

# **Contract Documents**

for the

## **2012 Crack Sealing Project**

**PW-12-03**

**CITY OF WEST LINN, CLACKAMAS COUNTY, OREGON**

**BIDS DUE: 2:00 PM, March 20, 2012** at the City of West Linn Public Works Engineering Division, West Linn City Hall, 22500 Salamo Road, Mail Stop #800, West Linn Oregon 97068.

**BID OPENING: 2:00 PM, March 20, 2012** at the City of West Linn Public Works Engineering Division, West Linn City Hall, 22500 Salamo Road, West Linn Oregon 97068.

**CITY OF WEST LINN**

**PUBLIC WORKS**

**ENGINEERING DIVISION**

22500 Salamo Road #800  
West Linn, Oregon 97068  
503 722-5501 FAX 503 656-4106

**PROJECT DOCUMENTS**

**for the**

**2012 Crack Sealing Project**

**PW-12-03**

**CITY OF WEST LINN, CLACKAMAS COUNTY, OREGON**

THE OFFICIALS OF THE CITY OF WEST LINN

|                       |               |
|-----------------------|---------------|
| Mayor                 | John Kovash   |
| Councilor             | Jody Carson   |
| Councilor             | Teri Cummings |
| Councilor             | Mike Jones    |
| Councilor             | Jenni Tan     |
| City Manager          | Chris Jordan  |
| Public Works Director | Ken Worcester |

**CITY OF WEST LINN**  
**2012 Crack Sealing Project**  
**PW-12-03**

IN WEST LINN, CLACKAMAS COUNTY, OREGON

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## **BID DOCUMENTS**

**ADVERTISEMENT FOR BID  
2012 Crack Sealing Project  
PW-12-03**

IN WEST LINN, CLACKAMAS COUNTY, OREGON

**CITY OF WEST LINN, OREGON**

Sealed proposals for Crack Sealing of various City streets in the City of West Linn, Clackamas County, Oregon, will be received by the City of West Linn Public Works Engineering Division offices at City Hall, 22500 Salamo Road, Box #800, West Linn, Oregon, 97068 (Telephone (503) 722-5501, Fax (503) 656-4106) until **2:00 PM, March 20, 2011** at which time the proposals shall be publicly opened and read. Proposals received after this time will not be considered. Proposals shall be clearly marked "Bid for **2012 Crack Sealing Project**", and addressed to the attention of **Dennis Wright, PE**.

The contract is for a public work subject to prevailing wage law ORS 279C.800 to 279C.870.

Work generally consists of the application of pavement crack preparatory work followed by application of approved crack sealing compound on identified sections of West Linn streets. Contract is a unit price contract; bid is the amount of crack sealing that will be provided for a fixed dollar amount. The winning bid will be determined on the amount of crack sealing to be obtained for the fixed amount of funds. Work shall include that work necessary to perform cleaning, traffic control, placing crack sealing material, and other incidental work in order to crack seal the designated project streets. The contract work must be completed within two (2) months following award; however once work is commenced on site, all work must be completed and accepted within thirty (30) days. The bid for this contract is \$65,000 which includes \$5,000 Force Account if needed. The prioritized list of streets to be crack sealed is attached labeled 2012 Crack Sealing. The estimated unit quantity upon which the bidder's unit price is based may vary by a maximum of 20% without triggering renegotiation of the unit price.

The project plans, specifications and proposed contract provisions may be reviewed at no cost through the City of West Linn's website at <http://westlinnoregon.gov/rfps> or obtained through the City of West Linn Engineering Division located at 22500 Salamo Road, West Linn, Oregon at a cost of \$25.00 per set, plus \$10 additional cost if mailed. If you wish to receive any possible future addendums for this project, please email [prich@westlinnoregon.gov](mailto:prich@westlinnoregon.gov) with your name, address, telephone number, fax and email address or call 503-722-5501 to be placed on the plan holders list.

Dated this February 24, 2012

Dennis E. Wright, PE  
Contract Administrator

Publish in the Daily Journal of Commerce - Monday, February 27<sup>th</sup>, 2012

**2012 Crack Sealing Project  
PW-12-03**

CITY OF WEST LINN, OREGON

***PROJECT INFORMATION***

**PROJECT QUESTIONS**

More detailed information concerning the project may be obtained by contacting:

Dennis Wright  
City of West Linn, Engineering Division  
22500 Salamo Road #800, West Linn OR 97068  
Phone (503) 722-5514 FAX (503) 656-4106  
E-mail: [dwright@westlinnoregon.gov](mailto:dwright@westlinnoregon.gov)

City Project Manager (**Project Manager**): Jeff Randall, West Linn Transportation Supervisor

**GENERAL DESCRIPTION** Work generally consists of the application of pavement crack preparatory work followed by application of approved crack sealing compound on identified sections of West Linn streets. The work shall include that work necessary to perform cleaning, traffic control, placing crack sealing material, and other incidental work in order to crack seal the designated project streets. All other work in conjunction with the crack sealing operation shall be considered incidental and included in the unit price of the crack sealing.

The work will follow the City of West Linn Specifications.

This is a Unit-Price type contract.

Estimate quantities for each bid item are as shown in the proposal.

The estimated unit quantity upon which the bidder's unit price is based may vary by a maximum of 20% without triggering renegotiation of the unit price.

**TIME OF COMPLETION** The time of completion of the work to be performed under this contract is as follows:

The contract work must be completed within two (2) months following issuance of Notice to Proceed; however once work is commenced on site, all work must be completed and accepted within thirty (30) days.

Delays and extensions of the time may be allowed in accordance with section 108.06 of the City of West Linn Public Works Standards.

**BID SECURITY** Proposals must be accompanied by a certified check drawn on a bank in good standing, or a bid bond issued by a surety company authorized to issue such bonds in the State of Oregon, in an amount of not less than **ten percent (10%)** of the total amount of the proposal submitted. This check or bid bond shall be given as a guarantee that if awarded the contract, the successful bidder will execute the attached contract

and furnish a properly executed performance bond in the full amount of the contract price within the time specified.

**PRE-QUALIFICATION OF BIDDERS** Pre-qualification is not required for this project. However, bidders must provide reference information as specified in the following paragraph.

Successful bidder must also have either a City of West Linn Business License or a current Metro License and must comply with ORS 279C.505(2) relating to employee drug-testing program (refer to Section 11 of contract). Bidder shall also identify whether it is a resident Bidder as defined in ORS 279A.120.

Bidders shall comply with the provisions of ORS 279C.800 to 279C.870 or the federal prevailing rate of wage required under the Davis-Bacon Act (40 U.S.C. 3141 et seq.), as applicable. No bid will be considered by the City unless the bid contains a statement by the bidder guaranteeing compliance with ORS 279C.838 or 279C.840 or 40 U.S.C. 3141, et seq. The Prevailing Wage Rates are available on the Bureau of Labor and Industries' (BOLI) website at [http://www.oregon.gov/BOLI/WHD/PWR/pwr\\_book.shtml](http://www.oregon.gov/BOLI/WHD/PWR/pwr_book.shtml) for downloading.

Bidder shall also certify in its bid that it has not and will not discriminate against any minority, women, or emerging small business enterprise in obtaining any required subcontract for this project.

**RECORD OF EXPERIENCE BY THE PRIME CONTRACTOR** At the time of submission of bids, all bidders must provide and certify information that clearly demonstrates a three-year period of expanding experience. Said experience must be with products, similar to that specified in this contract. Also said experience must be of a similar size as scope of work and be within the local geographic area (within 200 miles). Information shall be provided on form provided in the proposal packet and include project name, description of work, cost, location, point of contact, and telephone number. The City of West Linn reserves the right to reject bids that do not clearly conform to this requirement.

**CONTRACT DOCUMENTS** The Contract Documents under which it is proposed to execute this work consists of the material bound and attached herewith. These Contract Documents are intended to be mutually cooperative and to provide all details reasonably required for the execution of the proposed work. Any person contemplating the submission of a proposal and being in doubt as to the meaning or intent of said Contract Documents should request of the Engineer, in writing, an interpretation thereof. Any interpretation or change in said Contract Documents should be made in writing, and a copy of such interpretation or change will be mailed or delivered to each person receiving a set of the Documents. The Owner will not be responsible for any other explanation or interpretation of said Documents.

**CONSTRUCTION STANDARDS APPLICABLE** The West Linn Public Works Design and Construction Standards and Construction Specifications in their entirety are hereby incorporated by reference. If there is a conflict, the more restrictive requirement shall prevail.

