

# **City of Prineville**

## **Invitation to Bid**

**1008-09-10**

**“2010 Spring Overlay and Prineville Freight Depot Paving Project”**





# City of Prineville

387 NE THIRD STREET ♦ PRINEVILLE, OREGON 97754

## ENGINEERING DEPARTMENT

Phone: (541)447-2357

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### INVITATION TO BIDS

#### “2010 Spring Overlay and Prineville Freight Depot Paving Project”

The City of Prineville is seeking services related to furnishing and installing asphalt concrete on one (1) City street, Prineville Freight Depot and at 6 separate rail crossings.

Sealed bids for the City of Prineville **“2010 Spring Overlay and Prineville Freight Depot Paving Project”** will be received until 2:00 PM PDST on the 15th day of April, 2010 at City Hall, 387 NE 3<sup>rd</sup> St, Prineville, Oregon. Each proposal must be submitted in a sealed envelope addressed as follows:

Cindy MacDonald  
City of Prineville  
City Hall  
387 NE 3<sup>rd</sup> St  
Prineville, OR

The envelope shall be clearly marked:

Bid Proposal of (insert name of Contractor)  
“2010 Spring Overlay and Prineville Freight Depot Paving Project”

Bids will be publicly opened at 2:00 PM PDST on the 15th day of April, 2010 and the apparent low bidder will be determined. It is anticipated that the City of Prineville Council present the intent to award the bid at the Council meeting on the 20th day of April, 2010. The start date for this project shall be no sooner than the 4th day of May, 2010 with a completion date of no later than the 25th day of June, 2010.

A mandatory pre-bid meeting will be held at 2:00 pm on the 1st day of April, 2010 at Prineville City Hall to review key project elements and answer questions. Site visit of NE 2<sup>nd</sup> St will begin immediately after pre-bid followed by visits to each rail crossing beginning with NE Combs Flat, E 3<sup>rd</sup>, NE Juniper, NE 7<sup>th</sup>, NE Elm, concluding at NE Court. Then proceed to the Prineville Freight Depot for site visit.

#### Description;

A 2 inch asphalt overlay of approximately 57,344 square feet of existing City street including tack coat. The identified street is NE 2<sup>nd</sup> from the intersection of NE Meadow Lakes Dr. to the western side of the NE 2<sup>nd</sup> and NE Maple intersection. A 3 inch pavement installation performed in 1 lift on approximately 29,120 square feet of new reconstructed street. This section will begin at the western side of NE 2<sup>nd</sup> and NE Maple intersection and proceed east to the intersection of NE 2<sup>nd</sup> and NE Deer St. Base rock of this section will be prepped by City. Contractor will be allowed to close entire NE 2<sup>nd</sup> St. during paving operation.

#### Paving of 6 removed rail crossings as follows:

NE Combs Flat, 840 square feet at a depth of 6 inches installed in 2 lifts of 3 inches each  
East 3<sup>rd</sup> St., 1,820 square feet at a depth of 6 inches installed in 2 lifts of 3 inches each  
NE Juniper St., 644 square feet at a depth of 3 inches installed in 1 lift  
NE 7<sup>th</sup> St., 1,050 square feet at a depth of 3 inches installed in 1 lift.  
NE Elm St., 588 square feet at a depth of 3 inches installed in 1 lift

“2010 Spring Overlay and Prineville Freight Depot Paving Project”

NE Court St., 588 square feet at a depth of 3 inches installed in 1 lift

All crossings base rock will be prepped by others, all traffic control will be provided by the City, ODOT permits for East 3<sup>rd</sup> and NE Combs Flat will be acquired by the City, and all crossings paving width will be 14 feet.

Approximately 115,654 square feet of new paving at the Prineville Freight Depot. A finished depth of 3 inches of asphalt is required. All base rock prep will be conducted by the City of Prineville. No traffic control will be required at Freight Depot.

Traffic control as required.

### **Identified Streets**

NE 2<sup>nd</sup> Street from Meadow Lakes Dr. to Deer St

### **Identified rail crossings**

NE Combs Flat

East 3<sup>rd</sup>

NE Juniper

NE 7<sup>th</sup>

NE Elm

NE Court

### **Prineville Freight Depot**

All work and materials must comply with the adopted City of Prineville Standard Specifications. Copies of the Standard Specifications are available at the City of Prineville Planning Department, City Hall for \$80.00. The Standard Specifications are also available on the City of Prineville website [www.cityofprineville.com](http://www.cityofprineville.com)

**ENGINEER'S ESTIMATE: \$200,000.00**

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### **FORMS-REQUIRED FOR BID OPENING**

FORM 1	PRICING SUBMITTAL FORM
FORM 2	BID SECURITY FORM
FORM 3	*****SEE BELOW

### **FORM 4- INCLUDES SECTIONS G-O**

SECTION G	CONSTRUCTION CONTRACTORS BOARD (CCB) REGISTRATION REQUIREMENTS; ASBESTOS ABATEMENT LICENSING REQUIREMENTS; AND JOINT VENTURE - PARTNERSHIP REQUIREMENTS
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SECTION O	SIGNATURE OF BIDDER'S DULY AUTHORIZED REPRESENTATIVE
FORM 3	FIRST-TIER SUBCONTRACTOR DISCLOSURE INSTRUCTIONS AND FORM ***** <b><i>(Submit either with the Bid submission or within two (2) working hours after the Closing).</i></b>

### **ATTACHEMENT A - CONTRACT**

EXHIBIT 1	SAMPLE PUBLIC IMPROVEMENT AGREEMENT FORM
EXHIBIT 2	PERFORMANCE BOND FORM
EXHIBIT 3	PAYMENT BOND FORM
EXHIBIT 4	INSURANCE REQUIREMENTS
EXHIBIT 5	AFFIDAVIT #1
EXHIBIT 6	GENERAL CONDITIONS
EXHIBIT 7	CONTRACTOR REQUIREMENTS

## SECTION B – DEFINITIONS

B.1 DEFINITIONS: The following definitions apply to this ITB and the resulting Contract.

B.1.1 "Agency," "Owner," "City," and "COP" mean the City of Prineville

B.1.2 "Bid" means the Offeror's written offer submitted in response to the ITB, including all necessary attachments and information required to be submitted prior to award. Bid also means "Offer".

B.1.3 "Bidder" means an individual, organization or representative of an organization that submits a Bid in response to an ITB. Bidder also means "Offeror".

B.1.4 "Closing" means the date and time set in the ITB for Bid submission, after which Bids may not be submitted, modified, or withdrawn by Bidder.

B.1.6 "ITB" or "ITB" means all documents, whether attached or incorporated by reference, and any Addenda thereto, used for soliciting Bids.

B.1.7 "Opening" means the date/time set to read the Bid submittals.

B.1.8 "Plan Center" means organizations and/or business locations where Bidders may view, download or purchase copies of all documents relating to the ITB.

B.1.9 "Solicitation Amendment" means an addition or deletion to, a material change in, or clarification of, the ITB. Solicitation Amendment shall be labeled as such and shall be made available to all interested Offerors in accordance with OAR 125-249-0250(2). Solicitation Amendment also means "Addendum" or "Addenda".

## SECTION C - GENERAL BIDDING INFORMATION/INSTRUCTIONS TO OFFERORS

### C.1 GENERAL INFORMATION

#### C.1.1 POINT(S) OF CONTACT

C.1.1.1: The single contact point for questions regarding the ITB, forms, Specifications, Plans, bidding process, change, clarification, the award process, protests and/or any other issues that may arise, is **Cindy MacDonald** at (541)447-2340 fax(541)447-5628, email [cindym@cityofprineville.com](mailto:cindym@cityofprineville.com).

C.1.1.2 The contact point for requests for brand approval, or substitution requests is **Scott Smith** at (541-419-3165) or (fax 541-416-2406)

#### C.1.2. ENGINEER AND CONSULTANT INFORMATION

The following is a list of Engineers and/or Consultants used on this project. This list is for informational purposes only. Offerors may contact the engineers during the solicitation process.

**Eric Klann, City Engineer**  
**(541) 447-2357**

#### C.1.3 ITB DOCUMENT AVAILABILITY

C.1.3.1 ITBs, SOLICITATION. The City currently utilizes the services of the Daily Journal of Commerce, P.O. Box 10127, Portland OR 97210-0127 (503) 226-1311 and facsimile (503) 222-5358, and the Central Oregon Builders Exchange, 1902 NE 4<sup>th</sup> St, Bend OR 97701, (541) 389-0123 email [admin@plansonfile.com](mailto:admin@plansonfile.com) and facsimile (541) 389-1549. Bend Plan Center, 137 NE Greenwood Ave., Bend OR 97701, (541)385-0800 and facsimile (541) 385-1393 email [www.bendplancenter.com](http://www.bendplancenter.com)

C.1.3.2 ATTACHMENTS: Some exhibits and attachments cannot be viewed or downloaded through the Plan Center. In these cases, the solicitation will include instructions on how to obtain these documents.

C.1.3.4 SOLICITATION AMENDMENTS: Solicitation Amendments are incorporated with the original solicitation as an attachment. Any new Amendments can be obtained at the Plan Centers. Offerors should consult the listed plan centers regularly until Closing to avoid missing any Solicitation Amendments.

### **C.1.5 PLAN CENTERS**

The ITB document, Plans, Specifications, and any other Contract Documents may be examined at the City of Prineville, 387 NE Third Street Prineville, Oregon 97754.

Advertisements for ITB are emailed to the following plan centers.

Daily Journal of Commerce, P.O. Box 10127, Portland OR 97210-0127 (503) 226-1311 and facsimile (503) 222-5358, or at City of Prineville, 387 NE Third Street Prineville, Oregon 97754 [plancenter@djcoregon.com](mailto:plancenter@djcoregon.com)

Central Oregon Builders Exchange, 1902 NE 4<sup>th</sup> St, Bend OR 97701, (541) 389-0123 email [admin@plansonfile.com](mailto:admin@plansonfile.com)

Bend Plan Center, 137 NE Greenwood Ave., Bend OR 97701, (541)385-0800 email [www.bendplancenter.com](http://www.bendplancenter.com)

### **C.1.6 TRADE SECRETS**

Any information Offeror submits in response to the ITB that Offeror considers a trade secret under ORS 192.501(2) or confidential proprietary information, and that Offeror wishes to protect from public disclosure, must be clearly labeled with the following: "This information constitutes a trade secret under ORS 192.501(2) or confidential proprietary information, and is not to be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192." Offerors are cautioned that price information submitted in response to an ITB is generally not considered a trade secret under the Oregon Public Records Law. Further, information submitted by Offerors that is already in the public domain is not protected. The City shall not be liable for disclosure or release of information when authorized or required by law or court order to do so. The City shall also be immune from liability for disclosure or release of information under the circumstances set out in ORS 646.473(3).

### **C.1.7 SOLICITATION LAW AND RULES**

This ITB and the resulting Contract are governed by Oregon Law. Specific laws and rules that govern the solicitation process are found in Chapters 279A and 279C of the Oregon Revised Statutes, and Divisions 246 and 249 of the Administrative Rules of the Oregon Department of Administrative Services. The ITB and resulting Contract may be subject to other laws and rules. Offerors should obtain and become acquainted with the applicable provisions of the above laws and rules. Copies may be obtained as follows:

C.1.7.1 OREGON REVISED STATUTES (ORS Chapters 279A and 279C) - Can be obtained from Legislative Counsel Committee, S101 State Capitol, Salem, OR 97310-0630. Phone (503) 378-8146, or on line at: <http://www.leg.state.or.us/ors/home.html>

C.1.7.2 OREGON DEPARTMENT OF ADMINISTRATIVE SERVICES ADMINISTRATIVE RULES - (OAR Chapter 125, Divisions 246 and 249) - Can be obtained from the Department of Administrative Services, 1225 Ferry Street SE U140, Salem, OR 97301-4285. Phone (503) 378-4642 or on line at: <http://arcweb.sos.state.or.us/banners/rules.htm>

### **C.1.8 BRAND NAME USAGE:**

C.1.8.1 BRAND NAME: Any brand name listed in the specifications without an "or equal" "or approved equal" shall establish the minimum requirements for quality, utility, durability, function, and purpose. Other brand names may be used in the construction of the project as long as they are equal to or better than the product brand named, and the brand named listed is not mandated pursuant to a brand name exemption.

