



## City of Tigard

13125 SW Hall Blvd

Tigard, Oregon 97223

Phone: 503-639-4171

Fax: 503-684-7297

### CONTRACT DOCUMENTS for the construction of

## 2015 Summer Pavement Crack Seal

Project No.: CIP 2015-95001CS

A handwritten signature in black ink, appearing to read "Lori Faha", is written over a horizontal line.

Approved by: Lori Faha, P.E., City Engineer

**Bid Proposals Due & Bids Open: April 23, 2015 - 3:00 PM**



## CITY OF TIGARD, OREGON

### CONTRACT DOCUMENTS

#### 2015 Summer Pavement Crack Seal

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**DATE DUE:** April 23, 2015  
**TIME DUE:** 3:00 pm

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Envelopes must be sealed and marked with project title.  
Bidders must submit one (1) original of their Bid.

If a bid exceeds \$100,000, Bidders must submit a First Tier Subcontractor Disclosure Form, provided in this packet, to the City no later than 5:00 pm, April 23, 2015

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**PROJECT MANAGER:**

Mike McCarthy, P.E.  
City of Tigard, Public Works Engineering  
Phone: (503) 718-2462  
Fax: 503-624-0752  
Email: [mikem@tigard-or.gov](mailto:mikem@tigard-or.gov)

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**QUESTIONS REGARDING THE BID:**

Joe Barrett, Sr. Management Analyst  
City of Tigard, Procurement Office  
Phone: 503-718-2477  
Fax: 503-684-7297  
Email: [joseph@tigard-or.gov](mailto:joseph@tigard-or.gov)

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#### SUBMIT BIDS TO:

Joe Barrett, Sr. Management Analyst  
City of Tigard – Utility Billing Counter  
13125 SW Hall Blvd  
Tigard, Oregon 97223

**CITY OF TIGARD**  
**ADVERTISEMENT FOR BIDS**  
2015 Summer Pavement Crack Seal

The City of Tigard will receive sealed bids from qualified firms at Tigard City Hall's Utility Billing Counter located at 13125 SW Hall Blvd., Tigard, Oregon 97223 until 3:00 pm local time, April 23, 2015 for the 2015 Summer Pavement Crack Seal construction project. Bids will be opened and publicly read aloud immediately after the bid's closing time and date at Tigard City Hall.

The project generally consists of the following:

1. Installation of crack seal on city streets
2. Temporary signage, protection, and traffic control
3. Performance of additional and incidental work as called for by the specifications and plans.

Basis of Bid Award shall incorporate all items identified on the Bid Schedule.

Pursuant to Tigard Public Contracting Rule 30.055, all bidders must submit a bid security to the City along with their bid in an amount equal to ten percent (10%) of their base bid. In the event a bid exceeds \$100,000, Bidders must submit a First Tier Subcontractor Disclosure Form, provided in this packet, to the City no later than 5:00 pm local time, April 23, 2015.

The City anticipates this will be a prevailing wage rate project. The provisions of ORS Chapters 279A and 279C and all other Oregon and Federal provisions pertaining to minimum salaries and wages shall be incorporated by reference as if fully set forth in any contract resulting from this Invitation to Bid. Contractor shall provide proof to the City prior to the beginning of any of the work that the Contractor has filed a public works bond with a corporate surety in the amount of \$30,000 with the Construction Contractors Board as required under Oregon PWR law.

No bid will be considered unless fully completed in a manner provided in the bid packet. Facsimile and electronic (email) bids will not be accepted nor will bids be accepted after the stated opening date and time. Bids received after the closing time will be returned to the submitting firm unopened after a contract has been awarded for the required services.

Bid packets may be obtained in person at Tigard City Hall's Utility Billing Counter located at 13125 SW Hall Blvd., Tigard, Oregon 97223, or by contacting Joe Barrett, Sr. Management Analyst, at either (503) 718-2477 or [joseph@tigard-or.gov](mailto:joseph@tigard-or.gov). The City may reject any bid not in compliance with all prescribed public bidding procedures and requirements, and may reject for good cause any or all bids upon a finding of the City if it is in the public interest to do so.

Published: Daily Journal of Commerce  
Date: 4/8 and 4/10

Published: Tigard Times  
Date: 4/9

# TABLE OF CONTENTS

<b>TITLE</b>	<b>PAGE</b>
Title Page.....	2
Advertisement for Bids .....	3
Table of Contents.....	4
<b><u>INSTRUCTIONS TO BIDDERS</u></b>	
Section 00120 Bidding Requirements and Procedures.....	5
Section 00130 Award and Execution of Contract.....	14
<b><u>BID BOOKLET</u></b>	
Attachment A Proposal.....	19
Attachment B Acknowledgement of Addenda.....	22
Attachment C Bid Certifications.....	23
Attachment D First Tier Subcontract Disclosure Form.....	24
Attachment E Bid Bond Form.....	25
<b><u>CONTRACT BOOKLET</u></b>	
Attachment F Public Improvement Contract.....	26
Attachment G Performance Bond Form.....	40
Attachment H Payment Bond Form.....	42
Attachment I Supplementary General Conditions.....	44
Attachment J Special Provisions.....	46
Attachment K Oregon BOLI Prevailing Wage Rates.....	50
<b><u>DRAWINGS</u></b>	
2015 Pavement Maintenance Crack Seal Project Map	
2015 Crack Seal Streets (pages 1 through 5)	

## SECTION 00120 - BIDDING REQUIREMENTS AND PROCEDURES

This Section replaces Section 00120 of the 2008 edition of the Oregon Standard Specifications for Construction.

**00120.00 Bid Closing Time and Date** - The advertisement, included in the Bid Booklet sets the deadline date and time for submitting bids.

**00120.01 General Bidding Requirements** - Bidders may obtain and submit Bids by paper before the deadline stated in the Advertisement for Bid and at the location stated in the Advertisement for Bid.

**00120.05 Requests for Solicitation Documents** - Informational Plans and Specifications (not for bidding) are available at the City of Tigard, 13125 SW Hall Blvd. Tigard, OR 97223 at no charge.

Copies of the Oregon Standard Specifications may be purchased at the ODOT Procurement Office - Construction, Contractor Plans, 455 Airport Road SE, Building K, Salem, Oregon 97301-5348 (telephone (503) 986-6936). The Oregon Standard Specification can be obtained on line free of charge at: [http://www.oregon.gov/ODOT/HWY/SPECS/standard\\_specifications.shtml](http://www.oregon.gov/ODOT/HWY/SPECS/standard_specifications.shtml).

- (a) **Paper Bids** - Bidders must obtain Solicitation Documents from the City of Tigard, 13125 SW Hall Blvd., Tigard, OR 97223. Each request must include both the name of the person ordering or obtaining the Solicitation Documents, and the name of the Entity intending to use them. (The City will add the name of the Entity intending to use the Solicitation Documents to the list of Holders of Bidding Plans.) Bidders are cautioned that only Solicitation Documents obtained from the City of Tigard may be used to submit Bids.
- (b) **Standards and Specifications** - The work embraced herein shall be done in accordance with the following standards and specifications.

City of Tigard Public Improvement Design Standards	Download from the City's web site
CWS Design and Construction Standards 07-20	<a href="http://www.cleanwaterservices.org">www.cleanwaterservices.org</a>
Supplementary General Conditions	Included in the Bid Booklet
Manual on Uniform Traffic Control Devices (MUTCD)	
Oregon Standard Specifications Version 2008 – Volumes 1 & 2	Available from ODOT

Copies of these standards and specifications can be found at the locations stated above.

**00120.10 Bid Booklet** - The Bid Booklet may include, but is not limited to:

- Proposal
- Acknowledgement of Addenda
- Bid Certifications
- First Tier Subcontractor Disclosure
- Bid Bond

By signing the Certificate of non-collusion, Bidder certifies that this bid/proposal has been arrived at independently and has been submitted without collusion designed to limit independent bidding or competition.

**00120.15 Examination of Work Site and Solicitation Documents; Consideration of Conditions to be Encountered** - Before submitting a Bid, Bidders shall carefully examine the site of the proposed Work, the Bid Booklet, Plans, and Specifications. Bidders shall also contact Utility owners to verify all Utilities' anticipated

involvement on the Project Site. Bidders are also encouraged to review any subsurface investigation material referenced in 00120.25 that may be available. Submission of a Bid will constitute confirmation that the Bidder has examined the Project Site and Solicitation Documents, finds the Plans and Specifications to be sufficiently detailed and accurate to enable Bidder to properly perform the Work, and understands the conditions to be encountered in performing the Work and all requirements of the Contract.

The City and its employees will not be responsible for loss or unanticipated costs suffered by the Bidder because of the Bidder's failure to become fully informed about all conditions of the Work, or failure to request clarification of Plans and Specifications Bidder believes to be erroneous or incomplete.

- (a) **Clarifications** - Any clarification of Plans and Specifications needed by the Bidder shall be requested in writing through the Procurement Office. Requests shall be made in sufficient time for the Agency's reply to reach all Bidders before Bid Closing. Oral explanations or interpretations given before receiving Bids for a Project will not be binding. To be binding, interpretation of the Plans and Specifications by the City must be made by written Addendum furnished to all Holders of Bidding Plans according to 00120.30. Notification of erroneous or incomplete Plans or Specifications shall also be submitted to the Procurement Office. Such notification shall also be made in sufficient time for the City to make any necessary modifications and issue Addenda to Bidders prior to Bid Closing.
  
- (b) **Protest of Specifications or Terms** - A bidder who believes any specifications or terms detailed in the bid packet or sample contract (Attachment F) are unnecessarily restrictive or limit competition may submit a protest in writing, to the Procurement Office. A protest may be submitted via facsimile. Any such protest shall include the reasons for the protest and shall detail any proposed changes to the specifications or terms. The Procurement Office shall respond to any protest and, if necessary, shall issue any appropriate revisions, substitutions, or clarification via addenda to all interested Bidders.

To be considered, protests must be received at least seven- (7) calendar days before the bid closing date. The City shall not consider any protest against award due to the content of bid specifications or contract terms submitted after the established protest deadline. All protests should be directed to the Procurement Office and be marked as follows:

**Bid Specification/Term Protest**  
2015 Summer Pavement Crack Seal  
City of Tigard  
Attn: Joe Barrett, Sr. Management Analyst  
13125 SW Hall Blvd.  
Tigard, Oregon 97223

If a bid protest is received in accordance with section above, the bid opening date may be extended if necessary to allow consideration of the protest and issuance of any necessary addenda to the bid documents.