**RESIDENT BIDDER STATEMENT REQUIRED** Each proposal must contain a statement as to whether the bidder is a resident bidder as defined in ORS 279A.120.

**WORK PERFORMED BY THE PRIME CONTRACTOR** At the time of submission of bids, all bidders must identify and certify their company will accomplish a minimum of 50% of on-site construction involving both labor and materials. The City of West Linn reserves the right to reject bids that do not clearly and accurately identify the minimum of on-site work to be performed by the contractor.

**SUPERVISION OF WORK BY THE PRIME CONTRACTOR.** Only an experienced, full-time employee of the

prime contractor will supervise the work on behalf of the prime contractor. Said supervisor must have a demonstrated supervisory role of a minimum of three (3) years and be employed by the prime contractor for a minimum of twelve (12) months prior to the award of the contract.

**CONTRACTING LICENSE REQUIREMENT** The bidder must be registered with the Oregon Construction Contractors Board. Each proposal must contain the license number of the bidder.

**PREPARATION OF PROPOSAL** The proposal for the work contemplated is to be submitted on the form prescribed in the proposal herein. All blank spaces on the proposal form must be filled in, in ink, in both words and numbers where applicable. No changes shall be made in the phrasing of the forms or in the items mentioned herein. Written amounts shall govern in cases of discrepancy between the amounts stated in writing and the amounts stated in numbers.

Any proposal shall be deemed informal which contains omissions, erasures, alterations, additions of any kind, or items uncalled for, or which in any manner fail to conform to the conditions of the published Advertisement for Bids and associated addenda.

The bidder shall sign his proposal in the space provided in the CONTRACT AGREEMENT document. Proposals made by corporations or partnerships shall contain names and addresses of the principal officers or partners. If a corporation makes the proposal, it must be acknowledged by one of the principal officers thereof; if made by a partnership, by one of the partners.

**SUBMISSION OF PROPOSALS** All proposals must be submitted at the time and place and in the manner prescribed in the Advertisement for Bids. Proposals must be made on the prescribed proposal forms attached herewith, and submitted intact with the proposal documents. **A bid that is submitted without the bidder's signature on the CONTRACT AGREEMENT may be deemed non-responsive.** Late bids will not be considered.

**WITHDRAWAL OF PROPOSAL** Any proposal may be withdrawn prior to the scheduled date and time for the opening of proposals either by telegraph, telephone, written request, or in person. No proposal may be withdrawn after the time scheduled for opening of proposals unless the time specified for awarding bids has elapsed.

The Owner reserves the right to retain the bid security of the three (3) lowest bidders until the successful bidder has furnished a one hundred percent (100%) performance bond. Upon failure of the successful bidder to deliver performance bond within the specified time, the next lowest bid may be accepted at the Owner's discretion, whereupon the above instructions and requirements will apply to the said second bidder. Bid security of all bidders, except the three (3) lowest, will be returned promptly after the evaluation of bids; bid security of the three lowest bidders will be returned within three (3) days after the contract has been executed or other disposition made thereof in accordance with the provisions stated herein.

**CONDITIONS OF WORK** Each bidder must inform himself of the conditions relating to the execution of the work, and it is assumed that he will inspect the site and make himself thoroughly familiar with all the Contract Documents. Failure to do so will not relieve the successful bidder of his obligation to enter into a contract and complete the contemplated work in strict accordance with the Contract Documents. Each bidder must inform himself on all laws and statutes, both Federal and State, relative to the regular execution of the work, the employment of labor, right-of-way, and access to the work, fire protection regulations, and similar requirements.

**PAYMENT** The Owner will make monthly payments as specified in the General Conditions, and as may be

agreed by Contractor and Project Manager.

**AWARD OR REJECTION** The contract will be awarded to the lowest responsive, responsible bidder complying with the bid specifications. Should the proposal include alternates, the contract will be awarded, with alternatives being awarded in priority order.

Notwithstanding provisions of law requiring the City to enter into contracts with the lowest responsive, responsible bidder, the City shall give preference to materials and supplies manufactured from recycled materials. The preference shall be determined in the following manner: (a) the bidder must indicate on the proposal which bid items contain recycled materials and the percentage of recycled materials in the product; (b) the City will compare on an item by item basis the cost of the item containing recycled materials with the cost of the item without recycled materials; (c) the City will compare the lowest bid with the bid containing the use of recycled materials; (d) a preference will only be given if on an item by item basis and on the basis of the bid amount, the cost of using recycled materials does not exceed the cost of using non-recycled materials by more than five (5) percent.

As required by ORS 279A.120, and solely for the purpose of determining the lowest responsive bidder, the City shall add a percent increase to each out-of-state bidders bid price equal to the percent of preference given to local bidder's in the bidder's home state. The Owner reserves the right to reject any or all proposals or to waive any formality or technicality in any proposal in the interest of the Owner. No bidder may withdraw his proposal for a period of sixty (60) days after the date of opening thereof. The acceptance of a proposal will be by notice in writing, mailed or delivered to the office designated in the Proposal.

**ADDENDA** Any addenda issued during the time of bidding and forming a part of the Contract Documents to the bidder for the preparation of his proposal, shall be covered in the proposal, and shall be made a part of the contract. Addenda will be handled as follows: City will not mail notice of Addenda, but will publish notice of any Addenda on City's Web site. Addenda may be downloaded off the City's Web site. Bidders should frequently check the City's Web site until the date of closing, i.e., at least once weekly until the week of Closing and at least once daily the week of the Closing. Each addendum shall be required to be acknowledged in writing by the bidder.

**EXECUTION OF CONTRACT** The contractor must sign the contract that it submits with its proposal. The contract is executed upon signature of the contract document by the City Manager.

**PERFORMANCE AND PAYMENT BOND** The successful bidder shall file with the Owner performance and payment bonds in the full amount of the contract price of the contract within five (5) working days of notification of execution (award) of the contract by the City. The surety company furnishing this bond shall have a sound financial standing and a record of service satisfactory to the Owner and shall be authorized to do business in the State of Oregon. The Attorney-in-Fact (Resident Agent) who executes this performance and payment bond in behalf of the surety company, must attach a copy of his power-of-attorney as evidence of his authority. A notary shall acknowledge the power as of the date of the execution of the surety bond which it covers.

**FAILURE TO FURNISH BOND** Should the successful bidder fail or refuse to execute the contract and furnish the performance bond, then the bid security deposited by said bidder shall be retained as liquidated damages by the Owner; and it is agreed that this said sum is a fair estimate of the amount of damages the Owner will sustain in case the bidder fails to furnish bond as provided herein. Bid security deposited in the form of a certified check shall be subject to the same requirement as a bid bond.

**RESPONSIBILITY OF PUBLIC AGENCY (CITY OF WEST LINN)** Advertise and accept bids for the project, award, administer the contract and inspect the project for compliance with contract plans and specifications, and provide payment upon completion.

**CONTRACTOR'S RESPONSIBILITY** The Contractor shall complete the work as represented in these plans and specifications, and as modified by mutual agreement by the owner and contractor. It is understood that the plans, specifications, and other contract documents do not purport to control the method of performing the work, but only the requirements as to the nature of the completed work. The Contractor assumes the entire responsibility for the method of performing and installing the work. Suggestions as to the method included in the contract documents shall be deemed advisory only and the feasibility of such methods or the lack thereof shall not affect the Contractor's liability or status as an independent Contractor under this contract.

**WATER SUPPLY** The Contractor shall be responsible for providing for all water necessary for this project. The City of West Linn is the purveyor of water in this area. A locked water supply hydrant is available to contractors at 2042 8<sup>th</sup> Avenue in West Linn. Contact the City of West Linn, telephone 503-656-4261, to set up an account for this water source. Contractor shall comply with the instructions for use of City Water. Costs for handling the water shall be considered incidental to this contract.

**PROJECT WORK AREA CLEANLINESS** It is understood that the cleaning of the work areas is required at the end of each working day and after project completion is considered incidental and that no additional compensation will be paid individually for this work. Pavement areas will be swept clean and all construction debris will be disposed of in a way approved by the Project Manager.

**PRE-CONSTRUCTION CONFERENCE** A Pre-construction conference is required prior to start of this project. Traffic control plans and construction schedule shall be submitted to the City at least five (5) working days prior to pre-construction conference for approval.