C.1.8.2 BRAND NAME "OR EQUAL": Any brand name listed in the specifications with an "or equal" shall establish the minimum requirements for quality, utility, durability, function, and purpose. Other brand names may be used in the construction of the project as long as they are equal to or better than the product brand named, and the proposed product has been approved in writing by the Owner's Engineer or Assistant Engineer prior to installation, and the brand named is not mandated pursuant to a brand name exemption.

The Owner's Authorized Representative shall determine, in its sole discretion, whether a product offered is "or equal".

C.1.8.3 BRAND NAME "OR APPROVED EQUAL": Any brand name listed in the specifications with an "or approved equal" or an "or approved equivalent" shall establish the minimum requirements for quality, utility, durability, function, and purpose. Other brand names may be used in the construction of the project as long as they are equal to or better than the product brand named, and the product has been pre-approved in writing **during the bidding process** detailed in Section C.2, and the brand named is not mandated pursuant to a brand name exemption.

City of Prineville shall determine, in its sole discretion, whether a product offered is "or approved equal".

### **C.1.9 MANDATORY PRE-BID CONFERENCE**

A mandatory pre-bid conference will be held at 2:00 p.m. on Tuesday, April 1, 2010, at Prineville City Hall to review key project elements and answer questions. Bids will not be accepted from any bidder who does not have a representative attend the mandatory pre-bid conference and site visit.

### **C.1.10 CONTRACT DOCUMENTS**

The contract documents under which it is proposed to execute this project consist of all materials referenced in this or any other contract document or bound herewith and the drawings, which may be bound separately, plus any solicitation amendment issued by the City.

These contract documents are intended to be mutually cooperative and to provide all detail reasonably required for the execution of the proposed project. Any person contemplating the submission of a bid shall have thoroughly examined all of the various parts of these documents, and should there be any doubt as to the meaning or intent of the contract documents, or any of them, the bidder should request of the City, in writing (at least five working days prior to bid opening), an interpretation thereof. Any interpretation or change in said contract documents will be made only in writing, in the form of a solicitation amendment to the documents and will be furnished to all listed plan centers. Bidders shall indicate receipt of the same in the space provided on the proposal form. The City will not be responsible for any other explanation or interpretation of said documents, or any of them.

### **C.1.11 INCONSISTENCIES AND OMISSIONS**

Any inconsistency or omission found in the contract documents shall be reported to the City Engineer or Assistant City Engineer immediately. The City Engineer or Assistant City Engineer will clarify inconsistencies or omissions, in writing, within a reasonable time.

In resolving inconsistencies among two or more sections of the contract documents, precedence shall be given in the following order:

1. Crook County Building Department requirements
2. City of Prineville Standards and Specifications
3. Special Specifications

Figure dimensions on plans shall take precedence over scale dimensions; detailed plans shall take precedence over general plans.

When conflicting requirements are discovered in the contract documents concerning specific items of work, the more restrictive requirements shall apply. When interpretation of the contract documents may result in a greater or lesser quality of work, the interpretation of greater quality shall be used.

## **C.2 SOLICITATION PROTEST; REQUEST FOR CHANGE; REQUEST FOR CLARIFICATION; REQUEST FOR BRAND NAME / PRODUCT SUBSTITUTION**

**C.2.1 PROCEDURE:** The appropriate means of seeking clarifications or modifications to provisions of an ITB are through (a) requests for approval of an "or approved equal" or an "or approved equivalent" (b) requests for clarification; (c) formal submittal of requests for changes to contractual terms or Specifications or Plans; and (d) formal submittal of protests of contractual terms or Specifications or Plans. Any Bid response that includes non-approved alternate product brands where approval is required, or that takes exception to the Specifications or Plans or contractual terms of the ITB may be deemed non-responsive and may be rejected.

**C.2.2 METHOD OF SUBMITTING REQUESTS FOR MODIFICATION OF ITB PROVISIONS:** Envelopes containing requests for brand approval, requests for substitution, requests for clarification, and requests for change, shall be marked as follows:

Bid Request for:  
Brand Approval/Request for Substitution/Request for Clarification/Request Change/Protest  
ITB #600-09-10

and must be received by the appropriate point of contact as identified in Section C.1.1 by April, 10 2010 at 10:00 am pacific deadline is extended by subsequent Solicitation Amendment, no requests for brand approval, requests for substitution, requests for clarification, requests for change or protests pertaining to provisions contained in the originally-issued ITB will be considered after the date specified herein.

**C.2.3 REQUEST FOR APPROVAL OF AN "OR APPROVED EQUAL" OR AN "OR APPROVED EQUIVALENT":** Pursuant to Section C.1.8.3, Offerors shall provide that product unless another is approved through a request for approval of an "or approved equal" or an "or approved equivalent, or a product exemption has been issued (ORS 279C.345). Other brands of equal quality, merit and utility will be considered upon proper submittal of the request with appropriate documentation.

Requests shall be made in writing and be submitted to the name of the Point of Contact under C.1.1.2 of the ITB document. To be considered, the request for changes must be received by the deadline specified in C.2.2.

- Requests shall provide all the information necessary for the City to determine product acceptability.
- Failure to provide sufficient information with the request shall be cause for the request not to be considered as equivalent
- Any product subsequently approved for substitution shall be listed on an Solicitation Amendment issued by City of Prineville and posted at the City of Prineville

C.2.4 REQUEST FOR CLARIFICATION: Any Offeror that finds discrepancies in, or omissions from any provision of the ITB, Plans, Specifications, or Contract Documents, or has doubt as to the meaning, shall make a request for clarification in writing, to the contact point listed in Section C.1.1.1. To be considered, the request for clarification must be received by City of Prineville by the deadline specified in Section C.2.2.

C.2.5 REQUEST FOR CHANGES TO CONTRACTUAL TERMS OR SPECIFICATIONS OR PLANS: Any Offeror may submit a request for changes to contractual terms, Plans, or Specifications, in writing, to the contact point listed in Section C.1.1.1. To be considered, the request for changes must be received by City of Prineville by the deadline specified in Section C.2.2. The request shall include the reason for requested changes, supported by factual documentation, and any proposed changes.

C.2.6 PROTEST OF CONTRACTUAL TERMS, PLANS, OR SPECIFICATIONS: Any Offeror who believes contractual term(s) Plans, or Specification(s) are unnecessarily restrictive or limit competition may submit a protest, in writing, to the contact point listed in Section C.1.1.1. To be considered, the protest must be received by City of Prineville by the deadline specified in Section C.2.2. The protest shall include the legal and factual grounds for the protest, a description of the resulting prejudice to the Offeror if the protest is not granted, and any proposed changes.

C.2.7 RESPONSE TO REQUESTS FOR CLARIFICATION: Clarifications, whether verbal, in writing, or included in a Solicitation Amendment as a "clarification," do not change Plans, Specifications, contractual terms, or procurement requirements of an ITB. If a request for clarification raises an issue that City of Prineville determines should be handled by formally amending the ITB, City of Prineville will do so only by announcing such a change in an Solicitation Amendment, not through information identified as a "clarification."

C.2.8 RESPONSE TO REQUESTS FOR BRAND APPROVAL, REQUESTS FOR SUBSTITUTION, REQUESTS FOR CHANGE AND PROTESTS: City of Prineville shall promptly respond to each properly-submitted written request for brand approval, request for substitution, request for change, and protest. Where appropriate, City of Prineville will issue ITB revisions via Solicitation Amendment and posted to the City of Prineville website [www.cityofprineville.com](http://www.cityofprineville.com). City of Prineville may also informally respond to Offeror questions.

HOWEVER, INFORMAL RESPONSES DO NOT AFFECT THE PROVISIONS OF THE ITB. PLANS, SPECIFICATIONS, CONTRACTUAL TERMS, AND PROCUREMENT REQUIREMENTS OF THE ITB CAN ONLY BE CHANGED VIA SOLICITATION AMENDMENT ISSUED BY CITY OF PRINEVILLE.

### **C.3 PROTEST OF SOLICITATION AMENDMENT**

Requests for clarification or, requests for change, and protests of Solicitation Amendment shall be dealt with as stated in Section C.2.

### **C.4 OFFER FORMAT**

C.4.1 SIGNATURE IN INK REQUIRED: All Offer documents requiring signature must be signed in ink by an authorized representative of the Offeror.

C.4.2 IN WRITING: Offers and pricing information shall be prepared by typewriter, ink or by computer, but must be signed in ink by an authorized representative of the Offeror. No oral, telegraphic, telephone, e-mail or facsimile Bids will be accepted.

C.4.3 FORMS TO BE USED: Required information shall be submitted on the forms specified in the ITB. Any information Offeror submits that is not required to be included on forms prescribed by City of Prineville shall be formatted in the manner called for in the ITB and submitted on Offeror's letterhead.

**C.4.4 INFORMATION TO BE SUBMITTED WITH THE OFFER: The items listed below in this section shall be submitted or the Offer shall be found to be non-responsive.**

***The following shall be submitted prior to Closing:***

- **Form 1- Pricing Submittal Section, ITB form;**
- **Form 2 -Bid Security Requirements Section D;**
- **Form 4 -Construction Contractors Board (CCB) Registration Requirements; (if required)Asbestos Abatement Licensing Requirements, & Joint Venture - Partnership Declaration, Section G;**
  
- **Form 4 - Solicitation Amendment Acknowledgement; Section H;**
- **Form 4 -Responsibility Inquiry & Contractor References; ESB Utilization, Section I;**
- **Form 4- Recycled Products, Section J;**
- **Form 4 - Residency Information, Section K;**
- **Form 4 – Certification of Compliance with Tax Laws, Section L;**
- **Form 4 –Certification of Drug-Testing Law Requirements, Section M**
- **Form 4 –Certification of Compliance with Non-Discrimination, Section N**
- **Form 4 –Signature of Bidder's Duly Authorized Representative, Section O;**
- **Form 4 –Solicitation Amendment (If required)**

***The following shall be submitted either with the Bid submission or within two (2) working hours after the Closing.***

➤ **Form 3 –First Tier Subcontractor Disclosure Form, Attachment A, Section F;**

C.4.5 BID MODIFICATION PRIOR TO CLOSING: Alterations and erasures made before Offer submission must EACH be INDIVIDUALLY initialed in ink by the person signing the Offer. Offers, once submitted, may be modified in writing before Closing. Modifications made after Offer submission shall be prepared on Offeror's letterhead, be signed by an authorized representative, and state that the modifications amend and supersede the prior Offer. Failure to comply with the provisions of this paragraph of Section C.4.5 shall result in Bid rejection.

C.4.5.1 Nothing in the paragraph C.4.5 shall be construed as allowing the Offeror to alter or otherwise change the form of the Bid, the form of the Contract, the conditions of the Bid, the Specifications, and/or Plans attached to the Bid documents.

C.4.5.2 Modifications must be submitted in a sealed envelope marked as follows:

Bid Modification

Bid Proposal (Name of Contractor) \_\_\_\_\_

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C.4.5.3 Offerors may not modify Offers after Closing.

## **C.5 OFFER SUBMISSION**

C.5.1 NUMBER OF COPIES; SIGNATURE REQUIRED: Offerors shall submit a total of **3** copies of the Offer. At least one Offer submitted by Offeror must bear an original signature. Failure to submit an Offer bearing an original signature will result in rejection of the Bid.

C.5.2 SEALED ENVELOPE; ADDRESS AND COVER INFORMATION: Offers shall be submitted in sealed packages or envelopes. To ensure proper identification and handling, all packages and envelopes shall be clearly marked as follows:

Bid Proposal (Name of Contractor) \_\_\_\_\_

“2010 Spring Overlay and Prineville Freight Depot Paving Project”

Deliver to:

CITY OF PRINEVILLE ATT: CINDY MACDONALD

CITY HALL

387 NE THIRD STREET

PRINEVILLE OR 97754

CITY OF PRINEVILLE shall not be responsible for the proper handling of any Offer not properly identified, marked and submitted in a timely manner.

## **C.6 OFFER WITHDRAWALS PRIOR TO CLOSING**

C.6.1 IN WRITING: Offers may be withdrawn in writing when submitted on Offeror's letterhead, signed by an authorized representative, and received by City of Prineville prior to Closing. Offer withdrawals submitted in writing must be labeled as such and contain the ITB number.

C.6.2 IN PERSON: Offers may also be withdrawn in person before Closing upon presentation of appropriate identification and evidence of authorization to act for Offeror. Signature confirmation of withdrawal may also be required.