The City is not obligated to consider any protests unless the issue has first been submitted for clarification and a decision issued under subparagraph (a) above.

**00120.16 Material, Equipment, and Method Substitutions** - When the Contract specifies certain Materials, Equipment, and/or methods, the Bidder shall include those Materials, Equipment, and/or methods in the Bid unless the Engineer has issued an Addendum granting approval to substitute. The procedure for requesting approval is as follows:

- (a) **Written Request** - If a Bidder proposes to use Materials, Equipment and/or methods other than those specified, the Bidder shall send a written request to the Engineer, at least seven Calendar Days prior to Bid Opening, including complete descriptive and technical information on the proposed Materials, Equipment and/or methods.
- (b) **Functional Similarity** - Materials and Equipment proposed for substitution shall be similar in design, and equal or better in quality and function to those specified.
- (c) **Manufacturer's Information** - If manufacturers' brochures or information is needed, the Bidder shall submit three copies of each with all pertinent information clearly marked.
- (d) **Differences** - The Bidder shall specifically note all differences between the specified Materials, Equipment and/or methods and the proposed substitutes.
- (e) **Cost** - Where a substitute will result in alteration of the design or space requirements, or any other modifications to the Plans, the Bidder shall include in the substitution request all items of cost for the revised design and construction.
- (f) **Notification of Holders of Bidding Plans** - If the Engineer approves any proposed substitution, such approval, and any modifications necessitated to the design and construction by the substitution, will be acknowledged by Addenda.

Unless the Engineer has approved substitutions of Materials, Equipment, and/or methods prior to opening of Bids, the Bidder shall furnish the items specified in the Contract. Substitution after Award is specified in 00180.31(b), 00180.31(c), and 00180.31(d).

**00120.17 Use of City-Owned Land for Staging or Storage Areas** - The Contractor may use Agency-owned property for staging or storage areas, subject to the following limitations:

- (a) **Within Normal Right-of-Way Limits** - If approved by the Engineer, the Contractor may use available property within the normal Right-of-Way limits for the purpose of constructing improvements under the Contract, as long as such use does not unduly impede other legitimate users of the Right-of-Way or adjacent properties. Where the City owns, or has rights to, other adjacent properties in the Project area, "normal Right-of-Way" is limited to a line drawn across that property connecting the normal Right-of-Way limits on either side of the property.
- (b) **Outside Normal Right-of-Way Limits** - The Contractor may not use City-owned property outside of normal Right-of-Way limits for the Project without the approval of the City. If a Bidder obtains approval before submitting a Bid, use of the property will be at no cost to the Contractor, or at a cost stated by the Engineer upon granting approval, as confirmed by Addendum.

If approval is not obtained before submitting a Bid, and the Contractor proposes to use City-owned property outside the normal Right-of-Way limits, then use of the property may be approved by the Engineer, but the Contractor will be assessed fair market value, as determined by the Engineer, for use of the property.

- (c) **Restrictions on Use** - Contractors shall comply with all applicable laws, ordinances, and regulations pertaining to use of City-owned property, and shall:
  - Not cause unreasonable impacts on traffic and other facility users.

- Clean up all hazardous materials deposited by, or resulting from, Contractor operations.
- Be responsible for all costs associated with use of the property.

**00120.20 Interpretation of Quantities in Bid Schedule** - Quantities appearing in the Bid Schedule are approximate and are provided only for comparison of Bids. The City does not warrant that the actual individual items, amount of Work, or quantities will correspond to those shown in the Bid Schedule. Payment to the Contractor will be made only for actual quantities of Work performed and accepted or Materials furnished and accepted, as required by the Contract. Quantities of Work to be performed and Materials to be furnished may each be increased, decreased, or omitted as provided in 00120.30 and 00140.30.

**00120.25 Subsurface Investigations** - If the City or its consultant has conducted subsurface or geologic investigations of the proposed Project Site, the results of the investigations may be included in written reports. If reports have been prepared, copies will be available at the Engineer’s office. If the City has retained subsurface samples, they will also be available for inspection. Bidders and the Contractor may make arrangements for viewing the samples through the City’s office.

The availability of subsurface information from the City is solely for the convenience of the Bidder and shall not relieve the Bidder or the Contractor of any risk, duty to make examinations and investigations as required by 00120.15, or other responsibility under the Contract Documents. It is mutually agreed to by all parties that:

- The written report(s) are reference documents and not part of the Contract Documents.
- The subsurface investigations made by the City are for the purpose of obtaining data for planning and design of the Project.
- The data concerning borings is intended to represent with reasonable accuracy conditions and materials found in specific borings at the time the borings were made.

**00120.30 Changes to Plans, Specifications, or Quantities before Opening of Bids** - The City may modify the Solicitation Documents by issuance of an “Addendum” to all prospective bidders within a reasonable time prior to bid closing to allow bidders to consider them in preparing their bids, but in no case less than 48 hours before the bid closing. If an Addendum is necessary after that time, the City, at its discretion, can extend the closing date.

Any Addendum issued, as a result of any change in the Solicitation Documents, must be acknowledged by submitting the “Acknowledgment of Addendum” (Attachment B) with a proposal. Only questions that are answered by formal written addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

**00120.40 Preparation of Bids:**

**(a) Bidding Considerations** - Bids must be prepared on the Bid Proposal included in Attachment A and must be completed, signed, dated, and submitted prior to the closing date and time. All bids shall be prepared and submitted in ink or typewritten. By submitting a completed Bid Form, the Bidder is stating their conformance with all requirements of the Invitation to Bid which will be incorporated into any subsequent contract. Failure to comply with all requirements set forth in the Invitation to Bid may result in the rejection of a bid.

Bidders may refer to the following Subsections for requirements that may affect bidding considerations:

- 00120.80, Preference for Oregon Resident Bidders

- 00130.80, Restrictions on Commencement of Work
- 00150.55, Coordination of Work
- 00150.75, Protection and Maintenance of Work
- 00160.20(a), Buy America
- 00160.20(b), Buy Oregon
- 00180.20, Subcontracting Limitations
- 00180.21, Subcontracting
- 00195.50(a-1), Incidentals
- 00195.00(a), Cost of Insurance and Bonds

**(b) Paper Bids** - The Bidders shall not alter, in any manner, the paper documents bound within the Bid Section. Bidders shall complete the certifications and statements included in the Bid Section of the Bid Booklet according to the instructions. Signature of the Bidder's authorized representative thereon constitutes the Bidder's confirmation of and agreement to all certifications and statements contained in the paper Bid Booklet. Entries in the Bid Section shall be in ink or typed. Signatures and initials shall be in ink, except for changes submitted by facsimile (FAX) transmission as provided by 00120.60 (in which case FAX signatures shall be considered originals).

The Bidder shall properly complete and bind all the paper documents in the Bid Section, as specified in 00120.10, between the front and back covers of the Bid Booklet, except that the Bid Bond is not required if another permissible type of Bid guaranty is provided. (see 00120.40(e)).

**(c) Recyclable Products** - Bidders shall use recyclable products to the maximum extent economically feasible in the performance of the contract set forth in this document.

**(d) Bid Schedule Entries** - Using figures, Bidders shall fill in all blank spaces in the paper Bid Schedule. For each item in the paper Bid Schedule, Bidders shall enter the unit price and the product of the unit price multiplied by the quantity given. The unit price shall be greater than zero, shall contain no more than two decimal places to the right of the decimal point, and shall be expressed in U.S. dollars and cents (for example, \$150.25 or \$0.37). Bidders shall also enter the total amount of the Bid obtained by adding amounts for all items in the paper Bid Schedule. Corrections or changes of item entries shall be in ink, with incorrect entry lined out and correct entry entered and initialed.

**(e) Bidder's Address and Signature Pages** - Bidders shall include in the Bid the address to which all communications concerning the Bid and Contract should be sent. The Bid must be signed by a duly authorized representative of the Bidder.

**(f) Bid Guaranty** - All Bids shall be accompanied by a Bid guaranty in the amount of 10% of the total amount of the Bid. The Bid guaranty shall be either a Surety bond, irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 or security in the form of a cashier's check or certified check made payable to the Agency. (see ORS 279C.365(4)).

If a Surety bond is submitted, Bidders shall use the Agency's standard Bid Bond form included with the paper Bid Booklet. Bidders shall submit the bond with original signatures and the Surety's seal affixed. The Bid guaranty shall be submitted by mail, delivery service, or hand delivered to the offices and addresses, and at the times given in the paper Bid Booklet

Acceptable Surety companies are limited to those authorized to do business in the State of Oregon. Forfeiture of Bid guaranties is covered by 00130.60, and return of guaranties is covered by 00130.70.

A Bidders bid security shall be forfeited if the Bidder fails to execute the contract promptly and properly if so awarded. The bid security of all unsuccessful bidders shall be returned after a contract has been executed or all bids have been rejected.

**(g) Disclosure of First-Tier Subcontractors** - If a Bidder's Bid on a public improvement Project exceeds \$100,000, the Bidder shall, within two working hours of the time Bids are due to be submitted, submit to the Agency, on a form provided by the Agency, a disclosure identifying any first-tier Subcontractors that will furnish labor or labor and Materials, and whose contract value is equal to or greater than:

- 5% of the total Project Bid, but at least \$15,000; or
- \$350,000, regardless of the percentage of the total Project Bid.

For each Subcontractor listed, Bidders shall state:

- The name of the Subcontractor;
- The dollar amount of the subcontract; and
- The category of Work that the Subcontractor would be performing.

If no subcontracts subject to the above disclosure requirements are anticipated, a Bidder shall so indicate by entering "NONE" or by filling in the appropriate check box. For each Subcontractor listed, Bidders shall provide all requested information. An incomplete form will be cause for rejection of the Bid.

The Subcontractor Disclosure Form may be submitted for a paper Bid either:

- By filling out the Subcontractor Disclosure Form included in the Bid Booklet and submitting it together with the Bid at the time and place designated for receipt of Bids;
- By removing it from the paper Bid Booklet, filling it out and submitting it separately to the Agency Procurement Office, at the address given in the Bid Booklet.

Subcontractor Disclosure Forms submitted by any method will be considered late if not received by the Procurement Office within two working hours of the time designated for receiving Bids. Bids not in compliance with the requirements of this Subsection will be considered non-responsive.