**CONTRACTOR'S NOTIFICATION RESPONSIBILITY PRIOR TO BEGINNING WORK** It is the contractor's responsibility to notify the City's Project Manager ten (10) working days prior to beginning work on any portion of this project. It is also understood that it is the contractor's responsibility to notify residents within the project vicinity at least five (5) working days prior to beginning work. All notifications shall be copied to the City. Traffic control and temporary No Parking signage plans shall be submitted and approved at least two (2) weeks prior to beginning work with all the required signs to be installed at least one (1) week prior to beginning work.

Approval of the extent and duration of all temporary street closures by the City Engineer is required prior to any such closure.

**TEMPORARY NO PARKING SIGNAGE AND TRAFFIC CONTROL:**

The Contractor is responsible for placing adequate signage designating the work zone and parking restrictions in effect. The signage will complement traffic control personnel who will control safe access to and through the construction site as allowed by the contractor during the work. Streets shall be physically blocked during the crack seal cure time to prevent damage to the contractor's work. As soon as possible, the treated streets shall be re-opened to traffic. Such work is considered incidental and no additional compensation will be paid individually for this work.

**PROTECTION OF PAVEMENT LEGENDS, ETC.:**

Contractor is required to cover and protect pavement markings (e.g. turn arrows, stop bars, crosswalks, etc.) from slurry seal treatment. If such protection is not provided and markings are damaged or obscured as a result of contractor's work, contractor will be required to replace markings with new as directed by the City's Streets Supervisor. Such work is considered incidental and no additional compensation will be paid individually for this work.

**2012 CRACK SEALING SPECIFICATIONS**  
**PW-12-03**

**SCOPE** This work consists of routing a specific street and resealing cracks in asphalt concrete pavement at locations designated by the Owner.

**INSURANCE** All insurance shall be provided in the amounts as shown in the attached contract document.

**GUARANTEE PERIOD** The contractor agrees to remedy all defects appearing in the work or developing in the materials furnished and the workmanship performed under this contract for a period of eighteen (18) months after the date of acceptance of the work by the Owner and further agrees to indemnify and save the Owner harmless from any cost encountered in remedying such defects.

**PERMITS/LICENSES** The Contractor shall obtain all permits and licenses, and pay any fees connected therewith, having to do with his construction operations. The contractor shall confine his operations to within the street right-of-way limits. Any damage to private property, either inside or outside of the aforementioned limits, shall be the responsibility of the Contractor. The Contractor is reminded that a West Linn Business license or current Metro Business license is required.

**WORKERS COMPENSATION INSURANCE REQUIREMENT** The contractor, its subcontractors, and all employers working under this project subject to the Oregon Workers Compensation Law, shall comply with ORS 656.017, which requires them to provide workers compensation coverage for all their subject workers. Evidence of complying with this requirement shall be submitted and approved by the Owner prior to payment.

**OSHA** During performance of the contract, the contractor or vendor is required to comply with the conditions of the Federal Occupational Safety and Health Act (OSHA) and the standards and regulations issued thereunder. The contractor shall further agree to hold the City, its employees, agents, City Councilors, and assigns harmless and free from liability for failure to comply with said standards and regulations. It shall be the sole responsibility of the contractor to remain familiar with said standards and regulations and maintain their enforcement.

**LIMIT ON WORKING HOURS** Working hours shall be limited as follows unless specifically authorized by the City Engineer.

Monday through Friday - 8:00 AM to 5:00 PM,  
Saturday and Sunday – 9:00 AM to 5:00 PM  
Prescribed holidays (West Linn Municipal Code 5.487) – 9:00 AM to 5:00 PM

**MATERIAL** The sealant shall be CRAFCO ROADSaver 221 for the routed street or equal and Poly-Flex 547 or equal for remaining streets, a hot poured type sealant intended for use in sealing cracks in asphalt concrete pavement that meets all the requirements of ASTM D 6690.

The contractor is responsible for supplying to the Owner the manufacturer's specification, application recommendations and the material safety data sheet for approval.

Proper sealing equipment must be used for the specific material listed in accordance with the manufacturer's recommendations. The equipment for sealing compounds shall be a melting kettle of the double boiler, indirect heating type, using oil as a heat-transfer medium. The kettle shall be an effective mechanically

operated agitator and shall be equipped with a positive thermostatic temperature control.

Follow manufacturer's recommendations for application. The sealant materials shall be mixed and heated to a minimum temperature of 350° F (176° C). Material shall not be heated above 400° F (204° C).

TEMPORARY PROTECTION AND DIRECTION OF TRAFFIC shall meet the provisions of the Manual on Uniform Traffic Control Devices and is the contractor's responsibility. The contractor is required to submit a traffic control plan and to notify City Emergency Services.

CRACK SEALING The contractor shall furnish all labor, equipment and materials necessary for the application of the specified sealant for sealing cracks and/or curb separation that are at least one quarter (1/4) inch and less than one (1) inch, the exception is the intersection of Summit Street and Skyline Drive, designated cracks will be routed or as directed by the Owner.

The Contractor shall apply an approved herbicide to all vegetation in the cracks and curbs, a minimum of seven days in advance of cleaning.

Cleaning of the cracks shall be considered incidental to the crack sealing bid item. Payment for crack sealing shall be on a lineal foot basis regardless of the width of cracks with exception for the routed cracks to be of a separate lineal foot bid item.

HOT AIR LANCE CRACK CLEANING – If the crack shows evidence of moisture near the surface, the contractor shall use a compressed hot air lance capable of providing a high velocity, heated air stream meeting the following minimum specifications: 1000 ft/sec exit velocity, 40 to 100 CFM compressed air capacity at 75 to 150 PSI that will produce a heated air temperature range of 600° F (315° C) to 2500° F (1370° C). Care must be taken to prevent burning the asphalt concrete pavement.

CONSTRUCTION METHODS - Equipment used to mix and apply the sealant shall be of sufficient design and capacity to properly heat and maintain enough sealant material for four (4) hours of application and use of said equipment shall comply with the sealant manufacturer's recommendation. The sealant material shall be handled, prepared, heated and applied consistent with the manufacturer's specifications.

The face of the crack shall be surface dry, and the ambient and pavement temperature shall both be at least 45° F (7° C) and rising at the time of application of the sealant. The sealant material shall be applied immediately after the crack has been cleaned and be applied slowly and smoothly from the bottom of the crack upward in a manner that will not result in air entrapment or pocketing. The sealant material shall be brought up flush with the street surface and a "U" shaped squeegee will be used to remove any excess, and to create an overlap of the adjacent surfaces. The overlap shall not be less than one-half inch (1/2") but not greater than one and one-half inch (1-1/2"). If settlement beyond one-eighth inch (1/8") of the sealant occurs, the contractor shall apply additional layer(s) of sealant necessary to bring the material flush with the surface. If at any time during the warranty period the sealant shows settlement of one-quarter inch (1/4") or more, the contractor shall, at his expense, apply additional layer(s) of sealant.

The sealed cracks shall be completely covered with a clean sanding material or a no track material. The pavement surface shall then be swept and left in a clean condition. No traffic or construction equipment shall be permitted on the newly sealed cracks for at least one hour after placement of the sealant and refilling has been completed. If traffic causes lifting or transfer of the material, the contractor shall immediately repair the damaged area.

PAYMENT The quantities of sealed cracks will be measured by the linear foot to the nearest foot. The accepted quantities of sealed cracks will be paid for at the contract unit price per foot. Payment will be in full for furnishing and placing all material, including cleaning as required, and for all equipment, tools, labor and incidentals necessary to complete the work as specified.

**City of West Linn, Oregon  
Public Works Contract Bid Bond  
Project #PW-12-03**

KNOW ALL MEN BY THESE PRESENTS, that

\_\_\_\_\_ /  
hereinafter called the Principal, and

\_\_\_\_\_ /  
a Corporation duly organized under the Laws of the State of Oregon, having its principle place of Business at

\_\_\_\_\_ /  
in the State of \_\_\_\_\_, and authorized to do business in the State of Oregon as Surety,  
are held and firmly bound unto the City of West Linn Engineering Department, hereinafter called the  
Engineering Department, in the penal sum of

\_\_\_\_\_ /  
Dollars

(\$ \_\_\_\_\_), for the payment of which, well and truly to be made, 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 herein is herewith submitting his Bid  
for the above noted project in the City of West Linn, Oregon, said Bid, by reference thereto, being hereby  
made a part hereof.