## **C.7 CLOSING & OPENING / FIRST TIER SUBMITTAL**

C.7.1 CLOSING: Offers must be received and date/time stamped by the City of Prineville, 387 NE Third Street. Prineville, Oregon, 97754 receptionist prior to the Closing date/time. Offers will not be accepted after the Closing date/time as stated in the Advertisement for Bid of this ITB or as may be extended by any subsequently issued Solicitation Addendum. Facsimile Offers will not be allowed or accepted. Failure to comply with this requirement shall result in rejection of the Offer as non-responsive.

Offers will be publicly opened and read at the bid opening at the closing date/time specified in the advertisement for bid of the ITB, at the City of Prineville, 387 NE Third Street. Prineville, Oregon 97754. Only the name of the Offeror(s) and the item(s) to be considered for award purposes will be read at the opening. It is optional for Offerors to attend Opening. Award decisions will not be made at Opening. Bids received after the date/time for Closing will not be considered for award.

For each subcontractor listed, include:

- The name, address and telephone number of the subcontractor;
- The subcontractor's registration number if the Construction Contractor's Board requires the subcontractors to have a certificate of registration; and
- The anticipated amount of the subcontract.

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**C.7.2 FIRST TIER SUBCONTRACTOR DISCLOSURE FORM:** First tier subcontractor disclosure forms must be returned within two working hours after the Closing, at the receptionist desk of the office of the City of Prineville, 387 NE Third Street. Prineville, Oregon 97754. Failure to comply with this requirement shall result in rejection of the Offer as non-responsive.

## **C.8 PRELIMINARY BID RESULTS**

Prior to the Intent to Award Announcement, City of Prineville may post preliminary bid results on the City's website [www.cityofprineville.com](http://www.cityofprineville.com). Such postings may not be correct and are not final.

## **C.9 TIME FOR OFFER ACCEPTANCE**

An Offeror's Offer is a firm Offer, irrevocable, valid and binding on the Offeror for not less than ninety (90) calendar days from the Closing date.

## **C.11 EXTENSION OF TIME FOR OFFER ACCEPTANCE**

City of Prineville may request, orally or in writing, that Offerors extend, in writing, the time during which City of Prineville may consider their Offer(s). If an Offeror agrees to such extension, the Offer shall continue as a firm Offer, irrevocable, valid and binding on the Offeror for the agreed-upon extension period.

## **C.11 SUBSTANTIAL COMPLIANCE REQUIRED**

Offers not in substantial compliance with ITB requirements cannot be considered, and cannot be supplemented by submissions delivered after Closing. However, City of Prineville may waive minor informalities and irregularities, and may seek clarification of any response that, in its sole discretion, it deems necessary or advisable.

## **C.12 OFFER EVALUATION CRITERIA**

Offers will be evaluated to identify the lowest responsive Offer submitted by a responsible Offeror and not otherwise disqualified. (Refer to OAR 125-249-0390) Adjustments made to account for reciprocal preferences will be for Offer evaluation purposes only. No such adjustments shall operate to amend Offeror's Offer or any Contract awarded pursuant thereto.

**C.12.1 RESPONSIVENESS:** To be considered responsive, the Offeror must substantially comply in all material respects with applicable solicitation procedures and requirements and the solicitation documents. In making such evaluation, City of Prineville may waive minor informalities and irregularities.

**C.12.2 RESPONSIBILITY:** Prior to award of a Contract, City of Prineville will evaluate whether the apparent successful Offeror meets the applicable standards of responsibility identified in OAR 125-249-0390. In doing so, City of Prineville may investigate Offeror and request information in addition to that already required in the ITB, when City of Prineville, in its sole discretion, considers it necessary or advisable.

**C.12.3 OREGON PREFERENCE.** Awards shall be subject to preference for products produced or manufactured in Oregon, if price, fitness and quality are equal; and, solely for the purpose of evaluating bids, City of Prineville will add a percent increase to the Bid of a non-resident Bidder equal to the percent, if any, of the preference given to the Bidder in the state in which the Bidder resides. For example, if the Offeror is from a state that grants a ten (10) percent preference to local Offerors, City of Prineville will add ten (10) percent to that Offeror's Offer price. (OAR 125-246-0310 and 125-249-0390).

## **C.13 PROCESSING OF BIDS**

Neither the release of a Bid Security, nor acknowledgment that the selection process is complete (whether by posting of a Bid tabulation sheet, issuance of notice intent to award, or otherwise), shall operate as a representation by City of Prineville that any Offer submitted was complete, sufficient, lawful in any respect, or otherwise in substantial compliance with the ITB requirements.

## **C.14 WITHDRAWAL BY CITY OF PRINEVILLE OF BID ITEMS PRIOR TO AWARD**

City of Prineville reserves the right to delete Bid items. The deletion of one or more Bid items will not affect the method of award.

## **C.15 REJECTION OF OFFERS**

**C.15.1 REJECTION OF ALL OFFERS:** City of Prineville may reject all Offers for good cause upon its finding that it is in the public interest to do so.

**C.15.2 REJECTION OF PARTICULAR OFFERS:** City of Prineville may reject a particular Offer for any of the reasons listed under OAR 125-249-0440.

## **C.16 INTENT-TO-AWARD ANNOUNCEMENT**

City of Prineville reserves the right to announce its intent to award prior to formal Contract award by posting the tabulation sheet of Bid results on the City's website, or by letter, email or fax ("Intent-to-Award Announcement"). The Intent-to-Award Announcement shall serve as notice to all Offeror's that City of Prineville intends to make an award.

## **C.17 PROTEST OF INTENT TO AWARD**

Adversely-affected or aggrieved Offerors shall have (7) seven calendar days from the date of the Intent-to-Award Announcement within which to file a written protest. Protests submitted after that date will not be considered. Protests must specify the grounds upon which the protest is based.

C.17.1 In order to be an adversely affected or aggrieved Offeror, the Offeror must claim to be eligible for award of the Contract as the lowest responsible and responsive Offeror and that any and all lower Offerors are ineligible to receive Contract award.

C.17.2 An actual Offeror who is adversely affected or aggrieved by the award of the Contract to another Offeror may protest award, in writing, within the timeline established. The written protest shall state the grounds upon which the protest is based. No protest of award shall be considered after the deadline.

## **C.18 RESPONSE TO INTENT-TO-AWARD PROTESTS**

City of Prineville will respond in writing to intent-to-award protests submitted by adversely-affected or aggrieved Offerors. City of Prineville may also respond to intent-to-award protests submitted by other Offerors for purposes of clarification. However, any response provided by City of Prineville is not intended to, and shall not in and of itself constitute, confirmation that the Offeror is, in fact, adversely affected or aggrieved, and therefore entitled to protest an intent to award, or that the protest was timely filed.

## **C.19 AWARD**

After expiration of the (7) seven calendar-day intent-to-award protest period, and resolution of all protests, City of Prineville will proceed with final award. (If City of Prineville receives only one Bid, City of Prineville may dispense with the intent-to-award protest period and proceed with award of a Contract.) Within thirty (30) calendar days after the opening of proposals, the Owner will either accept the proposal or reject all proposals. The Owner reserves the right to waive any informalities and irregularities in said proposals, and to reject any or all bids, without cause. The award will be made by the Owner on the basis of that proposal from the lowest responsible Bidder, which, in the Owner's sole and absolute judgment, will best serve the interest of the Owner.

## **C.20 COMMENCEMENT OF WORK**

Work shall not commence until all insurance requirements have been met and certificates thereof have been filed with the City. Contractor shall not commence Work under this Contract until the Notice to Proceed has been issued.

## **C.21 REVIEW OF AWARDED BID FILES**

Awarded Bid files are public records and available for review at the City of Prineville office by appointment during regular business hours (Monday through Friday).

## **C.22 INFORMATION TO BE SUBMITTED BY THE APPARENT SUCCESSFUL OFFEROR**

C.22.1 **INSURANCE:** The apparent successful Offeror shall provide all required proofs of insurance to City of Prineville before commencing the work under the contract, the Certificates of insurance as specified in these documents. Failure to present the required documents may result in Offer rejection. Offerors are encouraged to consult their insurance agent(s) about the insurance requirements as identified in Exhibit 4 prior to Offer submission.

C.22.2 **PERFORMANCE BOND and PAYMENT BOND:** The successful Offeror shall be required to furnish a Performance Bond and a Payment Bond each in the total amount (100%) of the awarded Contract, executed in favor of the City of Prineville to ensure faithful performance of the Contract and payment for services and goods.

The City of Prineville Performance Bond and Payment Bond forms are Exhibits 2 & 3, respectively.

The apparent low Offeror shall provide all required bonding to the City of Prineville within (10) ten calendar days after notice of award, sign the agreement in the form annexed hereto, and will at that time, deliver to the City of Prineville. Failure to present the required documents within (10) ten calendar days may be grounds for award disqualification. In the event that the Bidder shall fail to enter into a contract within such time, the bid security in the amount stated in the ITB and deposited herewith, shall be retained by the City and it is agreed that said sum is a fair measure of the amount of the damage that the City will sustain because of such failure to enter into a contract.

C.22.3 **JOINT VENTURE/PARTNERSHIP INFORMATION:** The apparent successful Offeror, if a Joint Venture/Partnership shall provide a copy of the joint venture agreement or partnership agreement evidencing authority to Offer and to enter into the resulting Contract that "2010 Spring Overlay and Prineville Freight Depot Paving Project"

may be awarded, together with corporate resolutions (if applicable) evidencing corporate authority to participate as a joint venturer or partner. A contact person must also be designated for purposes of receiving all notices and communications under the Contract. All partners and joint venturers will be required to sign the Contract awarded.

#### C.22.4 PROJECT WARRANTY

In addition to other specific warranties required by these specifications, all work, including material and workmanship supplied by the Contractor shall be warranted to be free of defect for one (1) year from the date of written Final Acceptance by the City of Prineville. Prior to final payment on the contract, Contractor will be required to submit to the Owner a one (1) year warranty bond in an amount not to exceed 20% of the value of all improvements, to guarantee maintenance and performance for a period on not less than one year from the date of acceptance of the work completed..

The Contractor also agrees to hold the Owner harmless from claims of any kind arising from the damage due to said defects. The Contractor shall make all repairs and replacements promptly upon receipt of written orders for same from the Owner. If the Contractor fails to make the repairs and replacements promptly, the Owner may do the work, and the Contractor and his surety shall be liable for the cost thereof.

### **SECTION D – BID SECURITY REQUIREMENTS**

Each Offer shall be accompanied by a cashier's check, irrevocable letter of credit (Bank), Certificate of Deposit NOTE: CD cannot be released by anyone other than the City of Prineville), or a Bid Bond, payable to the City of Prineville, in an amount equal to (12%) twelve percent of the total amount of the bid as guarantee that if awarded the Contract, the bidder will execute the Contract and give a performance bond and payment bond as required.

The successful bidders security will be retained until he has executed a satisfactory contract and furnished a 100 percent performance bond, and 100 percent payment bond, and provide the required proof of insurance.

Bid Security shall be furnished to the City of Prineville as security against the failure of the undersigned to comply with all requirements within the time frames established subsequent to notification of award.

The Owner reserves the right to hold the bid security of the lowest three bidders until the successful bidder has executed a Contract and furnished a 100 percent performance bond and a 100 percent payment bond.

Should the successful bidder decline to execute a written contract and furnish satisfactory bonds after his bid has been accepted, the bid security shall be forfeited as liquidated damages.

If the bidder elects to use a bid bond, he shall use the bid bond form attached herewith, or one conforming substantial to it in form and content. Bid Bond - Form 2.

### **SECTION E – PREVAILING WAGE RATES (BOLI REQUIREMENTS)**

The project is expected to exceed \$50,000 in cost and therefore conformance with the Oregon Bureau of Labor and Industry requirements for wages and payroll submittals is required. The attention of Bidders is directed to the State requirements (ORS 279C.800 to 279C.870) and conditions of employment to be observed and minimum wage rates to be paid under the contract. The prevailing wage rate provisions and fees for Oregon Public Works projects are available on-line at <http://www.oregon.gov/BOLI/WHD/PWR/index.shtml>

Every subcontract shall contain a provision that the subcontractor's workers shall be paid not less than the specified minimum hourly rate of wage in accordance with ORS 279C.838 and 279C.840.