#### **00120.45 Submittal of Bids:**

**(a) Paper Bids** - Paper bids may be submitted by mail, parcel delivery service, or hand delivery to the offices and addresses, and at the times given in the Bid Booklet. Submit paper Bids in a sealed envelope marked with the word "Bid", the name of the Project, and the words "To Be Opened Only by Authorized Personnel" on the outside. If a delivery or courier service is used, the Bidder shall place the sealed envelope containing the paper Bid inside the delivery or courier service's envelope. Closing time for acceptance of paper Bids is the time stated in the Advertisement on the day of Bid Opening.

Paper Bids submitted after the time set for receiving paper Bids will not be opened or considered. The Agency assumes no responsibility for the receipt and return of late paper Bids.

- (b) **Submission** - One (1) original and one copy of the sealed Bid must be received before the stated closing time at the address listed below. To assure that your bid receives priority treatment, please mark as follows.

**2015 Summer Pavement Crack Seal**

Due Date: April 23, 2015

City of Tigard – Utility Billing Counter

Attn: Joe Barrett, Sr. Management Analyst

13125 SW Hall Blvd.

Tigard, Oregon 97223

Bidders shall include their firm name and address on the outside of the envelope. It is the bidder's responsibility to ensure that bids are received prior to the stated closing time. The City shall not be responsible for the proper identification and handling of any bids submitted incorrectly.

- (c) **Bid Opening** - Bids will be opened immediately following the deadline for receiving bids as stated in the Advertisement in Tigard City Hall. Bidders may be present; however, award decisions will not be made at the opening.

**00120.60 Revision or Withdrawal of Bids:**

- (a) **Modifications To Bids** - In accordance with Tigard Public Contracting Rule 30.070 (A), a Bid may be modified after submittal so long as the modification is done in writing prior to the bid's closing time and date. Any modification must be prepared on the submitting company's letterhead, signed by a company representative, and clearly state that the new modification supersedes or modifies the prior bid. To ensure integrity of the bidding process, the modification must be delivered to the City's Procurement Office in a sealed envelope that is marked "BID MODIFICATION" and list the original bid title and closing date.

- (b) **Withdrawal of Bids** - Tigard Public Contracting Rule 30.070 (B) allows for the withdrawal of a bid so long as the bidding company submits a withdrawal request in writing on company letterhead and signed by a company representative prior to the time and date of bid closing. The withdrawal request shall be delivered to the City's Procurement Office and the bid shall be returned, unopened, to the requesting bidder.

**00120.65 Opening and Comparing Bids** - Bids will be opened and the total price for each Bid will be read publicly at the time and place stated in the Advertisement for Bids. Bidders and other interested parties are invited to be present. Bids for each Project will be compared on the basis of the total amount of each Bid.

The total amount of the Bid will be the total sum computed from quantities listed in all Bid Schedules times unit prices entered by the Bidder. In case of conflict between the unit price and the corresponding extended amount, the unit price shall govern, and the City may make arithmetic corrections on extension amounts. When an error(s) is made in extending total prices, the unit bid price will govern. Bidders are cautioned to recheck their bid for possible error(s). Error(s) discovered after opening cannot be corrected by the bidder and the contractor will be required to perform work at the unit price if their bid is accepted.

**00120.70 Rejection of Nonresponsive Bids** - A Bid will be considered irregular and will be rejected if the irregularity is deemed by the City to render the Bid non-responsive. Examples of irregularities include without limitation:

- The Bid Section documents provided are not properly used or contain unauthorized alterations.
- The Bid is incomplete or incorrectly completed.
- The Bid contains improper additions, deletions, alternate Bids, or conditions.
- The Bid is submitted on documents not obtained directly from the City, or is submitted by a Bidder who has not been identified by the City as a Holder of Bidding Plans, as required by 00120.05.
- A member of a joint venture and the joint venture submit Bids for the same Project. Both Bids may be rejected.
- The Bid has entries not typed or in ink, or has signatures or initials not in ink (save for changes received by FAX as provided by 00120.60).
- Each change or correction is not individually initialed.
- White-out tape or white-out liquid is used to correct item entries.
- The price per unit cannot be determined.
- The Bid guaranty is insufficient or improper.
- The original Bid Bond form is not used or is altered.
- The Oregon Construction Contractors Board registration number and expiration date are not shown on the Bid if required in the Solicitation Document. This requirement applies to State-funded or locally funded Projects, with the exception of Aggregate production and landscape Projects (not required on Federal-Aid Projects).
- A disclosure of first-tier Subcontractors, if required under 00120.40(f), is not received within two working hours of the time Bids are due to be submitted, or the disclosure form is not complete.
- The Bidder has not complied with the DBE requirements of the solicitation.
- The Bid does not acknowledge all issued Addenda.
- The Bid contains entries that are not greater than zero.
- The Bid entries are not expressed in U.S. dollars and cents.

**00120.80 Reciprocal Preference for Oregon Resident Bidders** - This Subsection applies only to Contracts for Projects financed without federal funds. Bidders shall complete the certificate of residency provided by the City in the Bid Booklet. Failure to properly complete the form will be cause to reject the Bid.

As used in the certificate of residency and this Subsection, "Resident Bidder" means a Bidder who has:

- Paid unemployment taxes or income taxes in the State of Oregon during any of the 12 calendar months immediately preceding submission of the Bid;
- A business address in the State of Oregon; and
- Certified in the Bid that the Bidder qualifies as a Resident Bidder.

"Nonresident Bidder" means a Bidder who is not a Resident Bidder as defined above.

In determining the lowest Bid, the City will, for the purpose of awarding the Contract, add a percentage increase to the Bid of a Nonresident Bidder equal to the percentage, if any, of the preference given to that Bidder in the state in which the Bidder resides (ORS 279A.120). The percentage preference applied in each state will be published on or before January 1 of each year by the Oregon Department of Administrative Services. The City may rely on these percentages without incurring liability to any Bidder (ORS 279A.120). This increase will only be applied to determine the lowest Bid, and will not cause an increase in payment to the Contractor after Award of the Contract.

**00120.90 Disqualification of Bidders** - The Bid(s) of a disqualified Bidder will be rejected. Any of the following reasons is sufficient to disqualify a Bidder:

- More than one Bid is submitted for the same Work by an Entity under the same or different name(s).
- Evidence of collusion among Bidders. Participants in collusion will be found responsible, and may be subject to criminal prosecution.
- Any of the grounds for disqualification cited in ORS 279C.440.

A Bidder will be disqualified if the Bidder has:

- Been declared ineligible by the Commissioner of the Bureau of Labor and Industries under ORS 279C.860;
- Not been registered (licensed) by the Oregon Construction Contractors Board (CCB) or been licensed by the State Landscape Contractors Board before submitting a Bid (ORS 279C.365(1)(k), ORS 701.055, and ORS 671.530). The Bidder's registration number and expiration date shall be shown in the Bid form, if requested. Failure to furnish the registration number, if requested, will render the Bid non-responsive and subject to rejection. (not required on Federal-Aid projects); or
- Been determined by the CCB under ORS 701.227 not to be qualified to hold or participate in a public contract for a public improvement.

**00120.91 Rejection of Bid on Grounds of Nonresponsibility of Bidder** - The Bid of a Bidder who is found to be nonresponsible according to the criteria listed in 00130.10 will be rejected. Refer also to ORS 279C.375(2).

**120.95 Public Records** - All bid material submitted by bidder shall become the property of the City and is public record unless otherwise specified. A bid that contains any information that is considered trade secret under ORS 192.501(2) should be segregated and clearly identified as such. This information will be kept confidential and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS 192. The above restrictions may not include cost or price information, which must be open to public inspection.

## **SECTION 00130 – AWARD AND EXECUTION OF CONTRACT**

This Section replaces Section 00130 of the 2008 edition of the Oregon Standard Specifications for Construction.

### **00130.00 Consideration of Bids**

- (a) The City may reject any bid not in compliance with all prescribed public bidding procedures and requirements and may reject for good cause any or all bids upon a finding of the City that it is in the public interest to do so.
- (b) The City reserves the right, as allowed under Tigard Public Contracting Rule 30.085 (B) to waive any and all minor informalities that may arise in relation to this bid process. Minor informalities are matters of form rather than substance that are evident from the bid documents, or insignificant mistakes that can be waived or corrected without prejudice to other bidders or the City. The informality shall not affect price, quantity, quality, delivery, or contractual conditions except in the case of informalities involving unit pricing.
- (c) After opening and reading Bids, the Agency will check them for correct extensions of unit prices and totals. (see 00120.65) The total of extensions, corrected where necessary, will be used by the Agency for Award purposes.
- (d) Bids will be considered and a Contract awarded, if at all, within 60 Calendar Days from the date of Bid Opening, unless an extension beyond that time is agreed to by both parties and acknowledged in writing by the Bidder.

**00130.10 Award of Contract** - After the Bids are opened and a determination is made that a Contract is to be awarded, the Contract will be awarded to the lowest responsible Bidder. For the purposes of this Section, "lowest responsible Bidder" means the lowest Bidder who is not on the list created by the Construction Contractors Board according to ORS 701, and who has:

- Substantially complied with all prescribed public bidding procedures and requirements.
- Available the appropriate financial, Materials, Equipment, facility and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to indicate the capability of the prospective Bidder to meet all contractual responsibilities.
- A satisfactory record of performance.
- A satisfactory record of integrity.
- Qualified legally to contract with the Agency.
- Supplied all necessary information in connection with the inquiry concerning responsibility. If a prospective Bidder fails to promptly supply information requested by the Agency concerning responsibility, the Agency shall base the determination of responsibility upon any available information, or may find the prospective Bidder not to be responsible.
- Not been disqualified by the public contracting agency under ORS 279C.440.

If the Bidder is found not to have a satisfactory record of performance or integrity, the City will document the record and the reasons for the unsatisfactory finding. The City shall provide notice of intent to award to each bidder submitting a bid. The notice shall state the date, time, and location of the bid award decision. The notice shall include the name of the vendor that staff recommends the contract be awarded to. Any bid comparison sheets shall be included in the notice of intent to award.

The Award will not be final until the later of the following:

- The City has provided a written response to each timely protest, denying the protest and affirming the Award, or
- The Contract is awarded by the awarding authority

If the City accepts a Bid and awards a Contract, the City will send the successful Bidder written notice of acceptance and Award. Notice of Award and Contract booklets ready for execution will be sent within 60 Calendar Days of the opening of Bids or within the number of Calendar Days specified in the Special Provisions or a written mutual agreement.

