

3359



**AUTHORIZATION FOR
AGREEMENTS, MOUs, OR
OTHER DOCUMENTS OBLIGATING
THE CITY**

All contracts, agreements, grant agreements, memoranda of understanding, or any document obligating the city (with the exception of purchase orders), requires the completion of this form. The City Manager will sign these documents after all other required information and signatures are obtained.

Document: Agreement for CIP Project #21019

Date: July 19, 2022

Statement of Purpose: SE Moore Drive Sidewalk and Overlay Improvement Project

Department Head Signature: [Signature]

Remarks, if any: [Signature]

City Attorney Review and Signature: [Signature] Date: 7/29/2022

Other Signatures as Requested by the City Attorney: _____

Name/Position

Date: _____

Budget Confirmed: Signature Yes ☒ No ☐ N/A ☐

Certificate of Insurance Attached: Yes ☐ No ☒ N/A ☐

City Council Approval Needed: Yes ☒ No ☐ Date: 07/18/2022

After all the above requested information is complete and signatures obtained, return this form, along with the original document to the City Manager for signature. No documents should be executed prior to the City Manager's approval as evidenced by signature of this document.

City Manager Signature: [Signature] Date: 8/3/2022

Once all signatures and certificates of insurance have been obtained, return this document, along with the original, fully-executed agreement, MOU, or other document to the City Recorder. A copy of grant agreement and all project funding documents, must be forwarded to the Finance Department for tracking and audit purposes.

City Recorder Signature: _____ Date: _____

Date posted on website: _____

NOTICE OF AWARD

Date of Issuance: August 5, 2022
Owner: City of Newport Owner's Project No.: 21019
Engineer: Civil West Engineering Services, Inc. Engineer's Project No.: 2302-046
Project: SE Moore Drive Sidewalk and Overlay Improvements
Bidder: Road & Driveway Co.
Bidder's Address: P.O. Box 730, Newport, Oregon 97365

You are notified that Owner has accepted your **Bid dated July 7, 2022** for the above Contract, and that you are the Successful Bidder and are awarded a Contract for:

**SE Moore Drive Sidewalk and Overlay Improvements
City of Newport, Oregon**

The Contract Price of the awarded Contract is **\$778,361.29**. Contract Price is subject to adjustment based on the provisions of the Contract, including but not limited to those governing changes, Unit Price Work, and Work performed on a cost-plus-fee basis, as applicable.

One (1) unexecuted counterparts of the Agreement accompany this Notice of Award, and one copy of the Contract Documents accompanies this Notice of Award, or has been transmitted or made available to Bidder electronically.

☒ Drawings will be delivered separately from the other Contract Documents.

You must comply with the following conditions precedent within 15 days of the date of receipt of this Notice of Award:

1. Deliver to Owner three (3) counterparts of the Agreement, signed by Bidder (as Contractor).
2. Deliver with the signed Agreement(s) the Contract security (such as required performance and payment bonds) and insurance documentation, as specified in the Instructions to Bidders and in the General Conditions, Articles 2 and 6.
3. Other conditions precedent (if any): Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award, and declare your Bid security forfeited.

Within 10 days after you comply with the above conditions, Owner will return to you one fully signed counterpart of the Agreement, together with any additional copies of the Contract Documents as indicated in Paragraph 2.02 of the General Conditions.

Owner: **City of Newport, Oregon**

By (signature):



Name (printed): Peggy Hawker

Title: Acting City Manager

Copy: Tim Gross – Civil West Project Engineer

EJCDC® C-510, Notice of Award.

Copyright© 2018 National Society of Professional Engineers, American Council of Engineering Companies,
and American Society of Civil Engineers. All rights reserved.

AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

This Agreement is by and between **City of Newport** ("Owner") and **Road & Driveway Co.** ("Contractor").

Terms used in this Agreement have the meanings stated in the General Conditions and the Supplementary Conditions.