NOW, THEREFORE, if the said Bid submitted by the said Principal be accepted, and the Contract be awarded  
to said Principal, and if the said Principal shall execute the proposed Contract as required by the bidding and  
the Contract Documents within the time set by said Documents, then this obligation shall be void. If the  
Principal shall fail to execute the proposed Contract, the Surety hereby agrees to pay to the Engineering  
Department the penal sum as liquidated damages.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Principal

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

\_\_\_\_\_  
Surety

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

Attorney-in-Fact (A Certified Copy of the Agent's Power  
of Attorney must be attached)

**City of West Linn, Oregon  
Public Works Contract Performance Bond**

**KNOW ALL MEN BY THESE PRESENTS**, that we,

\_\_\_\_\_ *(Official Name & Form of Organization)*

Whose address is:

\_\_\_\_\_ *(Street Address)*

\_\_\_\_\_ *(City)*

\_\_\_\_\_ *(State)*

\_\_\_\_\_ *(Zip)*

as Principal, and,

\_\_\_\_\_ *(Name of Surety)*

\_\_\_\_\_ *(Street Address of Surety)*

\_\_\_\_\_ *(City)*

\_\_\_\_\_ *(State)*

\_\_\_\_\_ *(Zip)*

\_\_\_\_\_ *(Print - Agent / Contact Name) (Phone Number)*

a corporation duly authorized to conduct a general surety business in the State of Oregon, as Surety, are jointly and severally held and bound unto the City of West Linn, Oregon, a municipality of the State of Oregon, hereinafter called Obligee, in the sum of

\_\_\_\_\_ and \_\_\_/100 DOLLARS (\$ \_\_\_\_\_),  
*(The Contract Price, Both in Words & Figures)*

lawful money of the United State of America, for the payment of which we, as Principal, and as Surety, jointly and severally bind ourselves, our successors and assigns firmly by these presents,

**TERMS AND CONDITIONS**

On the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,

\_\_\_\_\_ *(Name of Contractor)*

Principal, entered into a contract with the City of West Linn, Oregon, Obligee, to construct certain public improvements and to provide material, labor and equipment for the construction of those improvements. The public improvements and work to be performed by Principal are more fully described in the contract documents between Principal and Obligee. Those contract documents are incorporated herein by reference.

In the event that Principal fails to complete the work as required under the contract, Surety shall either complete the work or pay Obligee the costs of completion of the work. Work is only complete when it meets the standards required by the Contract and applicable City standards. Surety's obligation shall remain in

effect until the work is accepted by Obligee, but shall terminate on acceptance by Obligee.

The total amount of the Surety's liability to Obligee under this bond shall in no event exceed the amount stated above.

Surety agrees that no change, extension of time, alternation, or addition to the terms of the contract, or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations on 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 the specifications.

**IN WITNESS WHEREOF**, the parties hereto have caused this Bond to be executed in \_\_\_\_\_, Oregon, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Principal Signature

\_\_\_\_\_  
Principal Printed Name

Witnesses:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Surety

(A true copy of the Power of Attorney must be attached to the original of this bond)

\_\_\_\_\_  
Surety Attorney of Fact

Countersigned:

\_\_\_\_\_

Resident Agent

**City of West Linn, Oregon  
Public Works Contract Payment Bond**

**KNOW ALL MEN BY THESE PRESENTS**, that we,

\_\_\_\_\_  
*(Official Name & Form of Organization)*

Whose address is:

\_\_\_\_\_  
*(Street Address)*

\_\_\_\_\_  
as Principal, and,

\_\_\_\_\_  
*(City)*

\_\_\_\_\_  
*(State)*

\_\_\_\_\_  
*(Zip)*

\_\_\_\_\_  
*(Name of Surety)*

\_\_\_\_\_  
*(Street Address of Surety)*

\_\_\_\_\_  
*(City)*

\_\_\_\_\_  
*(State)*

\_\_\_\_\_  
*(Zip)*

\_\_\_\_\_  
*(Print - Agent / Contact Name)*

\_\_\_\_\_  
*(Phone Number)*

a corporation duly authorized to conduct a general surety business in the State of Oregon, as Surety, are jointly and severally held and bound unto the City of West Linn, Oregon, a municipality of the State of Oregon, hereinafter called Obligee, in the sum of

\_\_\_\_\_ and \_\_\_/100 DOLLARS (\$\_\_\_\_\_),  
*(The Contract Price, Both in Words & Figures)*

lawful money of the United State of America, for the payment of which we, as Principal, and as Surety, jointly and severally bind ourselves, our successors and assigns firmly by these presents,

**TERMS AND CONDITIONS**

On the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,

\_\_\_\_\_  
*(Name of Contractor)*

Principal, entered into a contract with the City of West Linn, Oregon, Obligee, for the construction of certain public improvements. As part of the contract, Principal is required to furnish materials, labor, and equipment to construct the improvements. The contract documents between Principal and Obligee are incorporated herein by this reference.

In the event that Principal fails to make payments when due to suppliers of labor, equipment or materials, Surety shall pay the suppliers the amounts they are due. In the event that Obligee pays any amounts to suppliers that Principal was required to pay, Surety shall reimburse Obligee for those payments. In the event

that Principal permits any lien or claim to be filed or prosecution against the City on account of any labor or material furnished, Surety shall take such steps as are necessary to clear the lien, claim or prosecution. In the event that Principal fails to (1) promptly pay all contributions or amounts due the State Unemployment Compensation Trust Fund incurred to the performance of the contract, (2) promptly, as due, make payments to the person, co-partnership, association, or corporation entitled thereto of the money and sums mentioned in Section 279C.600 of the Oregon Revised Statutes, or (3) promptly pay to the Oregon State Tax Commission all sums required to be deducted and retained from wages of employees of the Principal and his sub-Contractors, pursuant to the Section 316.711, Oregon Revised Statutes, Surety shall make the required payments. Surety's obligations under this bond shall terminate when all payments required of Principal described in this paragraph are made in full.

The total amount of the Surety's liability under this bond both to the Obligee and to the persons furnishing labor or materials, provisions and goods to any person or persons, shall in no event exceed the amount stated above.

Surety agrees that no change, extension of time, alternation, or addition to the terms of the contract, or to the work to be performed there under or the specifications accompanying the same shall in anywise affect its obligations on 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 the specifications.

**IN WITNESS WHEREOF**, the parties hereto have caused this Bond to be executed in \_\_\_\_\_, Oregon, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Principal Signature

\_\_\_\_\_  
Principal Printed Name

Witnesses:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Surety

(A true copy of the Power of Attorney must be attached to the original of this bond)

\_\_\_\_\_  
Surety Attorney of Fact

Countersigned:

\_\_\_\_\_  
Resident Agent

**BID**

## **BID CHECKLIST**

### **Project # PW-12-03**

NOTE: This checklist has been prepared as an aid to contractors in preparing and checking bids for completeness. However, it is not intended to incorporate all requirements of the bid documents. The contractor is responsible for familiarizing himself with the documents and completing all requirements for bidding.

### **BID**

- ✘ Familiar with conditions of work and documents
- ✘ All bid items entered in WORDS AND NUMBERS
- ✘ All bids, including Base Bid, Additive Accumulation Bids (if any) and Attachments shall be filled out.
- ✘ Base Bid and Additive Accumulation Bids (if any) shall be signed by authorized representative with Title shown
- ✘ All blank spaces filled in
- ✘ Copies of addenda attached and SIGNED (if any)
- ✘ Registered with Construction Contractors Board, and license number noted
- ✘ Resident Bidder statement completed
- ✘ Written clarification MAY be attached
- ✘ Certified check or bid bond in the amount of 10% of Base Bid Total bid
- ✘ **Contract Agreement signed and enclosed.**
- ✘ Bid SEALED and SIGNED.
- ✘ Pre-qualification submitted with or prior to bid submission

### **PROJECT NOTES:**

Workers Comp Insurance

Prevailing Wage Rate (if applicable)

### **QUESTIONS?**

Contact: Dennis Wright, P.E. (503) 722-5514

**BIDS DUE: 2:00 PM, Tuesday, March 20, 2012;** West Linn City Hall, 22500 Salamo Road, Mail Stop #800, West Linn Oregon 97068.