**00130.15 Right to Protest Award** - In accordance with Tigard Public Contract Rule 30.135 any actual bidder who is adversely affected or aggrieved by the City's intent to award the contract resulting from this Invitation to Bid to another bidder shall have seven (7) calendar days after notice of intent to award to submit to the City a written protest of the notice of award.

In order to be adversely affected or aggrieved, a bidder must claim to be eligible for award of the contract as the lowest responsible bidder and must be next in line for award; i.e. the protester must claim that all lower bidders are ineligible for award because they are non-responsive or non-responsible. The City will not entertain any protest submitted after the time period established under this Invitation to Bid document. The City shall issue a written decision denying or affirming the protest to every bidder providing an address to the City before any action is taken on the contract.

**00130.20 Cancellation of Award** - Without liability to the City, the City may for good cause cancel Award at any time before the Contract is executed by all parties to the Contract, as provided by ORS 279C.395 for rejection of Bids, upon finding it is in the public interest to do so.

**00130.30 Contract Booklet** - Includes the documents listed under Section 4, "Contract Documents," of the Public Improvement Contract (Attachment F).

**00130.40 Contract Bonds, Certificates, and Registrations** - Before the City will execute the Contract, the successful Bidder shall furnish the following bonds, certificates, and registrations:

- (a) **Performance and Payment Bonds** - When Awarded the Contract, the successful Bidder shall furnish a Performance Bond and a Payment Bond of a Surety authorized to do business in the State of Oregon as required by Tigard Public Contracting Rule 30.190(A).

The successful Bidder shall submit the standard bond forms, which are bound in the Contract booklet. Faxed or photocopied bond forms will not be accepted. The amount of each bond shall be equal to the Contract Amount. The Performance Bond and the Payment Bond must be signed by the Surety's authorized Attorney-in-Fact, and the Surety's seal must be affixed to each bond. A power of attorney for the Attorney-in-Fact shall be attached to the bonds in the Contract booklet, which must include bond numbers, and the Surety's original seal must be affixed to the power of attorney. Bonds shall not be canceled without the City's consent, nor will the City normally release them, prior to Contract completion.

When a coating system warranty is required by 00594.75, the Contractor shall furnish a supplemental warranty performance bond, in addition to the regular Performance Bond for the Contract to the City, executed by a surety authorized to do business in the State of Oregon. The supplemental

warranty performance bond shall be in the sum of 80% of the full Contract Amount. The bond is to secure the performance by the Contractor of correction work on any coating system defects that the Contractor may be directed by the City to perform. The Contractor shall use the City-provided form for the bond except that if the surety is a multiple surety, a copy of the form for a bond with multiple sureties shall be obtained from the City. The supplemental warranty performance bond shall be signed by the Surety's authorized Attorney-in-Fact, and the Surety's seal shall be affixed to the bond. A power of attorney for the Attorney-in-Fact shall be attached to the bond in the Contract booklet, which shall include bond numbers, and the Surety's original seal shall be affixed to the power of attorney. A copy of the supplemental warranty performance bond is included near the front of the Special Provisions.

Upon Third Notification, the supplemental warranty performance bond shall become effective and shall continue in full force and effect until the City has advised the Contractor that:

- There are no coating system defects; or
- If the Contractor has been notified that there are coating system defects, the defects have been repaired by the Contractor to the satisfaction of the City as specified under the coating system warranty and the full warranty period has expired.

Supplemental warranty performance bonds cannot be canceled nor can they be released due to possible claims.

**(b) Certificates of Insurance** - The successful Bidder shall furnish the City certificates of insurance applicable to the Project, according to 00170.70. The insurance coverages shall remain in force throughout the performance of the Contract and shall not be allowed to lapse without prior written approval of the City. Bidders may refer to 00170.70 for minimum coverage limits and other requirements. For specified Contracts, certified copies, and in some instances the original, of insurance policies may be required by the Special Provisions.

**(c) Workers' Compensation** - To certify compliance with the workers' compensation insurance coverage required by 00170.61(a) and 00170.70(d), the successful Bidder shall complete and sign the "Certification of Workers' Compensation Coverage" form bound in the Contract booklet.

**(d) Registration Requirements:**

- (1) ORS 701.055 and ORS 671.530 require that Bidders be registered with the Oregon Construction Contractors Board or licensed by the State Landscape Contractors Board prior to submission of a Bid on a Project not involving federal funds. Registration with the Construction Contractors Board or licensing by the State Landscape Contractors Board is not a prerequisite to bidding on Federal-Aid Projects; however, the Agency will not execute a Contract until the Contractor is so registered or licensed.
- (2) Bidders must be registered with the Corporation Division, Oregon Secretary of State, if bidding as a corporation, limited liability company, joint venture, or limited liability partnership, or if operating under an assumed business name and the legal name of each person carrying on the business is not included in the business name.
- (3) A Contractor registered under ORS 701 may bid on a landscaping Project or perform a construction project that includes landscape contracting as a portion of the project if the landscape contracting is subcontracted to a licensed landscaping business as defined in ORS 671.520.

(4) A landscaping business may bid on a Project or perform a Contract that includes the phase of landscape contracting for which it is not licensed if it employs a landscape contractor, or subcontracts with another licensed landscaping business, licensed for that phase.

(e) **Business Tax and Federal Id No. Required** - The City of Tigard Business Tax is required from the successful Bidder. Chapter 5.4 of the Tigard Municipal Code states any business doing business in the City of Tigard shall pay a City of Tigard Business Tax. No contracts shall be signed prior to the obtaining of the City of Tigard Business Tax. Upon award of proposal, contractor shall complete a Federal W-9, Request for Taxpayer Identification Number and Certification Form for the City.

**00130.50 Execution of Contract and Bonds:**

(a) **By the Bidder** - The successful Bidder shall deliver the required number of Contract booklets with the properly executed Contract, Performance Bond, Payment Bond, certification of workers' compensation coverage, and the required certificates of insurance, to the Procurement Office within 15 Calendar Days after the date on which the Contract booklets are sent or otherwise conveyed to the Bidder under 00130.10. The Bidder shall return the originals of all documents received from the City and named in this Subsection, with original signatures. Certificates of insurance shall also be originals. Certificates of insurance for coverages that are permitted by the City under 00170.70(a) to be obtained by appropriate subcontractors shall be delivered by the Contractor to the City together with the Contractor's request under 00180.21 for approval of the subcontract with that subcontractor. No copies of these documents will be accepted by the City.

Proper execution requires that:

- (1) If the Contractor is a partnership, limited liability partnership, joint venture, or limited liability company, an authorized representative of each Entity comprising it shall sign the Contract, Performance Bond, and Payment Bond, and an authorization to sign shall be attached.
- (2) If the Contractor is a corporation, the President and the Secretary of that corporation shall sign the Contract, Performance Bond, and Payment Bond. However, if other corporate officers are authorized to execute contracts and bonds, the successful Bidder shall furnish with those documents a certified, true and correct copy of the corporate bylaws or minutes stating that authority. If only one officer is signing, then the bylaws or minutes must include the authority to sign without the signature of others. The successful Bidder shall also include the title(s) or corporate office(s) held by the signer(s).

(b) **By the City** - Within seven Calendar Days after the City has received and verified the properly executed documents specified in 00130.50(a), and received legal sufficiency approval from the City Council (if required), the City will execute the Contract. The City will then send a fully-executed original Contract booklet to the successful Bidder, who then officially becomes the Contractor.

(c) **Contract** - After the award, the Contractor and the City will enter into a public improvement contract incorporating the terms and conditions of the Public Improvement Contract and the bid response. Vendors taking exception to any of the contract terms shall submit a protest or request for change in accordance with Section 00120.15(b) "Protest of Specifications or Terms" or their exceptions will be deemed waived.

**00130.60 Failure to Execute Contract and Bonds** - Failure of the successful Bidder to execute the Contract and provide the required certificates, certifications, and bonds may be cause for cancellation of the

Award, and may be cause for forfeiture of the Bid guaranty under ORS 279C.385. Award may then be made to the next lowest responsible Bidder, the Project may be re-advertised, or the Work may be performed otherwise as the City decides.

The forfeited Bid guaranty will become the City's property, not as a penalty but as liquidation of damages resulting from the Bidder's failure to execute the Contract and provide the certificates, certifications, and bonds as required by these Specifications.

**00130.70 Release of Bid Guaranties** - Bid guaranties will be released and checks returned seven Calendar Days after Bids are opened, except for those of the three apparent lowest Bidders on each Project. The guaranties of the three apparent lowest Bidders will be released and checks returned to unsuccessful Bidders within seven days of the Agency's execution of the Contract.

**00130.80 Project Site Restriction** - Until the City sends the Contractor written Notice to Proceed with the Work, and the Contractor has filed the public works bonds required in 00170.20, the Contractor shall not go onto the Project Site on which the Work is to be done, nor move Materials, Equipment, or workers onto that Project Site.

The Contractor will not automatically be entitled to extra compensation because the commencement of Work is delayed by failure of the City to send the Contract for execution. However, if more than 30 Calendar Days elapse between the date the Bid is opened and the date the City sends the Contract to be executed, the City will consider granting an adjustment of time for completion of the Work to offset any actual delay to Contract completion resulting directly from delay in commencement.

**00130.90 Notice to Proceed** - Notice to Proceed will be issued within five Calendar Days after the Contract is executed by the City. Should the City fail to issue the Notice to Proceed within five Calendar Days of Contract execution, the Contractor may apply for an adjustment of Contract Time according to 00180.80(c).



**ATTACHMENT A  
PROPOSAL  
CITY OF TIGARD  
2015 Summer Pavement Crack Seal**

This Bid must be signed in ink by an authorized representative of the Bidder; any alterations or erasures to the Bid must be initialed in ink by the undersigned authorized representative.

Project: 2015 Summer Pavement Crack Seal

Bid Due Date: April 23, 2015

Name of Submitting Firm: \_\_\_\_\_

The Undersigned (*check one of the following and provide additional information*):

- An individual doing business under an assumed name registered under the laws of the State of \_\_\_\_\_; or
- A partnership registered under the laws of the State of \_\_\_\_\_; or
- A corporation organized under the laws of the State of \_\_\_\_\_; or
- A limited liability corporation organized under the laws of the State of \_\_\_\_\_;

hereby proposes to furnish all material and labor and perform all work hereinafter indicated for the above project in strict accordance with the Contract Documents for the Basic Bid as follows:

\_\_\_\_\_/100 Dollars per linear foot of crack seal installed in accordance with all the requirements contained in these plans and specifications.

