

## ORDINANCE NO. 1448

AN ORDINANCE authorizing the Mayor and Recorder of the City of Albany to enter into a contract with Everett Willard of Albany, Oregon, for furnishing the labor and materials necessary for the installation of the electrical wiring and fixtures in the municipal swimming pool and bath house to be constructed within said City.

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

WHEREAS, THE Council of the City of Albany has heretofore determined to construct a municipal swimming pool within said City and has advertised for bids for all labor and materials necessary to make said construction; and

WHEREAS, on the 8th day of June, 1938, Everett Willard submitted his bid for furnishing all labor and materials necessary for the installation of the electrical wiring and fixtures in the swimming pool and bath house connected therewith, which said bid was the lowest and best bid submitted for said labor and materials and the said Everett Willard was the lowest and best bidder therefor and by which said bid the said Everett Willard proposed to furnish said labor and materials for the sum of One Hundred Ninety-eight and 02/100 (\$198.02) Dollars, and which said bid is now on file in the office of the Recorder of said City.

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

Section 1. That the bid of the said Everett Willard for furnishing the labor and materials aforesaid is hereby accepted and the Mayor and Recorder of the City of Albany are hereby authorized and instructed to enter into a contract with the said Everett Willard for furnishing said labor and materials on behalf of the City of Albany and upon the terms mentioned in said bid. That said contract shall be substantially in the following form, to-wit:

### CONTRACT AND AGREEMENT

THIS CONTRACT AND AGREEMENT made in duplicate and entered into this 23rd, day of June, 1938 by and between the City of Albany, Oregon, hereinafter called the Owner and Everett Willard, Albany, Oregon, hereinafter called the Contractor.

#### WITNESSETH:

That the Owner and the Contractor for the Considerations hereinafter named agree as follows;

The Contractor promises and agrees to furnish all materials and labor and construct complete for the Owner the electrical work and electrical fixtures for the Swimming Pool and Bath-house to be constructed upon the Owner's plot in the City of Albany, Oregon, pursuant to the terms of this Contract and the Plans and Specifications with Addenda dated May 30, 1938 and June 6, 1938 for the above mentioned work as drawn and submitted by Cleo H. Jenkins, Architect, and adopted and approved by the Owner.

The above mentioned electrical work and Fixtures being hereinafter referred to as the "Electric Work."

It is mutually understood and agreed that the following work is not to be included in this Contract;

General Construction with all work pertinent thereto.

Plumbing and all work pertinent thereto.

Pool Equipment and all work pertinent thereto.

The Owner for and in consideration of the promises of the Contractor above set forth and hereinafter named, hereby agrees to pay to the Contractor in current funds at the times hereinafter mentioned the sum of money to-wit: One Hundred Ninety-eight Dollars and Two Cents (\$198.02) and to receive said Electric Work when completed pursuant to the terms of this Contract.

It is mutually understood and agreed that the payments for said Electric Work shall be made as follows:

On or about the first day of each month Eighty-five (85%) percent of the value proportionate to the amount of the Contract, of the labor and materials incorporated into the work up to the first day of that month, as estimated by the Architect or his representative, less the aggregate of the previous payments, providing that in case more than Eighty-five (85%) percent of the said labor and materials required to complete the said Electric Work have been furnished, then in that event only Eighty-five (85%) percent of the Contract price shall be paid to the Contractor and Fifteen (15%) percent will be withheld until the said Electric Work is completed pursuant to the terms of the said Specifications, Drawings and this Contract. In this connection it is understood that the estimates of the amount of labor and materials shall be made by Cleo H. Jenkins, Architect, or his representative, whose decision shall be final and controlling in that particular; that the balance and all of the Contract price shall be paid to the Contractor within Thirty (30) days after completion and acceptance of the said Electrical work.

It is further mutually understood and agreed that the Plans and Specifications submitted by Cleo H. Jenkins, Architect, and adopted and approved by the Owner are a part of this Contract as though attached to same.

It is further mutually understood and agreed that should the Owner require a Bond of the Contractor the said Bond shall be a satisfactory Surety Bond in a form approved by the Owner and executed by a Surety Company approved by the Owner and licensed to do business in the State of Oregon, the said Bond to be in amount equal to the Contract price and insuring the fulfillment of all the provisions of the Contract for the payment by the Contractor for all labor and materials

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used by him in the said Electric Work as required by the statutes of the State of Oregon.

In this connection it is understood and agreed that the said Bond shall be furnished within ten days after date first above written and should the Contractor fail to furnish and deliver the said Bond within the time designated then the Contractor shall forfeit all rights to proceed with the work and all claim to the certified check given with the bid.

The cost of the Bond will be paid by the Owner with the first payment on the Contract price.

It is further mutually understood that the Contractor shall promptly as due, make payments to all persons and sub-contractors supplying labor and materials for the prosecution of the work of said Contract, and shall also pay all contributions or amounts due the state industrial accident fund incurred in the performance of the said Contract, and that the Contractor shall not permit any lien or claim to be filed or prosecuted against the Owner on account of any labor or material furnished.

Also, that no person shall be employed for more than eight hours in any one day, or 48 hours in any one week, unless in case of emergency, when no other competent labor is available, and in such cases, such laborer shall be paid double wages for all overtime, and that should the Contractor fail, neglect or refuse to make prompt payment of any such claim for labor or services, furnished by any such person in connection with this Contract as said claim becomes due, whether said services be performed for said Contractor or a sub-contractor, then in such event the proper officer representing the Owner may pay such claim to the person furnishing such labor or services and charge the amount thereof against funds due or to become due said Contractor by reason of this Contract, but the payment of any such claims in the manner herein authorized shall not relieve the Contractor or his surety from his or its obligation with respect to any unpaid claims.

It is further mutually understood and agreed that when the Contractor provides the Owner with a certificate signed by Cleo H. Jenkins or his representative, to the effect that the Electric Work has been completed pursuant to the terms of this Contract, Drawings and Specifications then the remaining portion of the full Contract price shall be paid to the Contractor within the times hereinbefore mentioned.

It is mutually understood and agreed that the terms of this Agreement shall be binding upon the heirs, successors, executors, administrators and assigns of the parties hereto.

IN WITNESS WHEREOF the said CITY OF ALBANY has caused this Agreement to be executed in its name by its Mayor and Recorder thereunto duly authorized by the said City Council of said City at a meeting duly called and held, and the said Everett Willard have hereunto set their hands and seals.

CITY OF ALBANY, OREGON.

By C.R. Ashton Mayor

By K.R. Horton Recorder

By Everett Willard Contractor

Passed by the Council June, 22, 1938.  
Approved by the Mayor June, 22, 1938.

C.R. Ashton  
Mayor

ATTEST *K.R. Horton*  
Recorder of the City of Albany, Oregon.

STATE OF OREGON )  
COUNTY OF LINN ( ss.  
CITY OF ALBANY )

I, K.R. Horton, Recorder of the City of Albany, Linn County, Oregon, do hereby certify that the foregoing and annexed copy of Ordinance # 1448, has been by me carefully compared with the original Ordinance Bill # 1562, on file in my office, and that it is a true and correct copy of all of said bill passed by the Council of the City of Albany, June 22, 1938, and approved by the Mayor, June 23, 1938.

Witness my hand and official signature and the seal of the City of Albany, Oregon, this 23rd, day of June, 1938.

*K.R. Horton*  
Recorder of the City of Albany, Oregon.