**BID SHEET**  
**Crack Sealing Project**

Project No. PW-12-03

| Item # | Description   | Bid Quantity | Unit | Unit Price | Total Amount |
|--------|---------------|--------------|------|------------|--------------|
| 1      | Crack Sealing |              | LF   | \$         | \$60,000.00  |
| 15     | Force Account | 1            | LS   |            | \$ 5,000.00  |
| 16     | <b>Total</b>  |              |      |            | \$65,000.00  |

**BID QUANTITY AND UNIT PRICE IN WORDS**

Number of Lineal Feet  
 \_\_\_\_\_

Price per Lineal Foot  
 \_\_\_\_\_

**SIGNATURE OF BIDDER**

\_\_\_\_\_

**TITLE**

\_\_\_\_\_

**BID ATTACHMENT**

The Bidder agrees that the unit price for the estimated quantity represents 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. The amounts shall be shown in both words and figures. In case of discrepancy, the amount shown in words shall govern.

It is agreed that if the Bidder is awarded the Contract for the work described herein and fails or refuses to execute the Contract and furnish the specified Performance and Payment Bond within ten (10) calendar days after receipt of notification of acceptance of the Proposal, then, in that event, the bid security in an amount not to exceed ten percent (10%) of the bid, or \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_), deposited herewith according to the conditions of the Advertisement for Bids and Information for Bidders, shall be retained by the Owner, as liquidated damages; and it is agreed that the said sum is a fair measure of the amount of damage the Owner will sustain in case the Bidder shall fail or refuse to enter into the Contract for the said work and to furnish the Performance and Payment Bond as specified in the Contract Documents. Bid security in the form of a certified check shall be subject to the same requirements as a bid bond.

If the Bidder is awarded a construction Contract on this Proposal, the Surety that will provide the Performance and Payment Bond is:

\_\_\_\_\_  
whose address is:  
\_\_\_\_\_

The name of the Bidder who is submitting this Proposal is:

\_\_\_\_\_  
doing business at:  
\_\_\_\_\_

which is the address where the contract and all communications concerned with this proposal shall be sent.

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:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PUBLIC IMPROVEMENT CONTRACT  
WITH THE CITY OF WEST LINN  
FOR  
2012 CRACK SEALING PROJECT  
PW-12-03**

**THIS CONTRACT**, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the City of West Linn, a municipal corporation of the State of Oregon, hereinafter called "City" and \_\_\_\_\_ hereinafter called "Contractor", duly authorized to perform such services in Oregon.

**RECITALS**

**WHEREAS**, the City requires construction and related services which Contractor is capable of providing, under terms and conditions hereinafter described; and

**WHEREAS**, time is of the essence in this contract and all work under this contract shall be completed within the time period stated in the Bid;

**THEREFORE**, in consideration of the promises and covenants contained herein, the parties hereby agree as follows:

**1. Services**

Contractor's services under this Agreement shall consist of the following:

Work generally consists of the application of pavement crack preparatory work followed by application of approved crack sealing compound on identified sections of West Linn streets. Contract is a unit price contract; bid is the amount of crack sealing that will be provided for a fixed dollar amount. The winning bid will be determined on the amount of crack sealing to be obtained for the fixed amount of funds. Work shall include that work necessary to perform cleaning, traffic control, placing crack sealing material, and other incidental work in order to crack seal the designated project streets.

**2. Prevailing Wage**

If the contract price exceeds \$50,000 and this Contract is not otherwise exempt, workers shall be paid not less than the specified minimum hourly rate of wage in accordance with ORS 279C.838 and ORS 279C.840. The applicable prevailing wage rates may be accessed via the internet at: [http://www.oregon.gov/BOLI/WHD/PWR/pwr\\_book.shtml](http://www.oregon.gov/BOLI/WHD/PWR/pwr_book.shtml). Hard copies of the prevailing wage rates publication may be obtained by contacting the Oregon Bureau of Labor and Industries via telephone at: (971) 673-0839. If this Project is subject to the Davis-Bacon Act and the state prevailing rate of wage is higher than the federal prevailing rate of wage, the contractor and every subcontractor on the Project shall pay at least the state prevailing rate of wage as determined under ORS 279C.815.

The Contractor must have a public works bond filed with the Oregon Construction Contractors Board before starting work on the Project, unless exempt under ORS 279C.836 (4), (7), (8) or

(9). The Contractor shall pay the applicable prevailing wage rates that are in effect at the time Owner enters into this Construction Contract with Contractor.

For contracts \$50,000 or greater, City shall pay a fee to the Bureau of Labor and Industries and shall be mailed or otherwise delivered to the Bureau at the following address:

Bureau of Labor and Industries  
Wage and Hours Division  
Prevailing Wage Unit  
800 NE Oregon Street, # 32  
Portland, Oregon 97232

**3. Contract Documents**

The Contractor is hereby bound to comply with all requirements of this agreement, the Contractor's proposal, the detailed specifications and requirements, the drawings, and the special conditions and modifications in conditions as set forth in the documents prepared by the City Engineer and the performance pertaining to this contract, in the City of West Linn, Oregon, and by this reference made a part hereof to the same legal force and effect as if set forth herein in full.

**4. City's Representative**

For purposes hereof, the City's authorized representative will be Dennis Wright, City Engineer.

**5. Contractor's Representative**

For purpose hereof, the Contractor's authorized representative will be

\_\_\_\_\_.

**6. Contractor Identification**

Contractor shall furnish to the City the Contractor's employer identification number, as designated by the Internal Revenue Service, or Contractor's social security number, as City deems applicable.

**7. Compensation and Completion**

- A. **Payments:** City agrees to pay Contractor \_\_\_\_\_ (amount in words) Dollars (\$ \_\_\_\_\_ (amount in numbers)) for performance of those services provided hereunder, which payment shall be based upon the following applicable terms:

Payment shall be based upon the unit prices bid by the Contractor, as listed in attached bid. Contractor shall prepare and submit each month to the City's authorized representative, Dennis Wright, 22500 Salamo Road, West Linn, OR 97068, a statement of services rendered, (indicating the description of each service used in the bid and the dollar amount of each service completed through the stated date), together with a request for payment duly verified by the Contractor's Representative.

Payment by the City shall release the City from any further obligation for payment to

Contractor for services performed or expenses incurred as of the date of the statement of services. Payment of installments shall not be considered acceptance or approval of any work or waiver of any defects therein. City certifies that sufficient funds are available and authorized for expenditure to finance costs of this contract.

Contractor shall include proof of payment to any and all subcontractors and suppliers with each statement submitted to the City. The City shall retain the right to withhold payments if required proof of payment to subcontractor and suppliers is not included with a statement.

**B. Timing of Payments and Liquidated Damages:** Progress payments, less a five percent retainage as authorized by ORS 279C.555, shall be made to the Contractor within twenty (20) days of the City's receipt of the statement of services. The Contractor agrees that the "Time of Completion" is defined in the Bid, and agrees to complete the work by said date. All work on the project shall be completed within thirty (30) days of the date of the Field Mobilization as defined in the Standard Construction Specifications – West Linn and within three (3) months of contract award. The Contractor and City agree that the City will suffer damages each day the work remains uncompleted after the Time of Completion and that the amounts of those damages are difficult to calculate. Contractor and City agree that a reasonable amount of damages for late completion is contained in the West Linn Public Works Standards Section 108.07 Liquidated Damages on a per calendar day basis and Contractor agrees to pay such amounts as liquidated damages if the work is not completed by the Time of Completion. Contractor agrees that the liquidated damages specified herein are a fair way of ascertaining damages to the City and are not a penalty for late completion.

**C. Final Payment:** The Contractor shall notify the City in writing when the Contractor considers the project complete, and the City shall, within 15 days after receiving the written notice, either accept the work or notify the Contractor of work yet to be performed on the contract.

If accepted by the City, the remaining balance due to the Contractor, including the retained percentage, shall be paid to the Contractor by the City within 30 days after the date of said acceptance.

The City shall pay to the Contractor interest at the rate of one and one-half percent per month on the final payment due the Contractor, to commence 30 days after the work under the Contract has been completed and accepted and to run until the date when final payment is tendered to the Contractor. If the City does not, within 15 days after receiving written notice of completion, notify the Contractor of work yet to be performed to fulfill contractual obligations, the interest provided by this subsection shall commence to run 30 days after the end of the 15-day period.

As a further condition of final acceptance, the City may require the Contractor to submit evidence, satisfactory to the City's Representative, that all payrolls, material bills, and other indebtedness connected with the project have been paid. If any indebtedness or liens are in

dispute, the Contractor may submit a surety bond satisfactory to the City guaranteeing payment of all such disputed amounts if such payment has not already been guaranteed by surety bond.

