

## ORDINANCE NO. 1446

AN ORDINANCE authorizing the Mayor and Recorder of the City of Albany to enter into a contract with Jack Keebler, Donald Keebler and Robert Keebler, partners, doing business as Keebler Brothers of Lebanon, Oregon, for furnishing the labor and materials necessary for the construction of the municipal swimming pool and bath house, except plumbing and electrical work, excavation and back fill, labor for fence and concrete paving around the pool, 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, Keebler Brothers submitted their bid for furnishing all labor and materials necessary for the construction of the municipal swimming pool and bath house, except plumbing and electrical work excavation and back fill, labor for fence and concrete paving around the pool, which said bid was the lowest and best bid submitted for said labor and materials and said Keebler Brothers were the lowest and best bidders therefor and by which said bid the said Keebler Brothers proposed to furnish said labor said labor and materials for the sum of Nine Thousand Three Hundred Thirty-two and 98/100 (\$9,332.98) 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 Jack Keebler, Donald Keebler and Robert Keebler, partners doing business as Keebler Brothers 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 Keebler Brothers 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:

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 Jack Keebler, Donald Keebler, Robert Keebler, Lebanon, Oregon, doing business as and under the firm name of Keebler Brothers, hereinafter called the Contractor.

WITNESSETH:

That the Contractor and the Owner for the considerations hereinafter agree as follows:

The Contractor promises and agrees to furnish all materials and labor and construct complete for the Owner a certain Swimming Pool and Bath-house on 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 General Construction Work for said structures as drawn and submitted by Cleo H. Jenkins, Architect, and adopted and approved by the Owner.

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

Plumbing with all work pertinent thereto.  
Electrical with all work pertinent thereto.  
Excavation and backfill for the Pool and Bath-house.  
Labor for the erection of the Fence.  
The concrete paving around the pool with the exception of a strip 3'-0" wide immediately adjacent to and surrounding the pool which 3'-0" strip is to be installed by the Contractor as specified.

It is further mutually understood and agreed that Alternate No. 1 as specified is accepted by the Owner.

The Owner for and in consideration of the promises of the Contractor above set forth and hereinafter mentioned, hereby agrees to pay to the Contractor in current funds at the times hereinafter mentioned the sum of money to-wit: Nine Thousand Three Hundred Thirty-two Dollars and Ninety-eight Cents (\$9,332.98) and to receive said structures when completed pursuant to the terms of this Contract.

It is mutually understood and agreed that the payments for said 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

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complete the said structures 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 with-held until the said structures are 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 structures.

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

It is further mutually understood and agreed that the Owner hereby exacts of the Contractor a satisfactory Surety Bond in a form 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 used by him in the said structures 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 claim to the certified check given with the bid and all rights to proceed with the work.

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 subcontractors 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 that work in the said structures shall be started within five days after written notification by the Owner and completed within 100 calendar days after said notification.

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 structures have 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 the said City at a meeting duly called and held; and the said firm of Keebler Brothers have hereunto set their hands and seals.

ATTEST C.R. Ashton  
Recorder of the City of Albany, Oregon CITY OF ALBANY, OREGON  
STATE OF OREGON( Passed by the Council June 22, 1938. By C.R. Ashton  
COUNTY OF LIIN } ss. Approved by the Mayor June 22, 1938. Mayor  
CITY OF ALBANY } C.R. Ashton  
Mayor By K.R. Horton  
Recorder

I, K.R. Horton, Recorder of the City of Albany, Oregon, do hereby certify that the annexed and foregoing copy of Ordinance #1446, has been by me carefully compared with the original Ordinance Bill # 1560, on file in my office and that it is a true and correct copy of all of said bill, passed by the Council June 22, 1938, and approved by the Mayor June 22, 1938. Witness my hand and official signature and the seal of the City of Albany, Oregon, this 23rd, day of June 1938.  
By Jack Keebler  
By Donald Keebler  
By Robert Keebler  
KEEBLER BROTHERS, CONTRACTOR.

C.R. Ashton  
Recorder of the City of Albany, Oregon