\_\_\_\_\_(Unit price in words)

and the Undersigned agrees to be bound by all documents comprising the Contract Documents as defined in the Contract. The Undersigned declares that it has carefully examined the site(s) of the work, the Contract Documents, and forms. Submission of this bid shall be conclusive evidence that the Undersigned has investigated and is satisfied as to the condition to be encountered, as to the character, quality and scope of work to be performed, the quantities of materials to be furnished, and as to the requirement of the Contract Documents.

Accompanying herewith is a Bid Security which is equal to ten percent (10%) of the total amount of the Basic Bid.

The Undersigned agrees, if awarded the Contract, to execute and deliver to the City of Tigard, within ten (10) days after receiving the Contract forms, a satisfactory Performance Bond and a satisfactory Payment Bond each in an amount equal to one hundred percent (100%) of the Contract sum, using the forms provided by the City. The surety(ies) requested to issue the Performance Bond and Payment Bond will be \_\_\_\_\_ . The Undersigned hereby authorizes said surety(ies) company(ies) to disclose any information to the City concerning the Undersigned's ability to supply a Performance Bond and Payment Bond each in the amount of the Contract.

The Undersigned further agrees that the Bid Security accompanying the Bid is left in escrow with the City; that the amount thereof is the measure of liquidated damages which the City will sustain by the failure of the Undersigned to execute and deliver the above-named Agreement Form, Performance Bond, and Payment Bond, and that if the Undersigned defaults in either executing the Agreement Form or providing the Performance Bond and Payment Bond within ten (10) days after receiving the Contract forms, then the Bid Security may become the property of the City at the City's option; but if the Bid is not accepted within sixty (60) days of the time set for the opening of the Bids, or if the Undersigned executes and timely delivers said Agreement Form, Performance Bond, and Payment Bond, the Bid Security shall be returned.

The Undersigned certifies that: (1) This Bid has been arrived at independently and is being submitted without collusion with and without any agreement, understanding, or planned common course of action with any other vendor of materials, supplies, equipment, or services described in the solicitation documents designed to limit independent bidding or competition; and (2) The contents of the Bid have not been communicated by the Undersigned or its employees or agents to any person not an employee or agent of the Undersigned or its surety on any bond furnished with the Bid and will not be communicated to such person prior to the official opening of the Bid.

The Undersigned  HAS  HAS NOT (*check applicable status*) paid unemployment or income taxes in Oregon within the past 12 months and  HAS  HAS NOT (*check applicable status*) a business address in Oregon.

The Undersigned  HAS  HAS NOT (*check applicable status*) complied with any Affirmative Action Requirements included within the procurement documents.

The Undersigned agrees, if awarded a contract, to comply with the provisions of ORS 279C.800 through 279C.870 pertaining to the payment of the prevailing rates of wage.

The Undersigned's CCB registration number is \_\_\_\_\_ with an expiration date of \_\_\_\_\_. As a condition to submitting a bid, a Contractor must be registered with the Oregon Construction Contractors Board in accordance with ORS 701.035 to 701.055, and disclose the registration number. Failure to register and disclose the number will make the bid unresponsive and it will be rejected unless contrary to federal law. The Undersigned further certifies that Undersigned shall provide proof to the City prior to the beginning of any of the work that the Undersigned has filed a public works bond with a corporate surety in the amount of \$30,000 with the Construction Contractors Board as required under Oregon PWR law.

The successful Bidder hereby certifies that all subcontractors who will perform construction work as described in ORS 701.005(2) were registered with the Construction Contractors Board in

accordance with ORS 701.035 to 701.055 at the time the subcontractor(s) made a bid to work under the contract.

The successful Bidder hereby certifies that, in accordance with the Worker's Compensation Law of the State of Oregon, its Worker's Compensation Insurance provider is \_\_\_\_\_, Policy No. \_\_\_\_\_, and that Undersigned shall submit Certificates of Insurance as required.

**Name of Company:** \_\_\_\_\_

**Company Address:** \_\_\_\_\_

\_\_\_\_\_

**Federal Tax ID:** \_\_\_\_\_

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

**Fax:** \_\_\_\_\_

(SEAL)

I attest that I have the authority to commit the firm named above to this Bid amount and acknowledge that the firm meets the qualifications necessary to perform this Work as outlined in the Invitation to Bid. I understand that I will be required to provide necessary information to verify that the firm meets these qualifications if selected for the subsequent Agreement.

**Authorized Signature:** \_\_\_\_\_

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

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

Payment information will be reported to the IRS under the name and federal taxpayer ID number provided above. Information not matching IRS records or not provided to the City could subject the successful Contractor to a twenty eight percent (28%) backup withholding.

**ATTACHMENT B  
ACKNOWLEDGMENT OF ADDENDA  
CITY OF TIGARD  
2015 SUMMER PAVEMENT CRACK SEAL**

I/WE HAVE RECEIVED THE FOLLOWING ADDENDA:

*If none received, write "None Received"*

1. \_\_\_\_\_

3. \_\_\_\_\_

2. \_\_\_\_\_

4. \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Proposer

\_\_\_\_\_  
Title

\_\_\_\_\_  
Corporate Name

**ATTACHMENT C  
BID CERTIFICATIONS  
CITY OF TIGARD  
2015 Summer Pavement Crack Seal**

**Non-discrimination Clause**

The Contractor agrees not to discriminate against any client, employee or applicant for employment or for services, because of race, color, religion, sex, national origin, handicap or age with regard to, but not limited to, the following: employment upgrading, demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; selection for training; rendition of services. It is further understood that any contractor who is in violation of this clause shall be barred from receiving awards of any purchase order or contract from the City, unless a satisfactory showing is made that discriminatory practices have terminated and that a recurrence of such acts is unlikely.

Agreed by: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Officer's signature: \_\_\_\_\_

Type or print officer's name: \_\_\_\_\_

**ATTACHMENT D  
FIRST TIER SUBCONTRACTOR DISCLOSURE FORM  
CITY OF TIGARD  
2015 Summer Pavement Crack Seal**

**BID #:** 2015-95001CS      **BID CLOSING: Date:** April 23, 2015      **Time:** 3:00 PM

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

List below the name of each subcontractor that will be furnishing labor or will be furnishing labor and materials and that is required to be disclosed, the category of work that the subcontractor will be performing and the dollar value of the subcontract. Enter "NONE" if there are no subcontractors that need to be disclosed. (ATTACH ADDITIONAL SHEETS IF NEEDED).

	NAME	DOLLAR VALUE	CATEGORY OF WORK
1)	_____	\$ _____	_____
2)	_____	\$ _____	_____
3)	_____	\$ _____	_____
4)	_____	\$ _____	_____

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

**Form submitted by (bidder name):** \_\_\_\_\_

**Contact name:** \_\_\_\_\_ **Phone #:** \_\_\_\_\_

**ATTACHMENT E  
BID BOND  
CITY OF TIGARD  
2015 Summer Pavement Crack Seal**

We, \_\_\_\_\_, as "Principal,"  
(Name of Principal)

and \_\_\_\_\_, an \_\_\_\_\_ Corporation,  
(Name of Surety)

authorized to transact Surety business in the State of Oregon, as "Surety," hereby jointly and severally bind ourselves, our respective heirs, executors, administrators, successors, and assigns to pay unto the City of Tigard ("Obligee") the sum of \_\_\_\_\_ and \_\_\_\_\_/100 Dollars (\$\_\_\_\_\_).

**WHEREAS**, the condition of the obligation of this bond is the Principal has submitted a bid or proposal to the Obligee in response to Obligee's solicitation for the project identified as \_\_\_\_\_, which bid or proposal is made a part of this bond by reference, and Principal is required to furnish bid security in an amount equal to ten percent (10%) of the total amount of the bid pursuant to the solicitation document.

**NOW, THEREFORE**, if the bid or proposal submitted by Principal is accepted, and if a contract pursuant to the proposal or bid is awarded to Principal, and if Principal enters into and executes such contract within the time specified in the said documents and delivers to Obligee its good and sufficient Performance Bond and Payment bond required by Obligee within the time fixed by Obligee, then this obligation shall be void; otherwise, it shall remain in full force and effect.

**IN WITNESS WHEREOF**, we have caused this instrument to be executed and sealed by our duly authorized legal representatives this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**PRINCIPAL:** \_\_\_\_\_

**SURETY:** \_\_\_\_\_

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

BY ATTORNEY-IN-FACT

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

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

Attest: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip

**ATTACHMENT F  
PUBLIC IMPROVEMENT CONTRACT – PWR COVERED PROJECT  
CITY OF TIGARD  
2015 Summer Pavement Crack Seal**

**THIS CONTRACT**, made and entered into this (Day) day of (Month), (Year), by and between the City of Tigard, a municipal corporation of the State of Oregon, hereinafter called "City" and (Full Name & Address of Firm or Individual) hereinafter called "Contractor", duly authorized to perform such services in Oregon.

**RECITALS**

**WHEREAS**, the City requires 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 Proposal;

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

**TERMS OF AGREEMENT**

**1. Services**

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

- A. Installation of crack seal on city streets
- B. Temporary signage, protection, and traffic control
- C. Performance of additional and incidental work as called for by the specifications and plans.

**2. Prevailing Wage**

The provisions of ORS Chapters 279A and 279C and all other Oregon and Federal provisions pertaining to minimum salaries and wages are incorporated herein by reference as if fully set forth. The Contractor agrees that the workmen in each trade or occupation required for the work to be done pursuant to the contract, employed in the performance of the Contract, either by the Contractor or Subcontractor or other person doing or contracting to do any part of the work contemplated by the Contractor shall be paid not less than the prevailing, minimum hourly rate of wage specified by the Commissioner of the Bureau of Labor, and attached hereto.