A fee is required to be paid to the Commissioner of the Bureau of Labor and Industries as provided in ORS 279C.825(1).

### **SECTION F – FIRST-TIER SUBCONTRACTOR DISCLOSURE INSTRUCTIONS AND FORM**

(1) Pursuant to ORS 279C.370 and OAR 125-249-0360, Offerors are required to disclose information about certain first-tier subcontractors when the City of Prineville estimates the Contract value for a Public Improvement to be greater than \$50,000. Specifically, when the Contract amount of a first-tier subcontractor furnishing labor, or labor and materials, would be greater than or equal to: (i) 5% of the project Bid, but at least \$15,000, or (ii) \$350,000 regardless of the percentage, the Bidder must disclose the following information about that subcontract in its Bid submission or within two (2) working hours after Closing:

- (a) The subcontractor's name,
- (b) Dollar value and,
- (c) The category of work that the subcontractor would be performing.

If the Offeror will not be using any subcontractors that are subject to the above disclosure requirements, the Offeror is required to indicate "NONE" on the Disclosure Form.

**CITY OF PRINEVILLE MUST REJECT AN OFFER IF THE OFFEROR FAILS TO SUBMIT THE DISCLOSURE FORM WITH THIS INFORMATION BY THE STATED DEADLINE.**

(2) An Offeror shall submit the disclosure form required by OAR 125-249-0360 either in its Offer submission or within two (2) working hours after Closing.

Compliance with the disclosure and submittal requirements is a matter of responsiveness. Offers which are submitted by Closing, but for which the disclosure submittal has not been made by the specified deadline, are not responsive and shall not be considered for Contract award.

(3) The City of Prineville shall obtain, and make available for public inspection, the disclosure forms required by OAR 125-249-0360. The City of Prineville shall also provide copies of disclosure forms to the Bureau of Labor and Industries as required by ORS 279C.835. The City of Prineville is not required to determine the accuracy or completeness of the information submitted. Substitution of affected first-tier subcontractors shall be made only in accordance with ORS 279C.585.

# **FORMS- REQUIRED DOCUMENTS FOR BID OPENING**

# FORM 1

## PRICING SUBMITTAL FORM “2010 Spring Overlay and Prineville Freight Depot Paving Project”

### SCHEDULE OF BID ITEMS

#### City Streets

Item No.	Description		Unit Price	Bid Price	Total Bid
1	Mobilization	Lump Sum			
( _____ )					
<b>PRICE IN WORDS</b>					
2	Placing of 2 inches of asphalt on approximately 57,344 square feet of existing city street including appropriate tack coat. Price shall be based upon city estimate of 717 tons.	Price per linear foot		\$	\$
( _____ )					
<b>PRICE IN WORDS</b>					
3	Placing of 3 inches of asphalt in 1 lift on newly constructed surface of approximately 29,120 square feet. Price shall be based on city estimate of 486 tons	Lump Sum		\$	\$
( _____ )					
<b>PRICE IN WORDS</b>					
( _____ )					
<b>PRICE IN WORDS</b>					

#### Prineville Freight Depot

Item No.	Description		Unit Price	Bid Price	Total Bid
1	Mobilization	Lump Sum			
( _____ )					
<b>PRICE IN WORDS</b>					
2	Placing 3 inches of asphalt in 1 lift on approximately 115,654 square feet of newly constructed roadways. Price shall be based on city estimate of 1928 tons	Price per linear foot		\$	\$
( _____ )					
<b>PRICE IN WORDS</b>					
3	Traffic Control is not required	Lump Sum		\$	\$
( _____ )					
<b>PRICE IN WORDS</b>					
<b>Total Bid Price written in words:</b>				<b>TOTAL BID</b>	\$ _____
( _____ )					
<b>PRICE IN WORDS</b>					

**Rail Crossings**

Item No.	Description		Unit Price	ADD	DEDUCT	
1	Mobilization	Lump Sum	\$	\$	\$	
( _____ )						
<b>PRICE IN WORDS</b>						
2	NE Combs Flat - Lump sum per crossing based on city estimate of the following tonnage per crossing 28 ton	Lump Sum	\$	\$	\$	
( _____ )						
<b>PRICE IN WORDS</b>						
3	East 3 <sup>RD</sup> - Lump sum per crossing based on city estimate of the following tonnage per crossing 61 ton	Lump Sum	\$	\$	\$	
( _____ )						
<b>PRICE IN WORDS</b>						
4	NE Juniper – Lump sum per crossing based on city estimate of the following tonnage per crossing 11 ton	Lump Sum	\$	\$	\$	
( _____ )						
<b>PRICE IN WORDS</b>						
5	NE 7 <sup>th</sup> – Lump sum per crossing based on city estimate of the following tonnage per crossing 18 ton	Lump Sum	\$	\$	\$	
( _____ )						
<b>PRICE IN WORDS</b>						
6	NE Elm – Lump sum per crossing based on city estimate of the following tonnage per crossing 10 ton	Lump Sum	\$	\$	\$	
( _____ )						
<b>PRICE IN WORDS</b>						
7	NE Court – Lump sum per crossing based on city estimate of the following tonnage per crossing 10 ton	Lump Sum	\$	\$	\$	
( _____ )						
<b>PRICE IN WORDS</b>						
<b>Total Bid Price written in words:</b>				<b>TOTAL BID</b>	\$	
( _____ )						
<b>PRICE IN WORDS</b>						

**Note: All unit Price Bids should be considered as "Furnished and Installed"  
Billing is to be as complete units and partial bills will not be paid.**

**To be considered Responsive, the following must be signed and completed by your firm:**

We hereby certify to do the work as specified and at the price as quoted in conformance to all the City, State and Federal Regulations that are applicable and will indemnify the "City of Prineville" against all claims arising out of any actions caused by our company during the performance of this contract.

We hereby certify that we will comply to the provisions of ORS 279C.840 (BOLI Wage Requirements).

Company \_\_\_\_\_

Address \_\_\_\_\_

By \_\_\_\_\_ Date \_\_\_\_\_  
(Signature of Authorized Official)

By \_\_\_\_\_ Phone \_\_\_\_\_  
(Type or Print Name)

Federal I.D. # \_\_\_\_\_

Surety Company (Performance Bond) \_\_\_\_\_ Phone \_\_\_\_\_

Contact Surety \_\_\_\_\_ Phone \_\_\_\_\_

CCB# \_\_\_\_\_ No. Years Registered w/ CCB \_\_\_\_\_

Are there any outstanding claims against your firm : Yes \_\_\_ No \_\_\_

**FORM 2**

**City of Prineville Bid Security Form**

KNOW ALL MEN BY THESE PRESENTS,

That \_\_\_\_\_, hereinafter called the PRINCIPAL, and \_\_\_\_\_, a corporation duly organized under the laws of the State of \_\_\_\_\_, having its Principal place of business at \_\_\_\_\_, in the State of Oregon, as SURETY, are held and firmly bound unto the City of Prineville, as obligee, hereinafter called the OWNER, in the penal sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_), for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS BOND ARE SUCH that, whereas the PRINCIPAL herein is submitting its bid proposal for the “2010 Spring Overlay and Prineville Freight Depot Paving Project”, said bid proposal, by reference thereto, being hereby made a part thereof.

NOW, THEREFORE, if the said bid proposal submitted by the said PRINCIPAL be accepted, and the contract be awarded to said PRINCIPAL, and performance and payment bonds as required by the bidding and Contract Documents within the time fixed by said documents, then this obligation shall be void; if the PRINCIPAL shall fail to execute the proposed Contract and furnish said bonds, the SURETY hereby agrees to pay to the OWNER the penal sum as liquidated damages.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 2010

\_\_\_\_\_  
Principal

\_\_\_\_\_  
By

\_\_\_\_\_  
Surety

\_\_\_\_\_  
By Attorney-in-Fact

(A certified copy of the agent’s power-of-attorney must be attached hereto.)

**First Tier-Subcontractor Disclosure Requirements**

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It is the Bidder's responsibility to determine all the documents that must be submitted to the City. For purposes of this document, "submitted" means "in the physical possession of the City of Prineville."

**FIRST TIER SUBCONTRACTOR DISCLOSURE FORM TO BE SUBMITTED BY ALL BIDDERS NOT LATER THAN 4:00 P.M. THE DAY THE BID IS DUE**

In 2003, the Oregon Legislature revised ORS 279C.370, which provides, in part:

"Within two working hours after the date and time of the deadline when the bids are due to the public contracting agency for a public improvement, a bidder shall submit to the public contracting agency a disclosure of the first-tier subcontractors that: (A) will be furnishing labor or will be furnishing labor and materials in connection with the public improvement; and (B) will have a contract value that is equal to or greater than five percent of the total project bid or \$15,000, whichever is greater, or \$350,000 regardless of the percentage of the total project bid."

The disclosure of first-tier subcontractors applies to public improvements with a contract value of more than \$100,000.

**The Bidder must disclose on the accompanying form the following information about their first-tier subcontracts either in its Bid submission or within two (2) working hours after the date and time of the deadline when bids are due:**

- 1) The subcontractor's name
- 2) Dollar value
- 3) The category of work that the subcontractor would be performing.

If the bidder will not be using any subcontractors that are subject to the above disclosure requirements, the bidder is required to indicate "**NONE**" on the accompanying form.

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

**Note to Contractors who are not the low bidder:**

**If apparent low bidder is disqualified or otherwise not awarded the contract and the next low bidder failed to submit the disclosure form within two (2) hours after the date and time of the deadline when bids were due, that bidder will be ineligible to receive award of the contract.**

# FORM 3 (Page 2 of 2)

## FIRST TIER SUBCONTRACTOR DISCLOSURE FORM

(OAR 137-040-0017)

This form must be submitted at the location specified in the ITB within two (2) working hours after the date and time of the deadline when the bids are due.

List below the name of each subcontractor that will be furnishing labor or labor and materials and that is required to be disclosed by ORS.,279C.370, the dollar value of the subcontract and the category of work that the subcontractor will be performing.

Enter "**NONE**" if there are no subcontractors that need to be disclosed.  
(ATTACH ADDITIONAL SHEETS IF NEEDED)

**PROJECT NAME:** "2010 Spring Overlay and Prineville Freight Depot Paving Project"

**BID SUBMITTAL:** DATE: 4-15-2010 TIME: 2:00p.m.

**DISCLOSURE DEADLINE:** DATE: 4-15-2010 TIME: 4:00 p.m.

<b>SUBCONTRACTOR NAME</b> (Please Print)	<i>DOLLAR VALUE</i>	<b>CATEGORY/DIVISION OF WORK</b> (Painting, electrical, landscaping, etc.)
Name	\$	
Name	\$	
Name	\$	
Name	\$	
Name	\$	
Name	\$	
Name	\$	
Name	\$	
Name	\$	
Name	\$	
Name	\$	
<b>Failure to submit this form by 4:00 p.m. on the day of the bid opening will result in a non-responsive bid. A non-responsive bid will not be considered for award.</b>		

Form submitted by (Bidders Name): \_\_\_\_\_

Contact Name: \_\_\_\_\_ Phone No.: \_\_\_\_\_

# FORM 4 (Page 1 of 5)

## SECTION G – CONSTRUCTION CONTRACTORS BOARD (CCB) REGISTRATION REQUIREMENTS / ASBESTOS ABATEMENT LICENSING REQUIREMENTS / JOINT VENTURE - PARTNERSHIP DISCLOSURE

### G.1 CCB REQUIREMENTS

(1) Offerors shall be licensed with the State of Oregon Construction Contractors Board (CCB) prior to bidding on Public Improvement Contract(s). FAILURE TO COMPLY WITH THIS REQUIREMENT SHALL RESULT IN BID REJECTION.

(2) All Subcontractors participating in the project shall be similarly registered with the Construction Contractors Board at the time they propose to engage in subcontract work. The CCB registration requirements apply to all public works contracts unless superseded by federal law.

(3) The contractor and every subcontractor must have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt under ORS 279C.836(4), (7), (8), or (9).

Offerors SHALL provide their Construction Contractors Board (ORS 701.055) registration number below:

**CONSTRUCTION CONTRACTORS BOARD REGISTRATION NO.:** \_\_\_\_\_

**EXPIRATION DATE OF CCB NO.:** \_\_\_\_\_

### G.2 ASBESTOS ABATEMENT LICENSING REQUIREMENTS

An asbestos abatement license under ORS 468A.720 will not be required of the Contractor or its subcontractors.