Owner and Contractor hereby agree as follows:

ARTICLE 1—WORK

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Schedule A: SE Moore Drive and SE Harney Street Sidewalk Improvements

All work, materials and equipment related to the replacement and installation of concrete sidewalk and ADA ramps on SE Moore Drive, and the installation of a new sidewalk on SE Harney Street and SE 2nd Street. Estimated quantities include approximately 3,013 SF of 4" concrete pavement (sidewalk); 126 SF 6" concrete pavement (residential driveways); 365 SF of 8" reinforced concrete pavement (commercial driveways); 321 LF of Type-C Curb; 222 LF of Curb and Gutter; and 81 SF of Truncated Domes.

Schedule B: SE Moore Drive and SE 2nd Street Cold Mill and 2" ACP Overlay

All work, materials, and equipment related to the cold plane mill and 2" ACP overlay of SE Moore Drive between US Hwy 20 and SE Bay Boulevard and SE 2nd Street between SE Harney Street and SE Moore Drive. Estimated quantities include: 1,406 TN of Asphalt Concrete Pavement (ACP); 1,143 SY of full depth Base Repair; 12,574 SY Cold Plane Milling (0-4"); 600 SF of synthetic subgrade drainage fabric, 100 LF perforated 6" ADS N12 drain tile pipe, and 5,407 LF of striping of various widths and colors.

ARTICLE 2—THE PROJECT

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: **SE Moore Drive Sidewalk and Overlay Improvements**

ARTICLE 3—ENGINEER

- 3.01 The Owner has retained **Civil West Engineering Services, Inc.** ("Engineer") to act as Owner's representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.
- 3.02 The part of the Project that pertains to the Work has been designed by **Engineer**.

ARTICLE 4—CONTRACT TIMES

- 4.01 *Time is of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.03 *Contract Times: Days*

- A. The Work will be substantially complete within **120** days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within **150** days after the date when the Contract Times commence to run.

4.05 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the Contract Times, as duly modified. The parties also recognize the delays, expense, and difficulties involved in proving, in a legal or arbitration proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):
 - 1. *Substantial Completion*: Contractor shall pay Owner **\$250** for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for Substantial Completion, until the Work is substantially complete.
 - 2. *Completion of Remaining Work*: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner **\$500** for each day that expires after such time until the Work is completed and ready for final payment.
 - 4. Liquidated damages for failing to timely attain Substantial Completion, and final completion are not additive, and will not be imposed concurrently.
- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.

ARTICLE 5—CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents, the amounts that follow, subject to adjustment under the Contract:
 - A. For all Work other than Unit Price Work, a lump sum of **\$0.00**.

All specific cash allowances are included in the above price in accordance with Paragraph 13.02 of the General Conditions.
 - B. For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item).

Schedule A: SE Moore Drive and SE Harney Street Sidewalk Improvements

| Item No. | Description | Unit | Estimated Qty. | Bid Unit Price | Bid Amount |
|------------------------------------|-----------------------------------|------|----------------|----------------|---------------------|
| 1 | MOBILIZATION BONDS AND INSURANCE | LS | 1 | \$56,725.00 | \$56,725.00 |
| 2 | TEMPORARY FACILITIES AND CONTROLS | LS | 1 | \$57,632.06 | \$57,632.06 |
| 3 | DEMOLITION AND SITE PREP | LS | 1 | \$100,973.04 | \$100,973.04 |
| 4 | LANDSCAPE RESTORATION & CLEANUP | LS | 1 | \$11,739.12 | \$11,739.12 |
| 5 | 4" CONCRETE PAVEMENT | SF | 3013 | \$19.39 | \$58,422.07 |
| 6 | 6" CONCRETE STANDARD DRIVEWAY | SF | 126 | \$39.03 | \$4,917.78 |
| 7 | 8" COMMERCIAL CONCRETE DRIVEWAY | SF | 365 | \$39.45 | \$14,399.25 |
| 8 | TYPE C CONCRETE CURB | LF | 321 | \$42.67 | \$13,697.07 |
| 9 | CONCRETE CURB AND GUTTER | LF | 222 | \$154.40 | \$34,276.80 |
| 10 | TRUNCATED DOMES | SF | 81 | \$64.57 | \$5,230.17 |
| Total of All Unit Price Bid Items: | | | | | \$358,012.36 |