If this project is subject to both Federal Davis-Bacon Act requirement and State of Oregon Prevailing Wage Rate requirements, the Contractor must ensure that workers will be paid the higher of the applicable federal or state rate. If the Contractor fails to pay for labor or services, the City may pay for those labor and services and withhold these amounts from payments that are due the Contractor in accordance with ORS 279C.515

Contractor shall provide proof as requested to the City prior to the beginning of any of the work that the Contractor has filed a public works bond with a corporate surety in the amount of \$30,000 with the Construction Contractors Board as required under Oregon PWR law. Contractor shall also require in every subcontract to this Agreement that the subcontractor file a public works bond with the Construction Contractors Board in the amount of \$30,000 prior to starting work on this project unless otherwise exempt.

For contracts \$50,000 or greater, the City shall pay a fee equal to one-tenth of one percent (.001) of the price of the contract to the Bureau of Labor and Industries. The fee shall be paid on or before the first progress payment or sixty (60) days from the date work first began, whichever comes first.

**3. Pre-Construction Conference**

Contractor and listed subcontractors shall attend and participate in any pre-construction conferences described or listed in the general conditions before any work is started on the project site.

**4. Contract Documents**

The Contractor is hereby bound to comply with all requirements of the Contract Documents prepared by the City and performance pertaining to this Agreement, in the City of Tigard, Oregon, and by this reference made a part hereof to the same legal force and effect as if set forth herein in full. The contract documents include the documents with the following titles that are bound in the solicitation documents and the standard documents comprised of the Oregon Standard Specification for Construction, 2008, Volume 1 and Volume 2.

**Solicitation Documents**

Advertisement for Bids  
Bidding Requirements and Procedures  
Award and Execution of Contract  
Proposal  
Acknowledgement of Addenda  
Bid Certifications – Non-Discrimination Clause  
First Tier Subcontract Disclosure Form  
Bid Bond Form  
Public Improvement Contract  
Performance Bond  
Payment Bond  
Supplementary General Conditions  
Special Provisions  
Drawings

**Standard Documents**

General Conditions (Oregon Standard Specification for Construction, 2008, Volume 1 as amended by the Special Provisions)  
Standard Specifications (Oregon Standard Specification for Construction, 2008, Volume 2 as amended by Technical Specifications)  
City of Tigard Public Improvement Design Standards  
CWS Design and Construction Standards 07-20  
Manual on Uniform Traffic Control Devices (MUTCD)

**5. City's Representative**

For purposes hereof, the City's authorized representative will be Mike McCarthy P.E., Senior Project Engineer, who can be reached by mail at 13125 SW Hall Blvd., Tigard, Oregon 97223; by telephone: (503) 718-2462, or via email at [mikem@tigard-or.gov](mailto:mikem@tigard-or.gov).

**6. Contractor's Representative**

For purpose hereof, the Contractor's authorized representative will be (Enter Representative's Name).

**7. 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.

**8. Compensation**

**A. Progress Payments:** City agrees to pay Contractor (Enter amount in written form) Dollars (\$Enter amount in numerical form) for performance of those services provided hereunder, which payment shall be based upon the following applicable terms:

The City will pay only for measured Pay Item quantities incorporated into the Work or performed according to the terms of the Agreement. The Contractor understands and agrees that Pay Item quantities listed in the Schedule of Items do not govern payment.

Payment constitutes full compensation to the Contractor for furnishing all materials, equipment, labor, and incidentals necessary to complete the Work; and for risk, loss, damage, and expense arising from the nature or prosecution of the Work or from the action of the elements, subject to the provisions of 00170.80. The Contractor shall include the costs of bonds and insurance for the Project in the unit price for each Pay Item of Work to be performed.

When the specifications state that the unit price for a Pay Item is compensation for certain materials or work essential or incidental to the Pay Item, the same materials or work will not be measured or paid under any other Pay Item.

Contractor shall prepare and submit each month to the City Engineer at 13125 SW Hall Blvd, Tigard, Oregon 97223, a statement of services rendered, indicating the description of each service used in the proposal and the dollar amount of each service completed through the state date, together with a request for payment duly verified by the Contractor's Representative and copies of certified payroll statements.

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 during the current fiscal year. Funding in future fiscal years shall be contingent upon budgetary approval by the Tigard City Council.

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.

As required under State of Oregon Prevailing Wage Rate (PWR) Law, the City shall withhold 25% of any progress payment amounts owed to Contractor if Contractor has failed to file certified statements with the City.

**B. Timing of Payments:** 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 Proposal, and agrees to complete the work by said date. 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 amount of those damages are difficult to calculate. Contractor and City agree that a reasonable amount of damages for late completion is \$500.00 per day and Contractor agrees to pay damages in that amount if the work is not completed by the Time of 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.

Upon acceptance by the City, the entire 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 final 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 conditions 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, except that in case of any disputed indebtedness or liens, the Contractor may submit in lieu of evidence of payment, a surety bond satisfactory to the City guaranteeing payment of all such disputed amounts when adjudicated in cases where such payment has not already been guaranteed by surety bond.

**9. 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.

**10. 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.

Any and all subcontracts issued by the contractor shall contain a provision that workers shall be paid not less than the PWR Law specified minimum wage.

**11. 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 prosecution of the work provided for in this contract;
  - 2) Pay all contributions or amounts due the under the Industrial Accident Fund from the Contractor or subcontractor incurred in the performance of this Agreement;
  - 3) Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
  - 4) Not permit any lien or claim to be filed or prosecuted against the City of Tigard, 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 in 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 applicable prevailing rate of wage, 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 for the prior week, including the same and address of each worker, the worker's correct

classification, rate of pay, daily and weekly number of hours worked, deductions made and actual wages paid.

- 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 follows:
  - a) Each Contractor or Subcontractor shall preserve certified statements for a period of three years from the date of completion of the contract.
- 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 Tigard 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 40 hours in any one week, except in cases of necessity or emergency or when the City deems it in the best interest of the public or policy absolutely requires it, in which event, the person so employed for excessive hours shall receive at least time and a half pay for the following:
  - 1) For all overtime in excess of eight hours in any one day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or
  - 2) For all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
  - 3) For all work performed on Saturday and on the legal holidays specified in ORS 279C.540.
- E. The Contractor agrees to provide a written schedule to all employees showing the number of hours per day and days per week the employee may be required to work.
- F. 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.
- G. If Contractor or any first-tier subcontractor fails to pay a person furnishing labor or material within 30 days after receipt of payment from the City or from the Contractor to a subcontractor, the Contractor or first-tier subcontractor shall owe the person the amount due plus interest commencing at the end of the 10 day period that the payment is due under ORS 279C.580, unless payment is subject to a good-faith dispute. The interest rate shall be as specified in ORS 279C.515(2). If the Contractor or any subcontractor fails, neglects, or refuses to pay a person furnishing labor or material, the person may file a complaint with the Construction Contractors Board, unless the payment is subject to a good faith dispute as defined in ORS 279C.580.

**H.** Contractor shall include a clause in each contract with a subcontractor a requirement that the contractor pay the subcontractor for satisfactory performance within 10 days of receipt of payment from the City for the work. Contractor shall include in contracts with subcontractors an interest provision for such payments in compliance with ORS 279C.580. Contractor shall include a clause in each contract with a subcontractor requiring the subcontractor to meet the same payment and interest standards as required by ORS 279C.580 (4).

**12. 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.

**13. 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, 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 providing or paying for such service as referenced in ORS 279C.530.

**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.

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 book, 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.

**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 affect 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.

Pursuant to ORS 279C.525(1), the following list identifies Governmental Agencies of which the City has knowledge that have enacted Environmental Laws which may affect the performance of the work:

### **FEDERAL AGENCIES**

- Agriculture
  - Department of Forest Service
  - Soil Conservation Service
- Defense
  - Department of Army Corps of Engineers
- Energy
  - Department of Federal Energy Regulatory Commission
- Environmental Protection Agency
- Department of Health and Human Services
- Housing and Urban Development
  - Department of Solar Energy Conservation Bank
- Interior, Department of
  - Bureau of Sports Fisheries and Wildlife
  - Bureau of Outdoor Recreation
  - Bureau of Land Management
  - Bureau of Mines
  - Bureau of Indian Affairs
  - Bureau of Reclamation
  - Geological Survey
  - Minerals Management Service
- Labor, Department of
  - Mine Safety and Health Administration
  - Occupational Safety and Health Administration
- Transportation, Department of
  - Coast Guard
  - Federal Highway Administration
- Water Resources Council

### **STATE AGENCIES**

- Administrative Services, Department of
- Agriculture, Department of

- Columbia River Gorge Commission
- Consumer & Business Services, Department of Oregon Occupational Safety & Health
- Division
- Energy, Department of
- Environmental Quality, Department of
- Fish and Wildlife, Department of
- Forestry, Department of
- Geology and Mineral Industries, Department of
- Human Resources, Department of
- Land Conservation and Development Commission
- Parks and Recreation, Department of
- Soil and Water Conservation Commission
- State Engineer
- State Land Board
- Water Resources Board

**LOCAL AGENCIES**

- City Council
- County Court
- County Commissioners, Board of
- Port Districts
- Metropolitan Services Districts
- County Service Districts
- Sanitary Districts
- Water Districts
- Fire Protection Districts

**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 appropriate court of the State of Oregon.

**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 proposal of the Contractor, this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal 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 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 subcontractor shall provide at least the following limits and coverages:

- A. Commercial General Liability Insurance:** Contractor shall obtain, at contractor's expense, and keep in effect during the term of this contract, Comprehensive General Liability Insurance covering Bodily Injury and Property Damage on an "occurrence" form (1996 ISO or equivalent). This coverage shall include Contractual Liability insurance for the indemnity provided under this contract. The following insurance will be carried:

<u>Coverage</u>	<u>Limit</u>
General Aggregate	\$3,000,000
Products-Completed Operations Aggregate	\$2,000,000
Personal & Advertising Injury	\$1,000,000
Each Occurrence	\$2,000,000
Fire Damage (Any one fire)	\$50,000

- B. Commercial Automobile Insurance:** Contractor shall also obtain, at contractor's expense, and keep in effect during the term of the contract, "Symbol 1" Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than \$2,000,000.

- C. Workers' Compensation Insurance:** The Contractor, its subcontractors, if any, and all employers providing work, labor or materials under this Contract are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage that satisfies Oregon law for all their subject workers. Out-of-state employers must provide Oregon workers' compensation coverage for their workers who work at a single location within Oregon for more than 30 days in a calendar year. Contractors who perform work without the assistance or labor of any employee need not to obtain such coverage." This shall include Employer's Liability Insurance with coverage limits of not less than \$1,000,000 each accident.