### G.3 JOINT VENTURE/PARTNERSHIP DISCLOSURE

The Offeror shall disclose whether the Offer is submitted by either a partnership or joint venture.

**NO:** \_\_\_\_\_ **YES:** \_\_\_\_\_

If yes, the Offeror shall provide the name of the contact person for the partnership or joint venturer.

**Name:** \_\_\_\_\_

## SECTION H - SOLICITATION AMENDMENT ACKNOWLEDGEMENT

(1) CITY OF PRINEVILLE reserves the right to make changes to the ITB and the resulting Contract, by written Solicitation Amendment, prior to the closing time and date. Solicitation Amendment will be sent to Plan Center and faxed or emailed to all offerors. The CITY OF PRINEVILLE is not responsible for an Offeror's failure to receive notice of Solicitation Amendment if such are made in the foregoing manner. Solicitation Amendments shall only be issued by the CITY OF PRINEVILLE and upon issuance are incorporated into the ITB or the resulting Contract. If required by the Solicitation Amendment, Bidders shall sign and return the Solicitation Amendment prior to the Closing time/date.

(2) By Offeror's signature in Section O it ACKNOWLEDGES, AGREES and CERTIFIES TO THE FOLLOWING:

(a) If any Solicitation Amendment are issued in connection with this ITB, Offeror has received and duly considered such Solicitation Amendment, and has completed the blanks below identifying all Solicitation Addendum issued, and acknowledging and agreeing to the terms of all such Solicitation Addendum as those terms revise the terms, conditions, Plans and Specifications of this ITB.

**SOLICITATION ADDENDUM(s):** No. \_\_\_\_\_ to No. \_\_\_\_\_ inclusive.

(b) IN ADDITION to completing the blanks above to identify all Solicitation Addendum, if any, issued under this ITB, Offeror shall sign and return any Solicitation Addendum that states that it must be signed and returned.

# FORM 4 (Page 2 of 5)

## SECTION I – RESPONSIBILITY INQUIRY/ CONTRACTOR REFERENCES & ESB UTILIZATION

The City reserves the right, pursuant to OAR 125-249-0390 to investigate and evaluate, at any time prior to award and execution of the Contract, the apparent successful Offeror's responsibility to perform the Contract. Submission of a signed Offer shall constitute approval for the City to obtain any information the City deems necessary to conduct the evaluation. The City shall notify the apparent successful Offeror, in writing, of any other documentation required, which may include, but is not limited to, recent profit-and-loss history; current balance statements; assets-to-liabilities ratio, including number and amount of secured versus unsecured creditor claims; availability of short and long-term financing; bonding capacity; credit information; material; equipment; facility and personnel information; performance record of Contract performance; etc. Failure to promptly provide this information shall result in Offer rejection. The City may postpone the award of the Contract after announcement of the apparent successful Offeror in order to complete its investigation and evaluation. Failure of the apparent successful Offeror to demonstrate Responsibility, as required under OAR 125-249-0390, shall render the Offeror non-responsible and shall constitute grounds for Offer rejection, as required under OAR 125-249-0440.

### 1. OFFERORS INFORMATION

Business Name: \_\_\_\_\_

Owner(s) Name: \_\_\_\_\_

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

Telephone Number: \_\_\_\_\_ Fax No.: \_\_\_\_\_

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

### 2. OFFEROR REFERENCES FOR COMPARABLE PROJECTS IN SIZE AND SCOPE

Offeror shall provide a list of three different project references with their Offer that can be contacted regarding the quality of workmanship and service that the Offeror provided on projects of comparable size and scope. Offeror shall submit this information using the form provided in this section. The list of three different project references shall include the following Information:

#### ***Project Reference #1***

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

Project Location: \_\_\_\_\_

Project Date: \_\_\_\_\_

Firm Name for Contact Person #1: \_\_\_\_\_

Name of Contact Person #1: \_\_\_\_\_

Telephone Number for Contact Person #1: \_\_\_\_\_

Fax number for Contact Person #1: \_\_\_\_\_

Firm Name for Contact Person #2: \_\_\_\_\_

Name of Contact Person #2: \_\_\_\_\_

Telephone Number for Contact Person #2: \_\_\_\_\_

Fax number for Contact Person #2: \_\_\_\_\_

#### ***Project Reference #2***

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

Project Location: \_\_\_\_\_

Project Date: \_\_\_\_\_

Firm Name for Contact Person #1: \_\_\_\_\_

Name of Contact Person #1: \_\_\_\_\_

Telephone Number for Contact Person #1: \_\_\_\_\_

Fax number for Contact Person #1: \_\_\_\_\_

Firm Name for Contact Person #2: \_\_\_\_\_

Name of Contact Person #2: \_\_\_\_\_

# FORM 4 (Page 3 of 5)

Telephone Number for Contact Person #2: \_\_\_\_\_

Fax number for Contact Person #2: \_\_\_\_\_

### **Project Reference #3**

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

Project Location: \_\_\_\_\_

Project Date: \_\_\_\_\_

Firm Name for Contact Person #1: \_\_\_\_\_

Name of Contact Person #1: \_\_\_\_\_

Telephone Number for Contact Person #1: \_\_\_\_\_

Fax number for Contact Person #1: \_\_\_\_\_

Firm Name for Contact Person #2: \_\_\_\_\_

Name of Contact Person #2: \_\_\_\_\_

Telephone Number for Contact Person #2: \_\_\_\_\_

Fax number for Contact Person #2: \_\_\_\_\_

### **3. SUBCONTRACTING TO EMERGING SMALL BUSINESS**

Offeror will provide the company name(s) of any certified Emerging Small Business companies that they intend to utilize in the performance of this Contract.

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

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

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

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

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

### **SECTION J- RECYCLED PRODUCTS**

Vendors shall use recyclable materials to the maximum extent economically feasible in the performance of the Contract Work set forth in this document. Recyclable material means any material that would otherwise be a useless, unwanted or discarded material except for the fact that the material still has useful physical or chemical properties after serving a specific purpose and can, therefore be reused or recycled.

I, the undersigned duly authorized representative of the Offeror, hereby affirm that Offeror will comply with the above recycled products provision.

### **SECTION K - RESIDENCY INFORMATION**

OAR 125-249-0390 states "In determining the lowest responsive Bid, the City must 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."

"Resident Bidder" means a Bidder that has paid unemployment taxes or income taxes in this state during the 12 calendar months immediately preceding submission of the Bid, has a business address in this State, and has stated in the Bid whether the Bidder is a "resident Bidder".(OAR 125-246-0110)

"Non-resident Bidder" means a Bidder who is not a "resident Bidder" as defined above. (OAR 125-246-0110)

a. Check one: Bidder is a ( ) Resident Bidder  
( ) Non-resident Bidder.

b. If a Resident Bidder, enter your Oregon business address: \_\_\_\_\_  
\_\_\_\_\_

c. If a Non-resident Bidder, enter state of residency: \_\_\_\_\_

## FORM 4 (Page 4 of 5)

FOREIGN CONTRACTOR: If the amount of the Contract exceeds ten thousand dollars (\$10,000), and if Contractor is not domiciled in or registered to do business in the State, Contractor shall promptly provide to the Oregon Department of Revenue all information required by that Department relative to the Contract. The City shall be entitled to withhold final payment under the Contract until Contractor has met this requirement.

### SECTION L - CERTIFICATION OF COMPLIANCE WITH TAX LAWS

By my signature in Section O of this Contract, I, hereby attest or affirm under penalty of perjury: That I am authorized to act on behalf of the Contractor in this matter, that I have authority and knowledge regarding the payment of taxes, and that Contractor is, to the best of my knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon tax laws" are those tax laws listed in ORS 305.380(4), namely ORS Chapters 118, 314, 316, 317, 318, 320, 321 and 323 and Sections 10 to 20, Chapter 533, Oregon Laws 1981, as amended by Chapter 16, Oregon Laws 1982 (first special session); the elderly rental assistance program under ORS 310.630 to 310.706; and any local tax laws administered by the Oregon Department of Revenue under ORS 305.620.

### SECTION M - CERTIFICATION OF DRUG-TESTING LAW REQUIREMENTS

(1) Pursuant to OAR 125-249-0200, the Offeror certifies by its signature on these solicitation document forms that it has a Qualifying Drug Testing Program in place for its employees that includes, at a minimum, the following:

- (a) A written employee drug testing policy,
- (b) Required drug testing for all new Subject Employees or, alternatively, required testing of all Subject Employees every 12 months on a random selection basis, and
- (c) Required testing of a Subject Employee when the Offeror has reasonable cause to believe the Subject Employee is under the influence of drugs.

(2) A drug testing program that meets the above requirements will be deemed a "Qualifying Employee Drug Testing Program." An employee is a "Subject Employee" only if that employee will be working on the Project job site.

(3) If awarded a Public Improvement Contract as a result of this solicitation, Offeror agrees that at the time of Contract execution it shall represent and warrant to the Agency that its Qualifying Employee Drug Testing Program is in place and will continue in full force and effect for the duration of the Public Improvement Contract. The Agency's performance obligation (which includes, without limitation, the Agency's obligation to make payment) shall be contingent on Contractor's compliance with this representation and warranty.

(4) If awarded a Public Improvement Contract as a result of this solicitation, Offeror also agrees that at the time of Contract execution, and as a condition to Agency's performance obligation (which includes, without limitation, the Agency's obligation to make payment), it shall require each Subcontractor providing labor for the Project to:

- (a) Demonstrate to the Contractor that it has a Qualifying Employee Drug Testing Program for the Subcontractor's Subject Employees, and represent and warrant to the Contractor that the Qualifying Employee Drug Testing Program is in place at the time of subcontract execution and will continue in full force and effect for the duration of the subcontract; or
- (b) Require that the Subcontractor's Subject Employees participate in the Contractor's Qualifying Employee Drug Testing Program for the duration of the subcontract.

### SECTION N - CERTIFICATION OF COMPLIANCE WITH NON-DISCRIMINATION LAWS

By my signature in Section O of this Contract, I hereby attest or affirm under penalty of perjury: that I am authorized to act on behalf of Contractor in this matter, and to the to the best of my knowledge the Contractor has not discriminated against minority, women or emerging small business enterprises in obtaining any required subcontracts, and that the Contractor is not in violation of any Discrimination Laws.

# FORM 4 (Page 5 of 5)

## SECTION O - SIGNATURE OF BIDDER'S DULY AUTHORIZED REPRESENTATIVE

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.

The undersigned acknowledges, attests and certifies individually and on behalf of the Bidder that:

- (1) He/she is a duly authorized representative of the Bidder, has been authorized by Bidder to make all representations, attestations, and certifications contained in this Bid and all Solicitation Addendum, if any, issued.
- (2) Bidder, acting through its authorized representatives, has read and understands all Bid instructions, Specifications, Plans, terms and conditions contained in this Bid document (including all listed attachments and Solicitation Addendum, if any, issued);
- (3) The Bid submitted is in response to the specific language contained in the ITB, and Bidder has made no assumptions based upon either (a) verbal or written statements not contained in the ITB, or (b) any previously-issued ITB, if any.
- (4) The City shall not be liable for any claims or be subject to any defenses asserted by Bidder based upon, resulting from, or related to, Bidders failure to comprehend all requirements of the ITB.
- (5) The City shall not be liable for any expenses incurred by Bidder in preparing and submitting its Offer or in participating in the Offer evaluation/selection process.
- (6) The Bidder agrees to be bound by and comply with all applicable requirements of ORS 279C.800 through ORS 279C.870 and the administrative rules of the Bureau of Labor and Industries (BOLI) regarding prevailing wage rates and payment of a fee to BOLI.
- (7) The Offer was prepared independently from all other Bidders, and without collusion, fraud, or other dishonesty.
- (8) Bidder is bound by and will comply with all requirements, Specifications, Plans, terms and conditions contained in this Bid (including all listed attachments and Solicitation Addendum, if any, issued);
- (9) Bidder will furnish the designated item(s) and/or service(s) in accordance with the Bid Specifications, Plans and requirements, and will comply in all respects with the terms of the resulting Contract upon award; and
- (10) Bidder represents and warrants that Bidder has the power and authority to enter into and perform the Contract and that the Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms.
- (11) All affirmations and certifications contained in Sections J, K, L, M and N are true and correct.