**8. Status of Contractor as Independent Contractor**

Contractor certifies that:

- A. Contractor acknowledges that for all purposes related to this Agreement, Contractor is and shall be deemed to be an independent Contractor as defined by ORS 670.600 and not an employee of City, shall not be entitled to benefits of any kind to which an employee of City is entitled and shall be solely responsible for all payments and taxes required by law. Furthermore, in the event that Contractor is found by a court of law or any administrative agency to be an employee of City for any purpose, City shall be entitled to offset compensation due, or to demand repayment of any amounts paid to Contractor under the terms of this Agreement, to the full extent of any benefits or other remuneration Contractor receives (from City or third party) as a result of said finding and to the full extent of any payments that City is required to make (to Contractor or to a third party) as a result of said finding.
- B. The undersigned Contractor hereby represents that no employee of the City, or any partnership or corporation in which a City employee has an interest, has or will receive any remuneration of any description from Contractor, either directly or indirectly, in connection with the letting or performance of this Agreement, except as specifically declared in writing.
- C. If this payment is to be charged against Federal funds, Contractor certifies that he or she is not currently employed by the Federal Government and the amount charged does not exceed his or her normal charge for the type of service provided.
- D. Contractor and its employees, if any, are not active members of the Oregon Public Employees Retirement System and are not employed for a total of 600 hours or more in the calendar year by any public employer participating in the Retirement System.
- E. Contractor certifies that it currently has a City business license or will obtain one prior to delivering services under this Agreement.
- F. Contractor is not an officer, employee, or agent of the City as those terms are used in ORS 30.265.

**9. Subcontracts - Assignment & Delegation**

Contractor shall submit a list of Subcontractors for approval by the City, and Contractor shall be fully responsible for the acts or omissions of any Subcontractors and of all persons employed by them, and neither the approval by City of any Subcontractor nor anything contained herein

shall be deemed to create any contractual relation between the Subcontractor and City.

This agreement, and all of the covenants and conditions hereof, shall inure to the benefit of and be binding upon the City and the Contractor respectively and their legal representatives. Contractor shall not assign any rights nor delegate any duties incurred by this contract, or any part hereof without the written consent of City, and any assignment or delegation in violation hereof shall be void.

**10. Contractor - Payment of Benefits - Hours of Work**

**A.** The Contractor shall:

- 1) Make payment promptly, as due, to all persons supplying to such 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 under the Worker's Compensation Law from such Contractor or Subcontractor incurred in the performance of this contract;
- 3) Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167; and
- 4) Not permit any lien or claim to be filed or prosecuted against the City of West Linn on account of any labor or material furnished;

**B.** The Contractor or the Contractor's Surety and every Subcontractor or the Subcontractor's Surety shall file certified statements with the City in writing on a form prescribed by the Commissioner of the Bureau of Labor and Industries, certifying the hourly rate of wage paid each worker which the Contractor or the Subcontractor has employed upon such public work, and further certifying that no worker employed upon such public work has been paid less than the prevailing rate of wage or less than the minimum hourly rate of wage specified in the contract, which certificate and statement shall be verified by the oath of the Contractor or the Contractor's Surety or Subcontractor or the Subcontractor's Surety that the Contractor or Subcontractor has read such statement and certificate and knows the contents thereof and that the same is true to the Contractor's or Subcontractor's knowledge.

- 1) The certified statements shall set out accurately and completely the payroll records, including the name and address of each worker, the worker's correct classification, rate of pay, daily and weekly number of hours worked, and the gross wages the worker earned during each week identified in the certified statement.
- 2) Each certified statement required herein shall be delivered or mailed by the Contractor or Subcontractor to the City. A true copy of the certified statements shall also be filed at the same time with the Commissioner of the Bureau of Labor and Industries. Certified statements shall be submitted as set forth in ORS 279C.845.
- 3) City shall retain 25 percent of any amount earned by Contractor until the certified statements as required by this section have been filed. City shall pay

Contractor the amount retained under this subsection within 14 days after Contractor files the certified statements as required by this section, regardless of whether a subcontractor has failed to file certified statements as required by this section. City is not required to verify the truth of the contents of certified statements filed by Contractor.

- C. The Contractor agrees that if the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a Subcontractor by any person in connection with this contract as such claim becomes due, the proper office of the City of West Linn may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due to the Contractor by reason of such contract. Payment of a claim in this manner shall not relieve the Contractor or the Contractor's Surety from obligation with respect to any unpaid claims.
- D. Contractor agrees that no person shall be employed for more than ten (10) hours in any one day, or forty (40) hours in any one week, except in cases of necessity, emergency or when public policy absolutely requires it, and in such cases the laborer shall be paid at least time and a half pay for all overtime in excess of eight (8) hours in any one day or forty (40) hours in any one week when the workweek is five consecutive days, Monday through Friday, or ten (10) hours in any one day and or forty (40) hours in any one week when the workweek is four consecutive days, Monday through Friday and for all work performed on Saturday and on any legal holiday as specified in ORS 279C.540.
- E. No City employee shall be required to work overtime or on a Saturday, Sunday or holiday in the fulfillment of this contract except where the Contractor agrees to reimburse the City in the amount of money paid the employee for such work as determined by state law, the City's personnel rules or union agreement. The Contractor shall require every Subcontractor to comply with this requirement.

#### **11. Drug Testing Program**

ORS 279C.505 requires that all public improvement contracts contain a provision requiring contractors to demonstrate that an employee drug-testing program is in place. The Contractor demonstrates that a drug-testing program is in place by signing of the contract. The drug testing program will apply to all employees and will be maintained for the duration of the Contract awarded. Failure to maintain a program shall constitute a material breach of contract.

#### **12. Contractor's Employee Medical Payments**

Contractor agrees to pay promptly as due, to any person, co-partnership, association or corporation furnishing medical, surgical, and hospital care or other needed care and attention incident to sickness or injury to the Contractor's employees, of all sums which the Contractor agreed to pay for such services and all money and sums which the Contractor collected or deducted from employee wages pursuant to any law, contract or agreement for the purpose of

providing or paying for such service.

**13. Salvage, Composting or Mulching**

If this is a contract for demolition work, the Contractor shall salvage or recycle construction and demolition debris, if feasible and cost-effective. If this is a contract for lawn and landscape maintenance, Contractor shall compost or mulch yard waste material at an approved site, if feasible and cost-effective.

**14. Early Termination**

- A. This agreement may be terminated without cause prior to the expiration of the agreed upon term by mutual written consent of the parties and for the following reasons:
  - 1) If work under the Contract is suspended by an order of a public agency for any reason considered to be in the public interest other than by a labor dispute or by reason of any third party judicial proceeding relating to the work other than a suit or action filed in regard to a labor dispute; or
  - 2) If the circumstances or conditions are such that it is impracticable within a reasonable time to proceed with a substantial portion of the Contract.
- B. Payment of Contractor shall be as provided by ORS 279C.660 and shall be prorated to and include the day of termination and shall be in full satisfaction of all claims by Contractor against City under this Agreement.
- C. Termination under any provision of this paragraph shall not affect any right, obligation, or liability of Contractor or City which accrued prior to such termination.

**15. Cancellation with Cause**

- A. City may terminate this Agreement effective upon delivery of written notice to Contractor, or at such later date as may be established by City, under any of the following conditions:
  - 1) If City funding from federal, state, local, or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services. This Agreement may be modified to accommodate a reduction in funds,
  - 2) If Federal or State regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement,
  - 3) If any license or certificate required by law or regulation to be held by Contractor, its subcontractors, agents, and employees to provide the services required by this Agreement is for any reason denied, revoked, or not renewed, or

- 4) If Contractor becomes insolvent, if voluntary or involuntary petition in bankruptcy is filed by or against Contractor, if a receiver or trustee is appointed for Contractor, or if there is an assignment for the benefit of creditors of Contractor.
- 5) If Contractor fails to maintain reasonable relations with the public. Verbal abuse, threats, or other inappropriate behavior towards members of the public constitutes grounds for termination.

Any such termination of this agreement under paragraph (a) shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

**B.** City, by written notice of default (including breach of contract) to Contractor, may terminate the whole or any part of this Agreement:

- 1) If Contractor fails to provide services called for by this agreement within the time specified herein or any extension thereof, or
- 2) If Contractor fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this agreement in accordance with its terms, and after receipt of written notice from City, fails to correct such failures within ten (10) days or such other period as City may authorize.