Schedule B: SE Moore Drive and SE 2nd Street Cold Mill and 2" ACP Overlay

| Item No. | Description | Unit | Estimated Qty. | Bid Unit Price | Bid Amount |
|----------|---|------|----------------|----------------|--------------|
| 1 | MOBILIZATION BONDS AND INSURANCE | LS | 1 | \$49,900.00 | \$49,900.00 |
| 2 | TEMPORARY FACILITIES AND CONTROLS | LS | 1 | \$45,185.04 | \$45,185.04 |
| 3 | DEMOLITION AND SITE PREP | LS | 1 | \$6,969.24 | \$6,969.24 |
| 4 | 2" ACP OVERLAY | TN | 1406 | \$102.46 | \$144,058.76 |
| 5 | BASE REPAIR, 4" ACP WITH 12" 1"-0 AGG. BASE | SY | 1143 | \$87.74 | \$100,286.82 |
| 6 | COLD PLANE MILL, 0-2" | SY | 7000 | \$2.90 | \$20,300.00 |
| 7 | 24" THERMOPLASTIC PAVEMENT STRIPING, WHITE | LF | 220 | \$32.27 | \$7,099.40 |
| 8 | 12" THERMOPLASTIC PAVEMENT STRIPING, WHITE | LF | 738 | \$18.28 | \$13,490.64 |
| 9 | 4" THERMOPLASTIC PAVEMENT STRIPING, YELLOW | LF | 4323 | \$2.63 | \$11,369.49 |
| 10 | 4" THERMOPLASTIC PAVEMENT STRIPING, WHITE | LF | 126 | \$8.51 | \$1,072.26 |
| 11 | THERMOPLASTIC ARROW, RIGHT | EA | 2 | \$756.68 | \$1,513.36 |
| 12 | THERMOPLASTIC ARROW, LEFT/STRAIGHT | EA | 2 | \$956.68 | \$1,913.36 |
| 13 | SHARED BIKE LANE MARKING | EA | 9 | \$459.82 | \$4,138.38 |
| 14 | BIKE LANE MARKING WITH ARROW | EA | 6 | \$502.23 | \$3,013.38 |

| | | | | | |
|------------------------------------|--|----|-----|----------|---------------------|
| 15 | SYNTHETIC SUBGRADE DRAINAGE LAYER (BASE REPAIR INCLUDED IN ITEM 5) | SF | 600 | \$11.82 | \$7,092.00 |
| 16 | 6" CLEANOUT | EA | 2 | \$540.70 | \$1,081.40 |
| 17 | 6" PERFORATED ADS N12 DRAINTILE | FT | 100 | \$10.84 | \$1,084.00 |
| 18 | CONNECT TO EXISTING CATCH BASIN | EA | 2 | \$390.70 | \$781.40 |
| Total of All Unit Price Bid Items: | | | | | \$420,348.93 |

The extended prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. As provided in Paragraph 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.

- C. Total of Lump Sum Amount and Unit Price Work (subject to final Unit Price adjustment) **\$778,361.29.**
- D. For all Work, at the prices stated in Contractor's Bid, attached hereto above.

ARTICLE 6—PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on the basis of Contractor's Applications for Payment on or about the **5th** day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
 - 1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.
 - a. **95%** percent of the value of the Work completed (with the balance being retainage).
 - 1) If 50 percent or more of the Work has been completed, as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and

- b. **0%** percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
 - B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to **98%** percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less **100%** percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.
- 6.03 *Final Payment*
- A. Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.
- 6.04 *Consent of Surety*
- A. Owner will not make final payment or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.
- 6.05 *Interest*
- A. Not used.

ARTICLE 7—CONTRACT DOCUMENTS

7.01 *Contents*

- A. The Contract Documents consist of all of the following:
 - 1. This Agreement.
 - 2. Bonds:
 - a. Performance bond (together with power of attorney).
 - b. Payment bond (together with power of attorney).
 - 3. General Conditions.
 - 4. Supplementary Conditions.
 - 5. Specifications as listed in the table of contents of the project manual (copy of list attached).
 - 6. Drawings (not attached but incorporated by reference) consisting of **21** sheets with each sheet bearing the following general title: **SE Moore Drive and SE Harney Street Sidewalk Improvements**.
 - 8. Addenda (numbers **1** to **2**, inclusive).
 - 9. Exhibits to this Agreement (enumerated as follows):
 - a. **None**
 - 10. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed.