Authorized Signature: \_\_\_\_\_ Title: \_\_\_\_\_

FEIN ID# or SSN# (required): \_\_\_\_\_

Contact Person (Type or Print): \_\_\_\_\_

Telephone Number: (\_\_\_\_\_) \_\_\_\_\_ Fax Number: (\_\_\_\_\_) \_\_\_\_\_



# **ATTACHMENT A - CONTRACT**

EXHIBIT 1	PUBLIC IMPROVEMENT AGREEMENT FORM
EXHIBIT 2	PERFORMANCE BOND FORM
EXHIBIT 3	PAYMENT BOND FORM
EXHIBIT 4	INSURANCE REQUIREMENTS
EXHIBIT 5	AFFIDAVIT #1
EXHIBIT 6	GENERAL CONDITIONS
EXHIBIT 7	CONTRACTOR REQUIREMENTS

# Sample Public Improvement Agreement

## CITY OF PRINEVILLE PUBLIC IMPROVEMENT AGREEMENT for "2010 Spring Overlay and Prineville Freight Depot Paving Project"

This Agreement for the "2010 Spring Overlay and Prineville Freight Depot Paving Project", made by and between the City of Prineville, hereinafter called OWNER, and hereinafter called the CONTRACTOR (collectively the "Parties"), shall become effective on \_\_\_\_\_, 2010 or the date this Agreement has been signed by all the Parties and all required City of Prineville approvals have been obtained, whichever is later.

**WITNESSETH:**

**1. Contract Price, Contract Documents and Work.** The CONTRACTOR, in consideration of the estimated costs of \$215,000 based on unit costs set forth in this agreement to be paid to the CONTRACTOR by OWNER in the manner and at the time hereinafter provided, and subject to the terms and conditions provided for in the Invitation to Bid this Public Improvement Agreement Form and other Contract Documents (as defined in the General Conditions referenced within the ITB), all of which are incorporated herein by reference, hereby agrees to perform all Work described and reasonably inferred from the Contract Documents.

The Contract Price includes the following items:

### City Streets

Item No.	Description	Unit Price	Bid Price	Total Bid
1	Mobilization	Lump Sum		
( _____ )				
<b>PRICE IN WORDS</b>				
2	Placing of 2 inches of asphalt on approximately 57,344 square feet of existing city street including appropriate tack coat. Price shall be based upon city estimate of 717 tons.	Price per linear foot	\$	\$
( _____ )				
<b>PRICE IN WORDS</b>				
3	Placing of 3 inches of asphalt in 1 lift on newly constructed surface of approximately 29,120 square feet. Price shall be based on city estimate of 486 tons	Lump Sum	\$	\$
( _____ )				
<b>PRICE IN WORDS</b>				
( _____ )				
<b>PRICE IN WORDS</b>				

**Prineville Freight Depot**

Item No.	Description		Unit Price	Bid Price	Total Bid
1	Mobilization	Lump Sum			
( )					
<b>PRICE IN WORDS</b>					
2	Placing 3 inches of asphalt in 1 lift on approximately 115,654 square feet of newly constructed roadways. Price shall be based on city estimate of 1928 tons	Price per linear foot		\$	\$
( )					
<b>PRICE IN WORDS</b>					
3	Traffic Control is not required	Lump Sum		\$	\$
( )					
<b>PRICE IN WORDS</b>					
<b>Total Bid Price written in words:</b>				<b>TOTAL BID</b>	<b>\$</b>
( )					
<b>PRICE IN WORDS</b>					

**Rail Crossings**

<b>Item No.</b>	<b>Description</b>		<b>Unit Price</b>	<b>ADD</b>	<b>DEDUCT</b>	
1	Mobilization	Lump Sum	\$	\$	\$	
( _____ )						
<b>PRICE IN WORDS</b>						
2	NE Combs Flat - Lump sum per crossing based on city estimate of the following tonnage per crossing 28 ton	Lump Sum	\$	\$	\$	
( _____ )						
<b>PRICE IN WORDS</b>						
3	East 3 <sup>RD</sup> - Lump sum per crossing based on city estimate of the following tonnage per crossing 61 ton	Lump Sum	\$	\$	\$	
( _____ )						
<b>PRICE IN WORDS</b>						
4	NE Juniper – Lump sum per crossing based on city estimate of the following tonnage per crossing 11 ton	Lump Sum	\$	\$	\$	
( _____ )						
<b>PRICE IN WORDS</b>						
5	NE 7 <sup>th</sup> – Lump sum per crossing based on city estimate of the following tonnage per crossing 18 ton	Lump Sum	\$	\$	\$	
( _____ )						
<b>PRICE IN WORDS</b>						
6	NE Elm – Lump sum per crossing based on city estimate of the following tonnage per crossing 10 ton	Lump Sum	\$	\$	\$	
( _____ )						
<b>PRICE IN WORDS</b>						
7	NE Court – Lump sum per crossing based on city estimate of the following tonnage per crossing 10 ton	Lump Sum	\$	\$	\$	
( _____ )						
<b>PRICE IN WORDS</b>						
<b>Total Bid Price written in words:</b>				<b>TOTAL BID</b>	\$	
( _____ )						
<b>PRICE IN WORDS</b>						

## **2. Representatives.**

Unless otherwise specified in the Contract Documents, the OWNER designates **Cindy MacDonald** authorized Representative in the administration of this Contract. The above-named individual shall be the initial point of contact for matters related to performance, payment, authorization, and to carry out the responsibilities of the OWNER. CONTRACTOR has named **Cindy MacDonald** Authorized Representative to act on its behalf.

## **3. Contract Dates.**

PROJECT START DATE: May 4<sup>th</sup>, 2010

SUBSTANTIAL COMPLETION: June 25<sup>th</sup>, 2010

FINAL COMPLETION: June 25<sup>th</sup>, 2010

## **4. Liquidated Damages.**

Failure to complete the project known as "2010 Spring Overlay and Prineville Freight Depot Paving Project" by the specified time will result in damage to the City of Prineville. Since actual damage will be difficult to determine, it is agreed that the Contractor shall pay to the City of Prineville, not as a penalty but as liquidated damages, \$500.00 per calendar day for each day elapsed in excess of the Substantial Completion date stated in Section 3 of this Agreement.

## **5. Payments**

Contractor shall send invoices to Accounts Payable Department. Invoices must describe the work performed; deliverables completed and amounts due as follows: ALL INVOICES MUST INCLUDE THE FOLLOWING INFORMATION IF APPLICABLE

1. Submit on letterhead. Otherwise show company name, address, phone and fax numbers
2. Invoices must be submitted monthly. Invoices billing for work over 3 months old may not be paid.
3. Show City's Contract Number or P.O. Number
4. Invoice date must be current date.
5. Specify Invoice Number or Billing Number
6. Invoices to be addressed to the Contract Manager's attention.
7. Itemize all tasks, deliverables and/or services performed; hours expended and percent complete, where applicable, and dates of activities invoiced.
8. Show all payments to date outstanding items and balance to completion of contract.
9. Monthly progress reports must accompany invoices. A Contract Summary sheet will be prepared for all contracts that have Task Orders.
- 10. All billings for Change Orders and Amendments to the Basic Contract will be submitted as separate invoices.**
- 11. Change Order and Amendment invoices will use the Basic Contract or P.O. number followed by a letter designation: (Ex. 100001 Basic Contract will use 100001A for the first Change Order or Amendment).**

Any request for sub consultant or subcontractor payments must include a copy of their invoice signed as to approval by the Prime contractor.

**PAYMENT :SHALL COMPLY WITH CITY OF PRINEVILLE STANDARDS AND SPECIFICATIONS AS DESCRIBED IN**

**6. Scope and Limit**

In consideration of the faithful performance of all the covenants, stipulations, and conditions in these Contract Documents, the City of Prineville agrees to pay the Contractor the amount bid as adjusted when so stipulated in the Contractor's Proposal on the basis of the unit prices named in the contractor's Proposal for the work actually performed as determined by the final estimate of the City Engineer, together with any amounts due for extra work not classified under the items listed in the Contractor's Proposal as provided in Section 195.20 of these GENERAL CONDITIONS; less any deduction for failure to complete the work within the time specified; and less any deductions for claims and damages paid by the City of Prineville due to acts or omissions of the Contractor and for which the Contractor is liable under this Agreement.

The City of Prineville reserves the right to increase or decrease quantities without limit or to omit portions of the work without invalidating said proposal or re-negotiating the unit bid price.

**7. Provisions and Requirements**

**CHANGES TO PLANS OR CHARACTER OF WORK**

Payment or credit for any alterations covered by a Change Order shall be determined by one or a combination of methods set forth in Unit Prices, Lump Sum or Payment for Force Account Work (Section 197) below:

Unit Prices

If applicable, those unit prices stipulated in the Proposal or unit prices negotiated and mutually acceptable to the Contractor and City of Prineville.

Lump Sum

A total sum for the work negotiated and mutually acceptable to the Contractor and City of Prineville.

In Unit Prices and Lump Sum above, Contractor's quotations for Change Orders shall be in writing and firm for a period of forty-five (45) days. Any compensation agreed upon, and subsequently paid by the City of Prineville for work defined in a Change Order shall be deemed to include all costs and expenses related to such work, including the costs and expenses of a direct, indirect, and consequential nature, or otherwise, and it is specifically understood and agreed that no additional compensation may be subsequently sought or charged by the Contractor for the work covered by the applicable Change Order.

The City of Prineville's request for quotations on alterations to the work shall not be considered authorization to proceed with the work prior to the issuance of a formal Change Order, nor shall such request justify any delay in existing work.

**8. Progress Payments and Retained Amounts**

At least ten (10) days before the 25th of each month, but not more often than once a month, Contractor shall submit to City Engineer for review an application for payment filled out and signed by Contractor covering the work completed as of the date of the application and accompanied by such data and schedules as City Engineer may reasonably require. If payment is requested on the basis of materials and equipment not incorporated in the work but delivered and suitably stored at the site or at another location agreed to in writing, the application for payment shall also be accompanied by such data, satisfactory to City of Prineville, as will establish City of Prineville's title to the material and equipment and protect interest therein, including applicable insurance. Each subsequent application for payment may be required to include an affidavit of payment of Contractor's obligations reflected in prior applications for payment.

Contractor warrants and guarantees that title to all work, materials and equipment covered by any application for payment, whether incorporated in the project or not, will pass to City of Prineville at the time of payment free and clear of all liens, claims, security interests and encumbrances.

City Engineer will, within ten (10) days after receipt of each application for payment, either indicate in writing, approval of payment and present the application to City of Prineville, or return the application to Contractor indicating, in writing, reasons for refusing to approve payment. In the later case, Contractor may make the necessary corrections and resubmit the application.

The amount of said application for payment, after deducting five percent (5%) and all previous payments shall be due and payable to the Contractor not more than thirty (30) days after the last day of said month. The five percent (5%) deducted, as above set forth, shall be withheld by the City of Prineville to insure faithful completion of the work under the terms of the Contract Documents and to provide a fund for the payment of any claims which may accrue against the City of Prineville because of some act or omission on the part of the Contractor.

Nothing contained in this article shall be construed to affect the right, hereby reserved, to reject the whole or any part of the aforesaid work should such work be later found not to comply with any of the provisions of the Contract Documents. All estimated quantities of work for which progress payments have been made are subject to review and correction on the final estimate. Payment by the City of Prineville and acceptance by the Contractor of progress payments based on periodic estimates of quantities of work shall not, in any way, constitute acceptance of the estimated quantities used as the basis for computing the amounts of the progress payments.

Furthermore, on all Agreements for the construction, reconstruction, maintenance or repair of any public work in the State of Oregon, no payment will be made to the Contractor until the Contractor files with the City of Prineville the signed Wage Certification Form certifying that Contractor has paid not less than the prevailing rate of wages as required by Chapter 279, ORS, as set forth in General Conditions.

## **9 Allowance for Materials Left On Hand**

Monthly progress payments will include compensation for materials received on the site during the pay period but not incorporated in the work providing they are properly stored and protected and the Contractor submits to the City Engineer, in writing, ten (10) days prior to the end of each pay period, a list, with costs supported by invoices from suppliers for such materials on the job for which the Contractor feels credit is due.