- D. Additional Insured Provision:** The City of Tigard, 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.

- E. 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.

- F. 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 effected 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.

- G. Independent Contractor Status: The service or services to be rendered under this contract are those of an independent contractor. Contractor is not an officer, employee or agent of the City as those terms are used in ORS 30.265.
- H. Primary Coverage Clarification: All parties to this contract hereby agree that the contractor's coverage will be primary in the event of a loss.
- I. Cross-Liability Clause: A cross-liability clause or separation of insureds clause will be included in all general liability, professional liability, pollution and errors and omissions policies required by this contract.

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:

City of Tigard  
 Attn: Office of Risk Management  
 13125 SW Hall Blvd  
 Tigard, Oregon 97223

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 TIGARD</b>	<b>(CONTRACTOR)</b>
Attn: Mike McCarthy	Attn: (insert contract manager's name)
Address: 13125 SW Hall Blvd Tigard, Oregon 97223	Address: (insert contract manager's address)
Phone: (503) 718-2462	Phone: (insert #)
Fax: (503) 624-0752	Fax: (insert #)
Email: mikem@tigard-or.gov	Email: (insert 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. Demolition – Salvage and Recycling**

As required by ORS 279C.510, Contractor shall salvage or recycle any construction and demolition debris if feasible and cost-effective.

**33. 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**, City has caused this Agreement to be executed by its duly authorized undersigned officer and Architect has executed this Agreement on the date hereinabove first written. Approved by Tigard's Local Contract Review Board:\_\_\_\_\_

**CITY OF TIGARD**

**(CONTRACTOR)**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

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

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**ATTACHMENT G  
PUBLIC IMPROVEMENT CONTRACT - PERFORMANCE BOND  
CITY OF TIGARD  
2015 Summer Pavement Crack Seal**

Bond Number: \_\_\_\_\_

Project Name: \_\_\_\_\_

_____	(Surety #1)	Bond Amount No. 1:	\$ _____
_____	(Surety #2)*	Bond Amount No. 2:*	\$ _____
* <i>If using multiple sureties</i>		Total Penal Sum of Bond:	\$ _____

We, \_\_\_\_\_ as Principal, and the above identified Surety(ies), authorized to transact surety business in Oregon, as Surety, hereby jointly and severally bind ourselves, our respective heirs, executors, administrators, successors, and assigns firmly by these presents to pay unto the City of Tigard, a municipality of the State of Oregon, the sum of (total Penal Sum of Bond) \_\_\_\_\_ (Provided, that we the Sureties bind ourselves in such sum “jointly and severally” as well as “severally” only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposed each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety), and

**WHEREAS**, the Principal has entered into a contract with the City of Tigard, the plans, specifications, terms, and conditions of which are contained in the above-referenced project solicitation;

**WHEREAS**, the terms and conditions of the contract, together with applicable plans, standard specifications, special provisions, schedule of performance, and schedule of contract prices, are made a part of this Performance Bond by reference, whether or not attached to the contract (all hereafter called “Contract”); and

**WHEREAS**, the Principal has agreed to perform the Contract in accordance with the terms, conditions, requirements, plans, and specifications, and all authorized modifications of the Contract which increase the amount of the work, the amount of the Contract, or constitute an authorized extension of the time for performance, notice of any such modifications hereby being waived by the Surety:

NOW, THEREFORE, THE CONDITION OF THIS BOND IS SUCH that if the principal herein shall faithfully and truly observe and comply with the terms of the contract and performs the contract within the time prescribed by the contract, then this obligation is null and void; otherwise it shall remain in full force and effect. If the contractor is declared by City to be in default under the contract, the surety shall promptly remedy the default, perform all of contractor’s obligations under the contract in accordance with its terms and conditions and pay to City all damages that are due under the contract. This obligation jointly and severally binds the contractor and surety and their respected heirs, executors, administrators, and successors. Nonpayment of the bond premium shall not invalidate this bond nor shall the City of Tigard be obligated for the payment of any premiums.

This bond is executed for the purpose of complying with ORS 279C and the Tigard Public Contracting Rules, the provisions of which are incorporated herein and made a part hereof.

Said surety for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract, or 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 to the specifications.

**IN WITNESS WHEREOF**, WE HAVE CAUSED THIS INSTRUMENT TO BE EXECUTED AND SEALED BY OUR DULY AUTHORIZED LEGAL REPRESENTATIVES.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**PRINCIPAL:** \_\_\_\_\_

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

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

Attest: \_\_\_\_\_

**SURETY:** \_\_\_\_\_

*(Add signatures for each surety if using multiple bonds)*

BY ATTORNEY-IN-FACT:

*(Power-of-Attorney must accompany each surety bond)*

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
Phone Fax

**ATTACHMENT H  
PUBLIC IMPROVEMENT CONTRACT - PAYMENT BOND  
CITY OF TIGARD  
2015 Summer Pavement Crack Seal**

Bond Number: \_\_\_\_\_

Project Name: \_\_\_\_\_

	(Surety #1)	Bond Amount No. 1:	\$ _____
	(Surety #2)*	Bond Amount No. 2:*	\$ _____
Total Penal Sum of Bond:			\$ _____

*\* If using multiple sureties*

We, \_\_\_\_\_ as Principal, and the above identified Surety(ies), authorized to transact surety business in Oregon, as Surety, hereby jointly and severally bind ourselves, our respective heirs, executors, administrators, successors, and assigns firmly by these presents to pay unto the City of Tigard, a municipality of the State of Oregon, the sum of (total Penal Sum of Bond) \_\_\_\_\_ (Provided, that we the Sureties bind ourselves in such sum “jointly and severally” as well as “severally” only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposed each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety), and

**WHEREAS**, the Principal has entered into a contract with the City of Tigard, the plans, specifications, terms, and conditions of which are contained in above-referenced project solicitation;

**WHEREAS**, the terms and conditions of the contract, together with applicable plans, standard specifications, special provisions, schedule of performance, and schedule of contract prices, are made a part of this Payment bond by reference, whether or not attached to the contract (all hereafter called “Contract”); and

**WHEREAS**, the Principal has agreed to perform the Contract in accordance with the terms, conditions, requirements, plans, and specifications, and schedule of contract prices which are set forth in the Contract and any attachments, and all authorized modifications of the Contract which increase the amount of the work, or the cost of the Contract, or constitute authorized extensions of time for performance of the Contract, notice of any such modifications hereby being waived by the Surety:

**NOW, THEREFORE**, THE CONDITION OF THIS BOND IS SUCH that if the Principal shall faithfully and truly observe and comply with the terms, conditions, and provisions of the Contract, in all respects, and shall well and truly and fully do and perform all matters and things by it undertaken to be performed under said Contract and any duly authorized modifications that are made, upon the terms set forth therein, and within the time prescribed therein, or as extended therein as provided in the Contract, with or without notice to the Sureties, and shall indemnify and save harmless the City of Tigard its officers, agents, and employees against any claim for direct or indirect damages of every kind and description that shall be suffered or claimed to be suffered in connection with or arising out of the performance of the Contract by the Contractor or its subcontractors, and shall promptly pay all persons supplying labor, materials, or both to the Principal or its subcontractors for prosecution of the work provided in the Contract; and shall promptly pay all contributions due the State Industrial Accident Fund and the State Unemployment Compensation Fund from the Principal or its subcontractors in connection with the performance of the Contract; and shall pay over to the Oregon Department of Revenue all sums required to be deducted and retained from the wages of employees of the Principal and its subcontractors pursuant to ORS 316.167, and shall permit no lien nor claim to be filed or prosecuted against the City on account of any labor or materials furnished; and shall do all things required of

the Principal by the laws of the State of Oregon, then this obligation shall be void; otherwise, it shall remain in full force and effect.

Nonpayment of the bond premium will not invalidate this bond nor shall the City of Tigard be obligated for the payment of any premiums.

This bond is given and received under the authority of ORS Chapter 279C and Tigard Public Contracting Rules, the provisions of which are incorporated into this bond and made a part hereof.

**IN WITNESS WHEREOF, WE HAVE CAUSED THIS INSTRUMENT TO BE EXECUTED AND SEALED BY OUR DULY AUTHORIZED LEGAL REPRESENTATIVES.**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**PRINCIPAL:** \_\_\_\_\_

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

Signature

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

Attest: \_\_\_\_\_

**SURETY:** \_\_\_\_\_

*(Add signatures for each surety if using multiple bonds)*

BY ATTORNEY-IN-FACT:

*(Power-of-Attorney must accompany each surety bond)*

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
Phone Fax

**ATTACHMENT I  
SUPPLEMENTARY GENERAL CONDITIONS  
CITY OF TIGARD  
2015 Summer Pavement Crack Seal**

The following provisions supplement and amend the General Conditions (defined in the Agreement).

**Section 00120, Bidding Requirements and Procedures --**

Note that this section has been modified earlier in these bid documents

**Section 00130, Award and Execution of Contract –**

Note that this section has been modified earlier in these bid documents

**Section 00150.10(a) Order of Precedence -** The Engineer will resolve any discrepancies between these documents in the following order of precedence:

- Contract Change Orders;
- Special Provisions;
- Agency-prepared drawings specifically applicable to the Project and bearing the Project title;
- Reviewed and accepted, stamped Working Drawings;
- Standard Drawings;
- Approved Unstamped Working Drawings;
- Supplemental Specifications;
- Standard Specifications; and
- All other contract documents not listed above

Notes on drawing shall take precedence over drawing details.

Dimensions shown on the drawings, or that can be computed, shall take precedence over scaled dimensions.

**Section 00150.40(a) Cooperation and Superintendence by the Contractor, General --** Add the words, “within the limitations in Oregon Law regarding public records.” to the end of the sentence in bullet item 7.

**Section 00160.10 Ordering, Producing and Furnishing Materials --** Delete the last two sentences in the opening paragraph.

**Section 00160.10(b) Approval of Quantity of Materials Ordered --** Delete the sentence, “Therefore, the Contractor is cautioned to order or produce Materials only after having received the approval of the Engineer. ” Delete the sentence, “Excess Materials, ordered or produced by the Contractor, without approval of the Engineer, may be purchased by the Agency at the sole discretion of the Agency. (see 00195.80)”

**Section 00165.03 Testing by Agency --** Delete the words “its central laboratory, field laboratories, or other” from the first sentence.

**Section 00170.10(d) Agency’s Payment of the Contractor’s Prompt Payment Obligations --** change the word “ODOT” to “Agency”.