- b. Work Change Directives.
 - c. Change Orders.
 - d. Field Orders.
 - e. Warranty Bond, if any.
- B. The Contract Documents listed in Paragraph 7.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 7.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

8.01 Contractor's Representations

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
- 1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
 - 2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - 3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
 - 4. Contractor has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.
 - 5. Contractor has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.
 - 6. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.
 - 7. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price,

within the Contract Times, and in accordance with the other terms and conditions of the Contract.

8. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
9. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
11. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

8.02 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 8.02:
 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

8.03 *Standard General Conditions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C-700, Standard General Conditions for the Construction Contract (2018), published by the Engineers Joint Contract Documents Committee, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

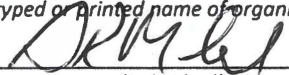
This Agreement will be effective on [indicate date on which Contract becomes effective] (which is the Effective Date of the Contract).

Owner:

City of Newport, Oregon

(typed or printed name of organization)

By:



(individual's signature)

Date:

08 / 11 / 22

(date signed)

Name: Spencer Nebel

(typed or printed)

Title: City Manager

(typed or printed)

Attest:



(individual's signature)

Title:

Sr. Exec. Asst.

(typed or printed)

Address for giving notices:

City of Newport

169 SW Coast Highway

Newport, OR 97365

Designated Representative:

Name: Aaron Collett

(typed or printed)

Title: City Engineer

(typed or printed)

Address:

City of Newport

169 SW Coast Highway

Newport, OR 97365

Phone: 541-574-3375

Email: a.collett@newportoregon.gov

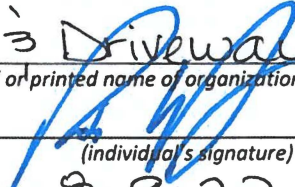
(If [Type of Entity] is a corporation, attach evidence of authority to sign. If [Type of Entity] is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

Contractor:

Road 3 Driveway Co.

(typed or printed name of organization)

By:



(individual's signature)

Date:

8-9-22

(date signed)

Name:

Rob Wienert

(typed or printed)

Title:

Vice-President

(typed or printed)

(If [Type of Entity] is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest:



(individual's signature)

Title:

Office Manager

(typed or printed)

Address for giving notices:

Road 3 Driveway Co.

PO Box 730

Newport, OR 97365

Designated Representative:

Name:

Ryley Wienert

(typed or printed)

Title:

Project Manager

(typed or printed)

Address:

Road 3 Driveway Co.

PO Box 730

Newport, OR 97365

Phone:

541-265-9441

Email:

ryley@roadanddriveway.com

License No.:

CEB # 16331

(where applicable)

State:

Oregon

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.


This Agreement will be effective on **[indicate date on which Contract becomes effective]** (which is the Effective Date of the Contract).

Owner:

City of Newport, Oregon

(typed or printed name of organization)

By:


(individual's signature)

Date:

08-11-22
(date signed)

Name:

Spencer Nebel


(typed or printed)

Title:

City Manager

(typed or printed)

Attest:


(individual's signature)

Title:

Sr. Asst. City Manager
(typed or printed)

Address for giving notices:

City of Newport

169 SW Coast Highway

Newport, OR 97365

Designated Representative:

Name: Aaron Collett

(typed or printed)

Title:

City Engineer

(typed or printed)

Address:

City of Newport

169 SW Coast Highway

Newport, OR 97365

Phone: 541-574-3375

Email: a.collett@newportoregon.gov

(If **[Type of Entity]** is a corporation, attach evidence of authority to sign. If **[Type of Entity]** is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

Contractor:

(typed or printed name of organization)

By:

(individual's signature)

Date:

(date signed)

Name:

(typed or printed)

Title:

(typed or printed)

(If **[Type of Entity]** is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest:

(individual's signature)

Title:

(typed or printed)

Address for giving notices:

Designated Representative:

Name:

(typed or printed)

Title:

(typed or printed)

Address:

Phone:

Email:

License No.:

(where applicable)

State:

