddane, Parks & Recreation Director

APPROVED AS TO FORM:

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

\_\_\_\_\_  
Construction Contractors Board License Number  
UEI, if federal funded: \_\_\_\_\_  
DBE, if applicable: \_\_\_\_\_  
Tax Identification No.: \_\_\_\_\_  
Telephone Number: (     ) \_\_\_\_\_



## PERFORMANCE BOND

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

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

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

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

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

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

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

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

persons, firms, or corporations having claims hereunder, must have the right to be made a party to such proceeding and to have such claim adjudicated in such action and judgment rendered thereon.

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

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

IN WITNESS THEREOF, the parties hereto have caused this bond to be executed this \_\_\_\_\_ day of \_\_\_\_\_ 2024.

\_\_\_\_\_  
Principal

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

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

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

\_\_\_\_\_  
Surety

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

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

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

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

Surety Witness:

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

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

## PAYMENT BOND

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

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

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

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

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

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

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

IN WITNESS THEREOF, the parties hereto have caused this bond to be executed this \_\_\_\_\_ day of \_\_\_\_\_ 2024.

\_\_\_\_\_  
Principal

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

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

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

\_\_\_\_\_  
Surety

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

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

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

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

Surety Witness:

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

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

## SPECIAL PROVISIONS

### SECTION I: GENERAL REQUIREMENTS

#### I-1. DESCRIPTION OF WORK

Contractor must replaster the outdoor pool, 400 linear feet, with curves and standing walls, and a depth that varies. COOL Pool was constructed in 2005 and has not been replastered. Contractor must strip pool plaster around the water tile line; remove, haul and dispose of debris; replace wall fittings, fixtures, and drain covers; acid wash pool and apply bond coat for better bonding of new plaster; and plaster pool in commercial grade standard white marble pool plaster.

Contractor will be responsible for disposal of removed plaster and materials in a sustainable manner and in accordance with environmental requirements and the EPA. Contractor must provide a dumpster for garbage or haul debris. Contractor will be responsible for all required permits.

Contractor, in consideration of the sums to be paid and other covenants herein contained, agrees to perform the work herein described and to furnish all necessary machinery, tools, apparatus, equipment, supplies, materials, labor, safety and protective equipment, floor protection, cleanup, and incidentals required to complete the work.

Construction must be in accordance with the current, June 2023, provisions of the *Standard Construction Specifications* and these Special Provisions.

#### I-2. SITE CONDITIONS

The site is an outdoor pool with zero depth entry, play structure, lazy river, standing walls and high slide into deepest part of pool at 4.5'. See the List of Appendices for multiple pool photos.

#### I-3. OPTIONAL PREBID MEETING

Contractors wishing to more closely inspect the site must attend the Optional Prebid Meeting scheduled for Tuesday, February 13, 2024, 11:00 a.m. to 12:00 p.m., at 705 Railroad Street SE, Albany. Contractors are encouraged to attend to observe the pool conditions and ask related project questions.

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

#### I-4. STANDARD CONSTRUCTION SPECIFICATIONS

Each bidder must have access to a current set (June 2023) of City of Albany *Standard Construction Specifications*, which can be found on the City of Albany's website at <https://albanyoregon.gov/standard-construction-specifications> or a printed set may be purchased for \$100. Holder of hard copy *Standard Construction Specifications* will be required to purchase a new copy of specifications each time they are updated. All public improvements are required to conform to these specifications and bid prices must reflect these specifications.

## I-5. AWARD OF CONTRACT

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

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

List of Subcontractors. Contractors are required to submit a list of subcontractors in accordance with ORS 279C.370. Contractors shall include opportunities for DBE Contractors. The State of Oregon maintains a certified DBE list at [COBID Certification Management System \(diversitysoftware.com\)](https://diversitysoftware.com). The City will submit a copy of this disclosure of first-tier subcontractors to the Bureau of Labor and Industries (BOLI) along with the completed BOLI form WH-81.

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

Electronic Signature. Each Party agrees that electronic signatures, whether digital or encrypted, of the parties included in this Agreement, if any, are intended to authenticate this writing and to have the same force and effect as manual signatures. The term "electronic signature" means any electronic sound, symbol, or process attached to or logically associated with a contract or record and executed and adopted by a party with the intent to sign, authenticate or accept such contract or record. Any signature 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 and may not be denied legal effect according to ORS 84.019.

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.

Conflict of Interest. Contractor will prohibit any employee, governing body, subcontractor, volunteer, or organization from participating in this contract if the person(s) 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 the City all violations of federal criminal law involving fraud, bribery, or gratuity potentially affecting funds provided under the agreement. Neither contractor nor contractor's principals or governing body shall be involved in any current or pending litigation that will be construed as a conflict of interest in the City's sole discretion.

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

At Contractor's option, the City will issue the Notice to Proceed any time after both parties have executed the contract. The Contractor will be required to give the City approximately seven days advance notice of intent to begin construction. Once the Notice to Proceed is issued, Contractor should complete work by **June 1, 2024**.

Because this is a seasonal pool open for summer programming only, the intent is to complete the project before opening for the 2024 season. If spring weather does not allow work to be completed prior to this time, the project work must start September 3, 2024, and be completed before **October 4, 2024, the ultimate completion date**.

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

## I-7. PRECONSTRUCTION CONFERENCE

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

- Project Schedule
- Traffic Control Plan

## I-8. PROJECT SCHEDULE

A detailed construction schedule of all work relating to this project must be submitted in advance by email to the Project Manager Rick Barnett, Parks & Facilities Maintenance Manager, [rick.barnett@albanyoregon.gov](mailto:rick.barnett@albanyoregon.gov) for discussion at the preconstruction conference. The schedule must show how the contractor plans to complete the project on or before the ultimate completion date. Contractor must take appropriate measures to expedite work items that are behind schedule, including the use of outside forces to complete the work, without additional compensation.

## I-9. TEMPORARY TRAFFIC CONTROL

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

Construction operations must be conducted in a manner that will provide for uninterrupted movement of traffic on all public and private roadways within the construction area. At a minimum, Contractor must maintain one lane of traffic in each direction or provide flaggers to control alternating traffic through a single lane. Temporary ramps must be installed and maintained at intersections and driveways for the duration of the project. At no time shall the flow of traffic be stopped completely without the approval of the Project Manager. Approval for short-term, temporary closures or detours, if given, will be limited to a specific instance and will not be approved as standard practice.

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

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

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

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

All public and private roadways and driveways within the project area must be fully open to local traffic at the end of each workday and at all times when no work is taking place. Contractor must maintain continuous access to commercial and industrial properties except during paving operations. Contractor must meet on-site with the manager of each business a minimum of 72 hours in advance of any work affecting access to their property and inform them of the measures taken to maintain access. The contractor must place and maintain “DRIVEWAY OPEN” signs at commercial driveways to guide customers and deliveries to the appropriate entrances during the work. The signs must be repositioned on a continuous basis as the progress of the work requires.

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

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

**I-10. NOTIFICATIONS**

Contractor must provide written notice to the front office of the following agencies, at least three working days in advance of beginning construction. The written notice must include the construction schedule and must explain the extent and duration of expected traffic disruptions. Agency contact information may be found in the table below.

<b><u>Agency</u></b>	<b><u>Address</u></b>	<b><u>Phone Number</u></b>
U.S. Postal Service	525 Second Avenue SW, Albany, OR 97321	541-926-8829
Albany Transit System	112 Tenth Avenue SW, Albany, OR 97321	541-917-7667
Republic Services	1214 Montgomery Street SE, Albany, OR 97321	541-928-2551



Albany Fire Department Administrative Office	611 Lyon Street SE, Albany, OR 97321	541-917-7700
Greater Albany Public Schools District Office	718 Seventh Avenue SW, Albany, OR 97321	541-967-4501
Albany Police Department	2600 Pacific Boulevard SW, Albany, OR 97322	541-971-7680
Linn County Sheriff's Office	1115 Jackson Street SE, Albany, OR 97322	541-967-3950

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

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

### **I-11. ENTERING AND WORKING WITHIN CONFINED SPACES**

Contractors working on any public improvement project, while under contract with the City or a private entity, must comply with the following regulations as they pertain to entering and working within confined spaces (as defined by OR-OSHA):

1. Identify any confined space entry that is required to perform the work and submit a list of the locations to the City.
2. Follow the City's confined space entry procedures or submit an alternate procedure that meets or exceeds OR-OSHA confined space entry regulations.
3. Submit written notice to the City of any hazardous situation that is encountered during the entry of or while working within a confined space.

### **I-12. WORK ON PRIVATE PROPERTY**

Permits will be required for all plumbing, electrical, and site work on private property. Permits may be obtained from the Building Department at City Hall, 333 Broadalbin Street SW, Albany, Oregon, or are also available at [www.albanyoregon.gov](http://www.albanyoregon.gov). Payment for obtaining permits will be considered incidental to the appropriate bid items.

## SECTION II: STATE AND FEDERAL CONTRACTING LAW

### II-1. PREVAILING WAGES

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

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

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

**PK-240209; COOL Pool Plaster Replacement, does not use federal funds and does not require Davis-Bacon rates. Only Oregon BOLI Prevailing Wage Rates apply to this project.**

Each year the Oregon Bureau of Labor and Industries (BOLI) publishes rates and amendments that are available by calling 971-353-6822 or online at the BOLI website at:

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

The publication that applies to this contract is the **January 5, 2024, Prevailing Wage Rates for Public Works Contracts in Oregon.**

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

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

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

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

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

### II-3. RECIPROCAL PREFERENCE LAW

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

its own in-state bidders, the Oregon agency must add 10 percent to that bidder's price when evaluating the bid.

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

<https://naspo.org/reciprocity1>

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

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

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

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

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

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

Free training is available through the state of Oregon's Department of Administrative Services. Details are available at <https://oregon.gov/das/procurement/pages/payequity.aspx>.

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

This contract does NOT require Contractor or subcontractor to be licensed under ORS 468A.720, regarding asbestos abatement.

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

Contractor is responsible for:

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

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

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

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

Contractor shall:

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

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

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

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

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

1. A payment clause that obligates Contractor to pay the first-tier subcontractor for satisfactory performance under the subcontract within 10 days out of amounts the City pays to Contractor under this contract.

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

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

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

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

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

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

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

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

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

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

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

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

#### **II-15. CONTRACTOR REQUIREMENTS**

1. Provide labor, project management, order materials and equipment.
2. Deliver the project to City of Albany Parks & Recreation's satisfaction, responding to punch-list provided by client to achieve satisfactory completion.
3. Cooperate with Parks & Recreation staff for timely completion of project.
4. Provide written documentation for all costs of labor, materials, and equipment to create final billing.
5. Take pride in a job that is well done that will service thousands of community members over its lifespan.

### SECTION III: TECHNICAL SPECIFICATIONS – BID ITEMS

#### **Item No. 1 – Mobilization:**

See Standard Construction Specifications, Section 201.

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

#### **Item No. 2 - Strip Pool Plaster:**

See Special Provisions.

Contractor will remove existing plaster down to base concrete.

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

#### **Item No. 3 - Replace Wall Fittings, Returns, and Fixtures:**

See Special Provisions.

Contractor will replace the main drain (deepest drain in the pool) and all other floor drains (lazy river, catch pool, play structure) with Virginia Graeme Baker Pool and Spa Safety Act (2007) compliant drain covers and any return jets set in pool, light fixtures, and slide landing pad.

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

#### **Item No. 4 - Plaster Pool:**

See Special Provisions.

Contractor will replaster pool with commercial grade standard white marble plaster which is a blend of cement and crushed white marble as is the common standard used in pools.

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

#### **Item No. 5 – Acid Wash Pool:**

See Special Provisions.

Contractor will wash pool walls with muriatic acid to remove the thin layer of surface and tenacious stains, calcium deposits and other debris that may have accumulated on the previous plaster finish. Acid wash aids in roughening the surface, allowing the bonding elements to better bind to the old and new finishes.

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

#### **Item No. 6 - Apply Bond Coat:**

See Special Provisions.

Contractor will apply bond coat to ensure good adhesion between existing and new pool plaster finishes. Bond-Kote is the common standard used in pools.

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

#### **Item No. 7 – Demolition:**

See Special Provisions.

Contractor will remove, haul, and dispose of any debris created during demolition in a sustainable manner and in accordance with environmental requirements.

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

**LIST OF APPENDICES Revised February 15, 2024**

Appendix A – COOL Pool Photo 1

Appendix B – COOL Pool Photo 2

Appendix C – COOL Pool Photo 3

Appendix D - COOL Pool Plans