**Section 00170.70, Insurance --** Delete entire section.

**Section 00170.72 Indemnity/Hold Harmless --** Delete entire section.

**Section 00170.94 Use of Explosives** -- Change the first sentence to read, “The Contractor shall obtain the Engineer’s approval and shall comply with all Laws pertaining to the use of explosives.”

**Section 00180.20(a) Subcontracting Limitations, General** -- Delete the first sentence.

**Section 00180.22 Payments to Subcontractors and Agents of the Contractor** -- Delete the second paragraph.

**Section 00180.31 (b)(1) Reason for Substitution** -- Add the following word to the beginning of the first bullet: “In the judgment of the Engineer”.

**Section 00180.50(c) Beginning of Contract Time** -- change the paragraph to read, “When the Contract Time is stated in Calendar Days, counting of Contract Calendar Days will begin with the first Calendar Day following the date of the Notice to Proceed.”

**Section 00195.10 Payment for Changes in Materials Costs**, Delete entire section.

**Section 00195.12 Steel Material Price Escalation/De-Escalation Clause** -- Delete entire section.

**Section 00195.50(a)(2) Value of Materials on Hand** -- Delete paragraph.

**Section 00195.50(b) Retainage:** Change the first paragraph to read. “The amount to be retained from progress payments will be 5% of the value of Work accomplished, and will be retained in one of the forms specified in Subsection (c) below.

**Section 00195.60 Advance Allowance for Materials on Hand:** Delete entire section.

**Section 00195.80 Allowance for Materials Left on Hand:** Delete entire section.

**Section 00199.40 Claims Decision Review**, Delete entire section.

**ATTACHMENT J  
SPECIAL PROVISIONS  
CITY OF TIGARD  
2015 Summer Pavement Crack Seal**

**WORK TO BE DONE**

The Work to be done under this Contract consists of performing work shown on plans entitled:

**2015 Summer Pavement Crack Seal  
Map and Table Dated 4/7/15**

**APPLICABLE SPECIFICATIONS**

The Specification that is applicable to the Work on this Project is the 2008 edition of the "Oregon Standard Specifications for Construction". All work shall be in accordance with these specifications except where specifically modified in this document and on the plans. For this project, when the specification says 'Agency' it may typically be understood to mean 'City' in project-specific cases, but may refer to the Oregon Department of Transportation, especially in cases of standards and testing.

All number references in these Special Provisions shall be understood to refer to the sections and subsections of the Standard Specifications and Supplemental Specifications bearing like numbers and to sections and subsections contained in these Special Provisions in their entirety.

**Section 00120 – Bidding Requirements and Procedures**

Note that this section has been modified earlier in these bid documents

**Section 00130 – Award and Execution of Contract**

Note that this section has been modified earlier in these bid documents

**SECTION 00140 – SCOPE OF WORK**

Note that the City's available budget for this project is anticipated to be **\$200,000**. The size of the project may be adjusted by the city to keep the total cost of the project within this available budget, may be reduced in size by the city to meet program needs, or increased by the city to complete more work with available funds.

**SECTION 00150 - CONTROL OF WORK**

Comply with Section 00150 of the Standard Specifications modified as follows:

The Contractor's attention is directed to Section 105.55, "Cooperation with Other Contractors," of the Standard Specifications.

Certain work within this contract requires coordination with the work of other agencies or contractors. The Contractor shall cooperate fully with other agencies/ contractors and carefully fit his own work to such other work as may be directed by the Engineer. The Contractor shall not commit or permit any act to be committed which will interfere with the performance of work by any other agency/contractor.

**SECTION 00170 - LEGAL RELATIONS AND RESPONSIBILITIES**

Comply with Section 00170 of the Standard Specifications modified as follows:

**00170.80(a) Responsibility for Damage in General** - The Contractor shall perform Work, and furnish Materials and Equipment for incorporation into the Work, at the Contractor's own risk, until the entire Project has been completed and accepted by the City.

The Contractor shall provide adequate protection for property, vehicles, trees, landscaping, and other items adjacent to the work area. Existing property, vehicles, plants, or other items injured or damaged by reason of the Contractor's operations shall be replaced in kind at the Contractor's expense. It is the responsibility of the contractor to ensure that crack seal does not get tracked up by or cause damage to vehicles or other traffic on the streets.

Contractor shall repair all damages to Work performed, Materials supplied, and Equipment incorporated into the Work, except as otherwise provided in this Section.

## **SECTION 00180 - PROSECUTION AND PROGRESS**

### **00180.41 Project Work Schedules - add the following:**

The contractor shall provide a work schedule acceptable to the engineer listing in order the streets their crews will be working on each day, and shall provide a printed updated schedule to the engineer or inspector before making any changes to the work schedule.

At the beginning of each work day, the contractor shall telephone the inspector and notify him of the specific work locations and schedule for that day and for the next day, and shall keep the inspector informed so that the inspector is always kept aware of the crew's exact work location at all times through the project.

### **00180.50(h) Contract Time –**

No work on this project is allowed to commence before **July 1, 2015**.

Work to be done under the Contract must be substantially complete before **September 15, 2015**.

All punch list items and cleanup must be complete by **September 30, 2015**

### **00180.85(b) Liquidated Damages - Add the following paragraph:**

The liquidated damages for failure to complete the Work on time required by 00180.50(h) will be **\$300** per Calendar Day.

## **SECTION 00220 - ACCOMMODATIONS FOR PUBLIC TRAFFIC**

Comply with Section 00220 of the Standard Specifications modified as follows:

### **00220.02 Public Safety and Mobility — Add the following:**

- 1) Streets shall not be closed for this project; at least one lane of traffic (with flaggers) must be kept open at all times.
- 2) Work on Arterials and Collectors is limited to the hours of 9:00am to 3:00pm.
- 3) Work will not be permitted near schools when students would be going to or from school.
- 4) Signage and traffic control must be provided in accordance with the Manual on Uniform Traffic Control Devices, the Oregon Temporary Traffic Control Handbook, and other applicable standards. Prior to working on any street, the contractor must have obtained the engineer's approval of a traffic control plan for that street. The engineer and/or inspector may order immediate stoppage of work and restoration of normal traffic patterns if, in their judgment, such action is necessary to protect public safety and/or reduce traffic delays.
- 5) Cost for all work under this section shall be considered as incidental to application of the crack seal.

## **SECTION 00225 - WORK ZONE TRAFFIC CONTROL**

Comply with Section 00225 of the Standard Specifications modified as follows:

### **00225.02 General Requirements** – Add the following:

The contractor is reminded of their responsibility to provide a clear zone for their crews to work in. This may necessitate temporary ‘no parking’ signage, conversations with neighbors about removing objects or vehicles obstructing the work area, etc. At the beginning of the project, the city will provide signs and flyers that can be used for this purpose.

The contractor shall obtain the engineer’s approval of all signage and communication methods to be used for this project. Notify the engineer and/or inspector of any non-cooperative neighbors at least 24 hours before work would be affected.

The contractor is reminded it is their responsibility to protect their work from damage caused by traffic or other factors, especially when the sealant is setting or drying. Damaged crack seal shall be repaired by the contractor at no cost to the city.

### **00225.91 Temporary Signing** - Add the following:

All temporary traffic signs are considered incidental to the work being performed. Temporary signs shall be removed promptly (as determined by the engineer) when they are no longer in effect.

## **SECTION 00290 - ENVIRONMENTAL PROTECTION**

Comply with Section 00290 of the Standard Specifications modified as follows:

### **00290.32 Noise Control** – Change work hours to 7:30 am to 7:00 pm in 1<sup>st</sup> paragraph.

## **SECTION 00746 – Crack Sealing Flexible Pavements**

Comply with Section 00746 of the Standard Specifications modified as follows:

### **00746.00 Scope** – Add the following:

The city’s available budget for this project is anticipated to be **\$200,000**. The size of the project may be adjusted by the city to keep the total cost of the project within this available budget, may be reduced in size by the city to meet program needs, or increased by the city to complete more work with available funds.

Clean and seal all readily visible cracks and open joints 1/8” or larger in accordance with this section and as directed by the engineer. This includes cracks with existing sealant that no longer seals the crack. This includes the perimeter of existing pavement patches or other objects in the paved surface. Clean and seal along all curbs that do not have existing intact crack seal.

Prior to crack sealing, clean all cracks in accordance with section 00746 and all other specifications and as directed by the engineer.

### **00746.42 Installation Procedure** – The contractor’s attention is drawn to the cleaning and installation requirements of this section. Add the following:

Cracks must be completely free of all loose and/or foreign matter (including weed removal) before sealant is applied.

Obtain inspector approval of techniques to be used to finish edge sealing along curbs and gutters.

Protect manholes, valve boxes, drop inlets, and other service entrances from the crack seal by a suitable method. Clean these covers as quickly as possible after the application of the crack seal and definitely prior to the final set. Clean any crack seal from the interior of the utilities.

After setting, the sealant must provide a complete seal of the crack, covering all asphalt surfaces in the crack. Adjust for any settling or shrinkage when applying the sealant. If settlement, shrinkage, or any other factor brings the surface of the crack seal more than 1/8" below the surface of the asphalt, contractor shall apply additional layer(s) of crack seal in order to bring the sealant material flush with the surface.

**00746.80 Measurement** – Add the following:

Sealed crack quantities will be measured on a length basis (linear foot). Measurement shall be performed and provided to the inspector on a daily basis.

Work not meeting the requirements of this section will not be measured for payment.

**00746.90 Payment** – Add the following:

The contract unit price paid for Crack Sealing shall include full compensation for furnishing all labor, materials, tools, equipment, signs, notification, traffic control, incidentals, and all other costs for doing all the work involved in application of crack seal, complete in place, which includes signage, preparation and cleaning, protection of any and all facilities or appurtenances in the roadway, protection of the sealant from vehicles and pedestrians, cleanup of any misapplied sealant and any remaining materials used on this project, and all other work necessary for a complete project.

**ATTACHMENT K  
OREGON PREVAILING WAGE RATES  
CITY OF TIGARD  
2015 Summer Pavement Crack Seal**

May be downloaded from [http://www.oregon.gov/boli/WHD/PWR/Pages/PWR\\_Oregon\\_2015.aspx](http://www.oregon.gov/boli/WHD/PWR/Pages/PWR_Oregon_2015.aspx)