The rights and remedies of City provided in the above clause related to defaults (including breach of contract) by Contractor shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

If City terminates this Agreement under paragraph (b), Contractor shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred, an amount which bears the same ratio to the total fees specified in this Agreement as the services satisfactorily rendered by Contractor bear to the total services otherwise required to be performed for such total fee; provided, that there shall be deducted from such amount the amount of damages, if any, sustained by City due to breach of contract by Contractor. Damages for breach of contract shall be those allowed by Oregon law, reasonable and necessary attorney fees, and other costs of litigation at trial and upon appeal.

**16. Access to Records**

City shall have access to such books, documents, papers and records of Contractor as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts.

**17. Work is Property of City**

All work performed by Contractor under this Agreement shall be the property of the City.

**18. Adherence to Law**

- A. Contractor shall adhere to all applicable laws governing its relationship with its employees, including but not limited to laws, rules, regulations, and policies

concerning workers' compensation, and minimum and prevailing wage requirements. Specifically but not by way of limitation, this contract is subject to all applicable provisions of ORS 279C.505, 279C.510, 279C. 515, 279C.520, 279C.525, 279C.530, 279C.540, 279C.570, 279C. 580, and 279C.800- 279C.870.

- B.** To the extent applicable, the Contractor represents that it will comply with Executive Order 11246 as amended, Executive Order 11141, Section 503 of the Vocational Rehabilitation Act of 1973 as amended and the Age Discrimination Act of 1975, and all rules and regulations issued pursuant to the Acts.
  
- C.** As provided by ORS 279C.525, all applicable provisions of federal, state or local statutes, ordinances and regulations dealing with the prevention of environmental pollution and the preservation of natural resources that affect the work under this contract are by reference incorporated herein to the same force and effect as if set forth herein in full. If the Contractor must undertake additional work due to the enactment of new or the amendment of existing statutes, ordinances or regulations occurring after the submission of the successful bid, the City shall issue a Change Order setting forth the additional work that must be undertaken. The Change Order shall not invalidate the Contract and there shall be, in addition to a reasonable extension, if necessary, of the contract time, a reasonable adjustment in the contract price, if necessary, to compensate the Contractor for all costs and expenses incurred, including overhead and profits, as a result of the delay or additional work.

**19. Changes**

City may at any time, and without notice, issue a written Change Order requiring additional work within the general scope of this Contract, or any amendment thereto, or directing the omission of or variation in work. If such Change Order results in a material change in the amount or character of the work, an equitable adjustment in the Contract price and other provisions of this Contract as may be affected may be made. Any claim by Contractor for and adjustment under this section shall be asserted in writing within thirty (30) days from the date of receipt by Contractor of the notification of change or the claim will not be allowed. Whether made pursuant to this section or by mutual agreement, no change shall be binding upon City until a Change Order is executed by the Authorized Representative of City, which expressly states that it constitutes a Change Order to this Contract. The issuance of information, advice, approvals, or instructions by City's Representative or other City personnel shall not constitute an authorized change pursuant to this section. Nothing contained in this section shall excuse the Contractor from proceeding with the prosecution of the work in accordance with the Contract, as changed.

**20. Force Majeure**

Neither City nor Contractor shall be considered in default because of any delays in completion of responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the party so disabled, including, but not restricted to, an act of God or of a public enemy, volcano, earthquake, fire, flood, epidemic, quarantine, restriction, area-wide strike, freight embargo, unusually severe weather or delay of Subcontractor or suppliers due to

such cause; provided that the party so disabled shall within ten (10) days from the beginning of such delay, notify the other party in writing of the causes of delay and its probable extent. Such notification shall not be the basis for a claim for additional compensation. Each party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under Contract.

**21. Nonwaiver**

The failure of the City to insist upon or enforce strict performance by Contractor of any of the terms of this contract or to exercise any rights hereunder shall not be construed as a waiver or relinquishment to any extent of its right to assert or rely upon such terms or rights on any future occasion.

**22. Warranties**

All work shall be guaranteed by the Contractor for a period of one year after the date of final acceptance of the work by the Owner. Contractor warrants that all practices and procedures, workmanship, and materials shall be the best available unless otherwise specified in the profession. Neither acceptance of the work nor payment therefore shall relieve Contractor from liability under warranties contained in or implied by this contract.

**23. Attorney's Fees**

In case suit or action is instituted to enforce the provisions of this contract, the parties agree that the losing party shall pay such sum as the Court may adjudge reasonable attorney's fees and court costs including attorney's fees and court costs on appeal.

**24. Governing Law**

The provisions of this Agreement shall be construed in accordance with the provisions of the laws of the State of Oregon. Any action or suits involving any questions arising under this Agreement must be brought in the Circuit Court of Clackamas County or the U. S. District Court in Portland.

**25. Conflict Between Terms**

It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the bid of the Contractor, this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said bid conflicting herewith.

**26. Indemnification**

Contractor warrants that all its work will be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of a contractor's work by City shall not operate as a waiver or release.

Contractor agrees to indemnify and defend the City, its officers, agents and employees and hold them harmless from any and all liability, causes of action, claims, losses, damages, judgments or other costs or expenses including attorney's fees and witness costs and (at both trial and appeal

level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity which in any way arise from, during or in connection with the performance of the work described in this contract, except liability arising out of the sole negligence of the City and its employees. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this indemnification.

**27. Insurance**

Contractor and its subcontractors shall maintain insurance acceptable to City in full force and effect throughout the term of this contract. Such insurance shall cover all risks arising directly or indirectly out of Contractor's activities or work hereunder, including the operations of its subcontractors of any tier. Such insurance shall include provisions that such insurance is primary insurance with respect to the interests of City and that any other insurance maintained by City is excess and not contributory insurance with the insurance required hereunder.

The policy or policies of insurance maintained by the Contractor and its subcontractors shall provide at least the following limits and coverages:

- A. Commercial General Liability Insurance: Contractor and its subcontractors shall obtain, at contractor's or subcontractor's expense, and keep in effect during the term of this contract, Commercial General Liability Insurance including all Liability including all major divisions of coverage, including, but not limited to, Premises/Operations, Completed Operations, Independent Contractors' Protective, Products-Completed Operations, Contractual Liability (including coverage for the Contractor's indemnity obligations and other contractual indemnity obligations assumed by the Contractor), Personal Injury, and Broad Form Property Damage (including coverage for Explosion, Collapse, and Underground Hazards). The following insurance will be carried:

Employer's Liability Insurance

\$ 2,000,000.00 Each Occurrence

\$2,000,000.00 Disease Each Employee

\$ 2,000,000.00 Disease – Policy

Commercial General Liability insurance

\$ 2,000,000.00 Each Occurrence Limit

\$ 3,000,000.00 General Aggregate

\$ 3,000,000.00 Products/Completed Operations Aggregate

\$ 3,000,000.00 Personal and Advertising Injury

\$ 2,000,000.00 Limited Job Site Pollution Occurrence Sub-Limit

Comprehensive Automobile Liability Insurance including coverage for all owned, hired and non-owned vehicles

\$ 2,000,000.00 Each Occurrence Combined Single Limit

\$ 3,000,000.00 Aggregate Bodily Injury & Property Damage

or

\$ 2,000,000.00 Each Person Bodily Injury

\$ 2,000,000.00 Each Occurrence Bodily Injury

\$ 2,000,000.00 Each Occurrence Property Damage

\$ 2,000,000.00 Each Occurrence Pollution Occurrence Sub-Limit

“All risk” Builder's Risk Insurance (including earthquake and flood) covering the real and personal property of others in the care, custody, and control of the contractor. Coverage shall include theft and damage to building interiors, exterior, in transit and offsite storage. The minimum amount of coverage to be carried shall be equal to the full amount of the contract. Contractor shall be financially responsible for any deductible applied to loss. This insurance shall include Owner, the contractor and its sub-contractors as their interests may appear and may not be cancelled or terminated until such time as City’s final acceptance of the project. The policy shall be endorsed to have the General Aggregate apply to this Project Only.

- B. Additional Insured Provision:** The City of West Linn, Oregon, its officers, directors, and employees shall be added as additional insureds with respect to this contract. All Liability Insurance policies will be endorsed to show this additional coverage.
- C. Insurance Carrier Rating:** Coverage provided by the Contractor must be underwritten by an insurance company deemed acceptable by the City. The City reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
- D. Certificates of Insurance:** As evidence of the insurance coverage required by the contract, the contractor shall furnish a Certificate of Insurance to the City. No contract shall be effective until the required certificates have been received and approved by the City. The certificate will specify and document all provisions within this contract. A renewal certificate will be sent to the above address 10 days prior to coverage expiration.