Payments for material delivered to the site and not incorporated in the work during the pay period shall be understood to be advance payments for the Contractor's convenience. Final payment will be made only for materials actually incorporated in the work. Upon acceptance of the work, all materials stored on the site for which advance payments have been made, unless otherwise agreed upon in writing, shall revert to the Contractor and all remaining advance payments on materials shall be deducted from the final payment for the work.

Advance payments by the City of Prineville for materials on the site, but not incorporated in the work, shall not be considered as acceptance by the City of Prineville and shall not relieve the Contractor from their responsibilities.

## **10. Final Payment**

On public projects, neither the final payment nor any part of the retained percentage shall become due until the Contractor submits to the City of Prineville a signed affidavit, satisfactory to the City of Prineville, stating that so far as the Contractor has knowledge or information, all accounts for materials, labor, and incidentals in connection with the work have been paid in full. The form of affidavit shall be satisfactory to the City of Prineville.

If any lien or claim remains unsatisfied after all payments are made, the Contractor shall refund to the City of Prineville all monies that the latter may be compelled to pay in discharging such a lien, including all costs and a reasonable attorney's fee.

To receive final payment, the Contractor must do the following:

1. Notify the City Engineer, in writing, that the Contractor has completed work in accordance with the Contract Documents and request final payment.
2. Submit to the City of Prineville appropriate waivers of lien and claims for itself and all subcontractors and a signed affidavit, satisfactory to the City of Prineville, stating that so far as the contractor has knowledge or information, all accounts for materials, labor, and incidentals in connection with the work have been paid in full.
3. On agreements for public works, furnish to the City of Prineville a completed wage certification as required by ORS 279, as amended.
4. Provide required warranty letter and bond. (See Section 08 Development Provisions of COP Standards and Specifications)

Within thirty (30) days of written notice from the Contractor that the work has been completed, the City Engineer shall conduct a final inspection of the work. If the work has been completed to the satisfaction of the City Engineer, he/she shall submit a certificate of acceptance of the completed work, together with a final estimate of the amount due the Contractor under this Agreement, less any amount to be withheld by the City of Prineville to ensure guarantees, as may be provided in the Supplementary Conditions.

The City of Prineville shall, within thirty five (35) days, pay to the Contractor all monies due under the conditions of the Agreement upon the following:

1. The City of Prineville's acceptance of the City Engineer's final estimate.
2. The City of Prineville's approval of the affidavit of the release of lien and claim.
3. Inspection and approval by all or any concerned public works of the State, of any county, municipality or political subdivision created by law, or Public Utility.

The acceptance by the Contractor of the final payment shall release the City of Prineville and the City Engineer as agent of the City of Prineville from all claims and all liability to the Contractor for all things done or furnished in connection with the work, and every act of the City of Prineville and others relating to or arising out of the work. No payment, however, final or otherwise, shall operate to release the Contractor from obligations under these Contract Documents.

## **11. No Waiver of Right to make Adjustment**

Neither the inspection by the City of Prineville, through the City Engineer or any of City employees, nor any order by the City of Prineville for payment of money, nor any payment for, or acceptance of, the whole or any part of the work by the City of Prineville or City Engineer, nor any extension of time, nor any possession taken by the City of Prineville or its employees, shall operate as a waiver of any provision of these Contract Documents, or any power herein reserved to the City of Prineville, or any right to damages herein, nor shall any waiver of any breach in this Agreement be held to be a waiver of any other or subsequent breach.

## PAYMENT FOR FORCE ACCOUNT WORK

### 1. General

If the method of payment cannot be agreed upon prior to the beginning of the work, and the City of Prineville or the City Engineer directs that the work be done by written Change Order or on a force account basis, then the Contractor shall furnish labor equipment, and materials necessary to complete the work in a satisfactory manner and within a reasonable period of time. For the work performed, payment will be made for the documented actual cost of the following:

- A. Labor, including foremen, who are directly assigned to the force account work: (actual payroll cost, including wages, fringe benefits as established by negotiated labor agreements, labor insurance, and labor taxes as established by law). No other fixed labor burden will be considered unless approved in writing by the City of Prineville.
- B. Material delivered and used on the designated work, including sales tax, if paid for by Contractor or subcontractor.
- C. Rental or equivalent rental cost of equipment, including necessary transportation for items having a value in excess of one hundred dollars (\$100). The current Associated General Contractors of America published equipment rental rates will be the maximum allowable rate.
- D. Additional bond, as required and approved by the City of Prineville.
- E. Additional insurance (other than labor insurance) as required and approved by the City of Prineville.

To costs under Section 197 **Force Account Work**, there shall be added the following fixed fees for the Contractor or subcontractor actually performing the work:

- 1. A fixed fee of fifteen percent (15%) added to the cost of Items A, B and C; and
- 2. A fixed fee of six percent (6%) added to the cost of items D and E above; and
- 3. An additional fixed fee of ten percent (10%) shall be allowed the Contractor for the administrative handling of portions of the work that are performed by an approved subcontractor. No additional fixed fee will be allowed for the administrative handling of work performed by a subcontractor of a subcontractor unless by written permission from the City of Prineville.

The added fixed fees shall be considered to be full compensation, covering the cost of general supervision, overhead, profit, and any other general expense.

The City of Prineville reserves the right to furnish such materials and equipment, as it deems expedient, and the Contractor shall have no claim for profit or added fees on the cost of such materials and equipment.

For equipment under Item C above, rental or equivalent rental cost will be allowed for only those days or hours during which the equipment is in actual use. Rental and transportation allowances shall not exceed the current rental rates prevailing in the locality. The rentals allowed for equipment will, in all cases, be understood to cover all fuel, supplies, repairs, and renewals, and no further allowances will be made for those items, unless specific agreement to that effect is made.

The Contractor shall maintain records in such a manner as to provide a clear distinction between the direct costs of work paid for on a force account basis and the costs of other operations. The Contractor shall furnish the City Engineer report sheets in duplicate of each day's force account work no later than the working day following the materials used, and shall cover the direct cost of labor and the charges for equipment rental, whether furnished by the Contractor, subcontractor, or other forces. The daily report sheets shall provide names or identifications and classifications of workers, the hourly rate of pay and hours worked, and also the size, type, and identification number of equipment and hours operated.

Material charges shall be substantiated by valid copies of vendors' invoices for materials used in the alterations covered by Change Orders. Such invoices shall be submitted with the daily report sheets, or, if not available, they shall be submitted with subsequent daily report sheets. Said daily report sheets shall be signed by the Contractor or authorized agent.

To receive partial payments and the final payment for force account work, the Contractor shall submit in a manner approved by the City Engineer, detailed and complete documented verification of the Contractor's and any of subcontractor's actual current costs involved in the force account work pursuant to the issuance of an approved Change Order. Such costs shall be submitted within thirty (30) days after said work has been performed.

No payment will be made for work billed and submitted to the City Engineer after the thirty (30) day period has expired. No extra or additional work shall be performed by the Contractor, except in an emergency endangering life or property, unless in pursuance of a written Change Order.

### 2. Integration

THE CONTRACT DOCUMENTS shall include the following:

Invitation to Bid	Contract,
Exhibit One – Performance Bond	Exhibit Two – Payment Bond
Exhibit Three – Insurance Requirements	Exhibit Four – Affidavit #1
Exhibit Five – General Conditions	Exhibit 6 – Contractor Requirements

CONSTITUTE THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS CONTRACT 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 THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO OTHER UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. CONTRACTOR, BY THE SIGNATURE BELOW

OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS CONTRACT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

In witness whereof, the CITY OF PRINEVILLE, executes this Agreement and the CONTRACTOR does execute the same as of the day and year of this Agreement first above written.

Any request for sub consultant or subcontractor payments must include a copy of their invoice signed as to approval by the Prime contractor.

### **3. Final Inspection**

(1) Notification of Completion; Inspection. The Contractor must notify the Authorized Agency in Writing when the Contractor considers the contract Work completed. Within fifteen (15) Days of receiving Contractor's notice, the Authorized Agency will inspect the project and project records, and will either accept the Work or notify the Contractor of remaining Work to be performed.

(2) Acknowledgment of Acceptance. When the Authorized Agency finds that all Work required under the Contract has been completed satisfactorily, the Authorized Agency must acknowledge acceptance of the Work in Writing.

**Scope of Services:**

Contract hereby agrees to provide the following services

furnishing and installing asphalt concrete on one (1) City street, Prineville Freight Depot and at 6 separate rail crossings.

Placement of a 2 inch asphalt overlay of approximately 57,344 square feet of existing City street including tack coat. The identified street is NE 2<sup>nd</sup> from Meadow Lakes Dr. to Maple.

Placement of a 3 inch asphalt surface, installed in 1 lift on approximately 29,120 square feet of newly constructed street.

The identified street is NE 2<sup>nd</sup> from Maple to Deer.

Placement of approximately 115,654 square feet of new paving at a finished depth of 3 inches installed in 1 lift at the Prineville Freight Depot.

**Description;**

A 2 inch asphalt overlay of approximately 57,344 square feet of existing City street including tack coat. The identified street is NE 2<sup>nd</sup> from the intersection of NE Meadow Lakes Dr. to the western side of the NE 2<sup>nd</sup> and NE Maple intersection. A 3 inch pavement installation performed in 1 lift on approximately 29,120 square feet of new reconstructed street. This section will begin at the western side of NE 2<sup>nd</sup> and NE Maple intersection and proceed east to the intersection of NE 2<sup>nd</sup> and NE Deer St. Base rock of this section will be prepped by City. Contractor will be allowed to close entire NE 2<sup>nd</sup> St. during paving operation.

Paving of 6 removed rail crossings as follows:

NE Combs Flat, 840 square feet at a depth of 6 inches installed in 2 lifts of 3 inches each

East 3<sup>rd</sup> St., 1,820 square feet at a depth of 6 inches installed in 2 lifts of 3 inches each

NE Juniper St., 644 square feet at a depth of 3 inches installed in 1 lift

NE 7<sup>th</sup> St. , 1,050 square feet at a depth of 3 inches installed in 1 lift.

NE Elm St. , 588 square feet at a depth of 3 inches installed in 1 lift

NE Court St. , 588 square feet at a depth of 3 inches installed in 1 lift

All crossings base rock will be prepped by others, all traffic control will be provided by the City, ODOT permits for East 3<sup>rd</sup> and NE Combs Flat will be acquired by the City, and all crossings paving width will be 14 feet.

Approximately 115,654 square feet of new paving at the Prineville Freight Depot. A finished depth of 3 inches of asphalt is required. All base rock prep will be conducted by the City of Prineville. No traffic control will be required at Freight Depot.

Traffic control as required.

**Identified Streets**

NE 2<sup>nd</sup> Street from Meadow Lakes Dr. to Deer St

**Identified rail crossings**

NE Combs Flat

East 3<sup>rd</sup>

NE Juniper

NE 7<sup>th</sup>

NE Elm

NE Court

**Prineville Freight Depot**

**Traffic Control:**

The contractor shall submit a detailed traffic control plan at the Pre-Construction meeting for work within the existing street system for City prior to starting construction. Failure to abide by the traffic control plan will result in a shut-down of the Project until resolution is achieved with no additional work days added.

The contractor will be allowed to close City Streets in isolated sections to permit work within the defined area. Local traffic access shall be maintained at all times for residences. The City of Prineville is responsible for notifying all affected property owners of parking restrictions or other street closures.

**Completion:**

The work shall be completed by June 25, 2010.

All work and materials must comply with the adopted City of Prineville Standard Specifications.

In witness whereof, the CITY OF PRINEVILLE, executes this Agreement and the CONTRACTOR does execute the same as of the day and year of this Agreement first above written.

**CONTRACTOR DATA:**

CONTRACTOR NAME \_\_\_\_\_

CONTRACTOR ADDRESS \_\_\_\_\_

CONTRACTOR PHONE # \_\_\_\_\_

CONTRACTOR FAX # \_\_\_\_\_

CONTRACTOR EMAIL \_\_\_\_\_

CONTRACTOR'S FEDERAL ID # \_\_\_\_\_

CONTRACTOR'S CCB # \_\_\_\_\_

Expiration Date: \_\_\_\_\_

CONTRACTOR'S SIGNATURE: \_\_\_\_\_

\_\_\_\_\_  
Date

**OWNER**

\_\_\_\_\_  
City Manger, or City Representative

\_\_\_\_\_  
Date

# EXHIBIT 1 (Page 1 of 2)

## PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, That we \_\_\_\_\_ as PRINCIPAL, and a corporation duly authorized to act as a surety company in Oregon, as SURETY, are jointly and severally held and bound unto the City of Prineville, Oregon, as Obligee, hereinafter called CITY, in the sum of, (\$ \_\_\_\_\_), for the payment of which we jointly and severally bind ourselves, our heirs, successors, administrators and assigns, or our successors and assigns, firmly by these presents.

### THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, the PRINCIPAL herein has made and entered into a certain Agreement with the CITY, a copy of which is attached hereto, whereby the said PRINCIPAL agrees to perform certain work and to furnish certain materials and to assume obligations, all in accordance with the terms, conditions, requirements, plans and specifications set out in said Agreement for the "2010 Spring Overlay and Prineville Freight Depot Paving Project" and

WHEREAS, said Agreement is a Public Contract within the meaning of that term as defined in Oregon Revised Statutes.

NOW, THEREFORE, if the PRINCIPAL herein shall faithfully and truly observe and comply with the terms, conditions, and provisions of said Agreement, in all respects, and shall well and truly and fully do and perform all matters and things by him undertaken to be performed under said Agreement, upon the terms set forth therein and within the time prescribed therein or as extended as provided therein, and shall, in all respects perform said Agreement according to law, then this obligation shall be void; otherwise to remain in full force and effect.

For value received, the SURETY hereby agrees that no change, extension of time, alteration or addition to the terms of the Agreement or the work to be performed thereunder, or the specifications accompanying the same shall in any way affect its obligations hereunder, and the SURETY expressly waives notice of any such change, extension, alteration, or addition.

Nonpayment of the bond premium will not invalidate this bond nor shall the CITY be obligated for the payment thereof.

**EXHIBIT 1 (Page 2 of 2)**

**PERFORMANCE BOND**

This Bond is given and received under the authority of ORS Chapter 279, the provisions of which hereby are incorporated into this Bond and made a part hereof.

In Witness Whereof, the parties hereto have caused this Bond to be executed in \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

PRINCIPAL:

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

Title: \_\_\_\_\_

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

SURETY:

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

Title

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

Attorney-in-Fact

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

Agent

The Attorney-in-Fact who executes this bond in behalf of the surety company, must attach a copy of his power-of-attorney as evidence of his/her authority. To each executed original of this bond there must be attached a complete set of the CONTRACT DOCUMENTS, as the term is defined in the GENERAL CONDITIONS, with all corrections, interlineations, signatures, etc., completely reproduced therein.

## EXHIBIT 2 (Page 1 of 2)

### Payment Bond Form

KNOW ALL MEN BY THESE PRESENTS, That \_\_\_\_\_ as PRINCIPAL, hereinafter called PRINCIPAL, and \_\_\_\_\_ a corporation organized and existing under the laws of the State of Oregon, as SURETY, hereinafter called SURETY, are held and firmly bound unto the City of Prineville, Oregon, as OBLIGEE, hereinafter called CITY, for the use and benefit of claimants as herein below defined, in the amount \_\_\_\_\_ of DOLLARS AND \_\_\_\_\_ CENTS \$ \_\_\_\_\_ for the payment

Whereof PRINCIPAL and SURETY bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, PRINCIPAL has by written agreement dated \_\_\_\_\_ 2010, entered into an Agreement with CITY for construction of \_\_\_\_\_, in accordance with drawings and specifications which Agreement is by reference made a part hereof, and is hereinafter referred to as the Agreement.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that the PRINCIPAL shall promptly make payment to all claimants as hereinafter defined, for all labor and materials used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise, it shall remain in full force and effect, subject, however, to the following conditions:

(1) A claimant is defined as one having a direct Agreement with the PRINCIPAL or with a subcontractor of the PRINCIPAL for labor, material, or both, used or reasonably required for use in the performance of the Agreement, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment directly applicable to the Agreement.

(2) The above named PRINCIPAL and SURETY hereby jointly and severally agree with the CITY that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sum\$ as may be justly due claimant, and have execution thereon. The CITY shall not be liable for the payment of any costs or expenses of any such suit.

(3) No Suit of action shall be commenced hereunder by any claimant"

(A) Unless claimant, other than one having a direct Agreement with the PRINCIPAL, shall have given written notice to any two of the following: the PRINCIPAL, the CITY, or the SURETY above named, within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be

## EXHIBIT 2 (Page 2 of 2)

### Payment Bond

service by mailing the same by registered mail or certified mail, postage pre- paid, in an envelope addressed to the PRINCIPAL, CITY or SURETY, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the State of Oregon, save that such service need not be made by a public officer"

(B) After the expiration of one (1) year following the date on which PRINCIPAL ceased work on said Agreement, in being understood, however, that if any limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

(C) Other than is a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the project, or any part thereof, is situated, or in the United States District court for the district in which the project, or any part thereof, is situated, and not elsewhere.

(4) The amount of this bond shall be reduced by and to the extent of any payment of payments made in good faith hereunder, inclusive of the payment by SURETY of mechanics' liens which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 2010

In the presence of:

\_\_\_\_\_  
Witness

BY: \_\_\_\_\_ (SEAL)  
PRINCIPAL

BY: \_\_\_\_\_ (SEAL)  
SURETY

## EXHIBIT 3 (Page 1 of 2)

### City of Prineville Insurance Requirements

#### INSURANCE - PROOF OF COVERAGE

Work shall not commence until all insurance requirements have been met and certificates thereof have been filed with the City.

#### INSURANCE - PUBLIC LIABILITY AND PROPERTY DAMAGE

The contractor shall provide and maintain public liability and property damage insurance that protects the contractor and the City and its officers, agents and employees from any and all claims, demands, actions and suits for damage to property or personal injury, including death, arising from the contractor's work under this contract. The insurance shall provide coverage for not less than:

1. **General Liability Insurance** with a combined single limits of not less than \$1,000,000 for each occurrence and \$2,000,000 annual aggregate for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided under this contract, and shall provide that City of Prineville, and its agents, officers, and employees are Additional Insured but only with respect to the Contractor's services to be provide under this Contract.
2. **Automobile Liability insurance** with a combined single limit of not less than \$1,000,000 for each occurrence and \$2,000,000 annual aggregate for Bodily Injury and Property Damage, including coverage for owned, hired, or non-owned vehicles, as applicable.
3. **Professional Liability Insurance** with a combined single limit on not less that \$1,000,000 each claim, incident, or occurrence and \$2,000,000 annual aggregate for Bodily Injury and Property Damage This is to cover damages caused by error, omission or negligent acts related to the professional services to be provided under this contract.
4. **Workers' Compensation Insurance** Prior to the performance of any work under a contract awarded by the City, the contractor shall comply with the workers' compensation law, ORS Chapter 656, as it may be amended, and if workers' compensation insurance is required by ORS Chapter 656, the contractor shall maintain coverage for all subject workers as defined by ORS Chapter 656 and shall maintain a current, valid certificate of workers' compensation insurance on file with the City for the entire period during which work is performed under the contract.

Additional Insured may require inclusion of Oregon Department of Transportation and/or private property owners in addition to the City of Prineville.

Certificates of Insurance – As evidence of the insurance coverage's required by this Contract, the Contractor shall furnish certificate(s) to the Owner within ten calendar days of notification to award the contract. The certificate(s) will specify all of the parties who are additional insured's (or loss payees). Insurance coverage required under this Contract shall be obtained from acceptable insurance companies or entities as approved by the City. Contractor shall be financially responsible for all deductibles, self-insured retentions and/or self insurance included hereunder.

Offerors must satisfy these insurance requirements by obtaining insurance coverage from insurance companies or entities acceptable to City that are allowed to provide such insurance under Oregon law. The Contractor shall provide insurance coverage's as described in Exhibit 6 as stated herein.

## **EXHIBIT 3 (Page 2 of 2)**

### **City of Prineville Insurance Requirements**

The insurance shall be without prejudice to coverage otherwise existing, and shall name as additional insured's the City and its officers, agents and employees. Notwithstanding the naming of additional insured's, the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured.

The coverage shall apply as to claims between insured's on the policy. Each insurance policy shall provide that the insurance shall not terminate or be canceled without thirty (30) days written notice first being given to the City. If the insurance is canceled or terminated prior to completion of the contract, the contractor shall provide a new policy with the same terms. The contractor agrees to maintain continuous, uninterrupted coverage for the duration of the contract. The insurance shall include coverage for any damages or injuries arising out of the use of automobiles or other motor vehicles by the contractor. Failure to maintain and provide proof of the above insurance shall be cause for immediate termination of the contract by the City.

**Send your Certificates of Insurance to the City of Prineville, Att: Cindy MacDonald at**  
387 NE Third Street, Prineville, OR 97754, or FAX it to (541) 447-5628.

**EXHIBIT 4 (Page 1 of 2)**

**AFFIDAVIT #1  
(SUBMIT THIS FORM AT TIME OF FINAL PAYMENT REQUEST)**

TO: CITY OF PRINEVILLE, OREGON

RE: "2010 Spring Overlay and Prineville Freight Depot Paving Project"

GENTLEMEN:

COMES NOW \_\_\_\_\_

doing business as \_\_\_\_\_

who being first duly sworn, deposes and says:

That all sums due to suppliers, material-men, subcontractors, sub-subcontractors, employees and government agencies for wages, goods, services, products, or equipment furnished in connection with the above project have been paid in full. Except as hereinafter stated, this includes, but not limited to all State and Federal withholding taxes, worker's compensation insurance, Oregon unemployment insurance, FUTA unemployment insurance, and social security taxes.

The only obligations which have not been paid and which are known to us are as follows:

- 1. \_\_\_\_\_ \$ \_\_\_\_\_
- 2. \_\_\_\_\_ \$ \_\_\_\_\_
- 3. \_\_\_\_\_ \$ \_\_\_\_\_
- 4. \_\_\_\_\_ \$ \_\_\_\_\_
- 5. \_\_\_\_\_ \$ \_\_\_\_\_

If extra space is needed, please attach an extra sheet, date and sign.

WE HEREBY authorize you to pay from the remaining funds, the foregoing obligations by making a check payable to us and to the unpaid creditor/s jointly.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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

Title: \_\_\_\_\_



## **EXHIBIT 5**

### **General Conditions**

**See City of Prineville Standards and Specifications**

# EXHIBIT 6

## Contractor Requirements

A. Contractor shall:

1. Make payment promptly, as due, to all persons supplying to the Contractor labor or materials for the performance of the work provided for in the Contract.
2. Pay all contributions or amounts due the Industrial Accident Fund from the Contractor or Subcontractor incurred in the performance of the Contract.
3. Not permit any lien or claim to be filed or prosecuted against the Owner, on account of any labor or material furnished.
4. Pay to the Department of Revenue all sums withheld from employees under ORS 316.167.
5. Promptly, as due, make payment to any person, co-partnership, association, or corporation furnishing medical, surgical and hospital care services, or other needed care and attention, incident to sickness or injury, to the employees of the Contractor, of all sums that the Contractor agrees to pay for the services and all monies and sums that the Contractor collected or deducted from the wages of employees under any law, contract, or agreement for the purpose for providing or paying for the services.
6. To have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt under ORS 279C.836(4), (7), (8), or (9);
7. To include in every subcontract a provision requiring the subcontractor to have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt under ORS 279C.836 (4), (7), (8), or (9).

B. 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 the public improvement contract as the claim becomes due, the proper officer or officers representing the owner 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 the contractor by reason of the contract.

If the contractor or a first-tier subcontractor fails, neglects, or refuses to make payment to a person furnishing labor or materials in connection with the public improvement contract within 30 days after receipt of payment from the contracting agency or a contractor, the contractor or first-tier subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 10-day period that payment is due under ORS 279C.580 (4) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest charged to the contractor or first-tier subcontractor on the amount due shall equal three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is 30 days after the date when payment was received from the contracting agency or from the contractor, but the rate of interest may not exceed 30 percent. The amount of interest may not be waived.

If the contractor or a subcontractor fails, neglects, or refuses to make payment to a person furnishing labor or materials in connection with this Contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580.

The payment of a claim in the manner authorized in this Section B does not relieve the contractor or the contractor's surety from obligation with respect to any unpaid claims.

C. No person may be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as defined in ORS 279C.100, the employee shall be paid at least time and a half pay:

1. (a) 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  
  
(b) 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
2. For all work performed on Saturday and on any legal holiday specified in ORS 279C.540.