Certificates of Insurance should read “Insurance certificate pertaining to contract for Sunset/Hemlock Waterline Replacement Project. The City of West Linn, its officers, directors and employees shall be added as additional insureds with respects to this contract. Insured coverage is primary” in the description portion of certificate.

- E. Primary Coverage Clarification:** All parties to this contract hereby agree that the contractor's coverage will be primary in the event of a loss.
- F. Cross-Liability Clause:** A cross-liability clause or separation of insureds clause will be included in general liability, policy. .

Contractor's insurance policy shall contain provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) days prior notice to City. A copy of each insurance policy, certified as a true copy by an authorized representative of the issuing insurance company, or at the discretion of City, in lieu thereof, a certificate in form satisfactory to City certifying to the issuance of such insurance shall be forwarded to:

|  |   |
|--|---|
| Dennis Wright, City Engineer<br>City of West Linn<br>22500 Salamo Road | Ph: 503- 722-5514<br>Fax: 503- 656-4106 |
|--|---|

|                     |  |
|---------------------|--|
| West Linn, OR 97068 |  |
|---------------------|--|

Such policies or certificates must be delivered prior to commencement of the work. Ten days cancellation notice shall be provided City by certified mail to the name at the address listed above in event of cancellation or non-renewal of the insurance.

The procuring of such required insurance shall not be construed to limit contractor’s liability hereunder. Notwithstanding said insurance, Contractor shall be obligated for the total amount of any damage, injury, or loss caused by negligence or neglect connected with this contract.

**28. Method and Place of Giving Notice, Submitting Bills and Making Payments**

All notices, bills and payments shall be made in writing and may be given by personal delivery or by mail. Notices, bills and payments sent by mail should be addressed as follows:

|  |                                    |
|--|------------------------------------|
| <b>City of West Linn</b>                     | (Contractor’s Name)                |
| Attn: Dennis Wright                          | Attn:<br>(Contract Manager’s Name) |
| 22500 Salamo Road<br>West Linn, OR 97068     | Address:                           |
| Phone: 503- 722-5514                         | Phone:                             |
| Fax: 503-656-4106                            | Fax:                               |
| Email Address:<br>dwright@westlinnoregon.gov | Email Address:                     |

and when so addressed, shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices, bills and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to whom notices, bills and payments are to be given by giving written notice pursuant to this paragraph.

**29. Hazardous Materials**

Contractor shall supply City with a list of any and all hazardous substances used in performance of this Agreement. That list shall identify the location of storage and use of all such hazardous substances and identify the amounts stored and used at each location. Contractor shall provide City with material safety data sheets for all hazardous substances brought onto City property, created on City property or delivered to City pursuant to this Agreement. For the purpose of this section, "hazardous substance" means hazardous substance as defined by ORS 453.307(5). Contractor shall complete the State Fire Marshall's hazardous substance survey as required by ORS 453.317 and shall assist City to complete any such survey that it may be required to complete because of substances used in the performance of this Agreement.

**30. Hazardous Waste**

If, as a result of performance of this Agreement, Contractor generates any hazardous wastes, Contractor shall be responsible for disposal of any such hazardous wastes in compliance with all

applicable federal and state requirements. Contractors shall provide City with documentation, including all required manifests, demonstrating proper transportation and disposal of any such hazardous wastes. Contractor shall defend, indemnify, and hold harmless City for any disposal or storage of hazardous wastes generated pursuant to this Contract and any releases or discharges of hazardous materials.

**31. Severability**

In the event any provision or portion of this Agreement is held to be unenforceable or invalid by any court of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect and shall in no way be affected or invalidated thereby.

**32. Complete Agreement**

This Agreement and attached exhibits constitutes the entire Agreement between the parties. No waiver, consent, modification, or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change if made, shall be effective only in specific instances and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. Contractor, by the signature of its authorized representative, hereby acknowledges that he has read this Agreement, understands it and agrees to be bound by its terms and conditions.

**IN WITNESS WHEREOF**, the City has caused this agreement to be executed by its duly authorized undersigned officer, acting pursuant to authorization of the City Council, duly passed at the regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and the Contractor has executed this agreement on the date herein above first written.

**CONTRACTOR**

**CITY OF WEST LINN**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Printed Name & Title**

\_\_\_\_\_  
**Printed Name & Title**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Date**

THREE YEAR EXPERIENCE RECORD

**Recent projects first**

#1 (Project Name, Location, Contract Cost)

Project description: \_\_\_\_\_

Project completion date: (contract) \_\_\_\_\_ (actual) \_\_\_\_\_

Contact name: \_\_\_\_\_

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

#2 (Project Name, Location, Contract Cost)

Project description: \_\_\_\_\_

Project completion date: (contract) \_\_\_\_\_ (actual) \_\_\_\_\_

Contact name: \_\_\_\_\_

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

#3 (Project Name, Location, Contract Cost)

Project description: \_\_\_\_\_

Project completion date: (contract) \_\_\_\_\_ (actual) \_\_\_\_\_

Contact name: \_\_\_\_\_

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

Attach additional sheets if needed.

**RECYCLED MATERIALS**

Following is a list of the bid items in which recycled materials is to be used by the Contractor along with the percentage of recycled materials contained within the finished product:

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**RESIDENT BIDDER STATUS**

Is the Bidder a resident bidder, as defined in ORS 279A.120 \_\_\_\_\_.

If not, list the state of residence of the bidder: \_\_\_\_\_.

**CONTRACTOR'S LICENSE NUMBER**

List Contractor's License Number: \_\_\_\_\_

Tax I.D. : \_\_\_\_\_

**BONDING INFORMATION**

If the Bidder is awarded a construction Contract on this Bid, the Surety that will provide the Performance and Payment Bonds is:

\_\_\_\_\_ whose address is:

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The name of the Bidder who is submitting this Bid is:

\_\_\_\_\_ doing business at:

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which is the address where the contract and all communications concerned with this bid shall be sent.

## **ATTACHMENTS**

**2012 CRACK SEALING LIST**

| Street Name       | Begin Location      | End Location     | Cracks LF     | Curbs LF    |
|-------------------|---------------------|------------------|---------------|-------------|
| Nova Ct           | 19th St             | 18th St          | 845           |             |
| Ann Ct            | 19th St             | Cul-de-Sac       | 760           |             |
| Debok Rd          | Blankenship         | Wisteria Ct      | 3,100         |             |
| Rosemarie Dr      | Debok Rd            | End              | 1,807         | 1,300       |
| Hall Ct           | Greene St           | Cul-de-Sac       | 1,086         |             |
| Barnes Cir        | Greene St           | Greene St        | 4,400         |             |
| Greene St         | Salamo Rd           | Tannler Dr       | 6,050         |             |
| Wellington Dr     | Beacon Hill Dr      | Fairhaven Dr     | 3,875         |             |
| Wellington Ct     | Wellington Dr       | Cul-de-Sac       | 575           |             |
| Edgewood Ct       | Wellington Dr       | Cul-de-Sac       | 290           |             |
| Imperial Dr       | Sunset Ave          | Cul-de-Sac       | 14,235        |             |
| Broadway St       | Willamette Falls Dr | Webb St          | 5,240         |             |
| McKillican        | West "A" St         | Hwy 43           | 5,400         |             |
| West "A" St       | Willamette Falls Dr | Hwy 43           | 13,920        |             |
| Skyline Dr        | West "A" St         | Clark St         | 3,100         |             |
| Clark St          | Skyline Dr          | Oregon City Blvd | 1,225         |             |
| Lancaster St      | Cornwall St         | Parker Rd        | 1,800         |             |
| Summit St         | Skyline Dr          | Rosemont Rd      | 1,260         |             |
| Summit St         | Pimlico Dr          | Summit Place     | 4,470         | 3,520       |
| Hidden Springs Rd | Bluegrass Way       | Rosemont Rd      | 10,165        |             |
| Bluegrass Way     | Hidden Springs Rd   | Carriage Way     | 3,470         |             |
| Carriage Way      | Hidden Springs Rd   | Suncrest Dr      | 14,890        |             |
| Crestwood Ct      | Wildwood Dr         | Cul-de-Sac       | 1,173         | 480         |
| Buck St           | Failing St          | 1912 Buck St     | 890           |             |
|                   |                     | <b>Total</b>     | <b>104026</b> | <b>5300</b> |