



## **City of Tigard**

13125 SW Hall Blvd  
Tigard, Oregon 97223  
Phone: (503) 639-4171

### **CONTRACT DOCUMENTS**

for the construction of

## **2018 Pavement Management Program**

### **Pavement Rehabilitation**

**Project No.: CIP 2018-95001 OL**

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Approved by: Mike McCarthy, P.E., Senior Project Engineer

**Bid Due & Bids Open: May 1, 2018 - 2:00 pm**

**ADVERTISEMENT FOR BIDS  
CITY OF TIGARD  
2018 PAVEMENT MANAGEMENT PROGRAM  
PAVEMENT REHABILITATION**

The City of Tigard will receive sealed bids from firms qualified to perform services on the City's 2018 Pavement Management Program – Pavement Rehabilitation project. Bids will be received at Tigard City Hall's Utility Billing Counter (Attention: Joe Barrett, Sr. Management Analyst) located at 13125 SW Hall Blvd., Tigard, Oregon 97223 until 2:00 pm local time, May 1, 2018. Bids will be opened and publicly read aloud immediately after the Bid Closing time and date at Tigard City Hall.

The project generally consists of the following:

1. Construction of asphaltic concrete thin pavement overlays and normal pavement inlays and overlays
2. Asphalt concrete removal (grinding)
3. Applying sealant along pavement edges and joints
4. Temporary signage, protection, and traffic control
5. Striping and pavement marking
6. Construction of concrete curbs ramps, islands and driveways
7. Performance of additional and incidental work as called for by the specifications and plans.

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

Pursuant to Tigard Public Contracting Rule 30.055, all Bidders must submit a Bid security to the City along with their Bid in an amount equal to ten percent (10%) of their Bid. Because the City's estimate of contract value exceeds \$100,000, Bidders must submit a First Tier Subcontractor Disclosure Form, provided in this Bid Booklet, to the City no later than 4:00 pm local time, May 1, 2018.

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

No Bid will be considered unless fully completed in a manner provided in the Bid Packet. Facsimile and electronic (email) Bids will not be accepted nor will Bids be accepted after the stated Bid Closing. Bids received after the Bid Closing will be returned to the submitting firm unopened after a Contract has been awarded for the required services.

Bid Documents may be obtained in person at Tigard City Hall's Utility Billing Counter located at 13125 SW Hall Blvd., Tigard, Oregon 97223; or downloaded from the City of Tigard website at [www.tigard-or.gov/bids](http://www.tigard-or.gov/bids). The City may reject any Bid not in compliance with all prescribed public bidding procedures and requirements, and may reject for good cause any or all Bids upon a finding of the City if it is in the public interest to do so.

All questions about the meaning or intent of the Bid Documents shall be submitted to the Engineer in writing by e-mail. Contact the Engineer, Mike McCarthy at [mikem@tigard-or.gov](mailto:mikem@tigard-or.gov) or 503-718-2462 with any questions. Clarifications to the Bid Documents will be made by addenda only. Oral statements may not be relied upon by Bidders and will not be binding or legally effective.

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Date: Monday, April 16, 2018

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Date: Thursday, April 13, 2018

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**Drawings**            2018 Pavement Management Program – Pavement Rehabilitation  
                              Sheets 1 through 65

Dated: April 5, 2018

**ATTACHMENT A – BIDDER’S CHECKLIST  
CITY OF TIGARD  
2018 PAVEMENT MANAGEMENT PROGRAM  
PAVEMENT REHABILITATION**

**FORMS TO EXECUTE FOR SUBMISSION OF BID**

The Bidder's attention is especially called to the following forms which must be executed in full before Bid is submitted:

ATTACHMENT B - BID

ATTACHMENT C – ACKNOWLEDGMENT OF ADDENDA

ATTACHMENT D – BID CERTIFICATION

ATTACHMENT E – FIRST TIER SUBCONTRACTOR DISCLOSURE FORM: within 2 hours of Bid Closing.

ATTACHMENT F – BID BOND

**FORMS TO EXECUTE AFTER AWARD OF BID**

ATTACHMENT G – PUBLIC IMPROVEMENT CONTRACT – PWR COVERED CONTRACT

ATTACHMENT H – PUBLIC IMPROVEMENT CONTRACT – PERFORMANCE BOND

ATTACHMENT I – PUBLIC IMPROVEMENT CONTRACT – PAYMENT BOND

Certificate of Insurance including Additional Insured Provision in accordance with the Public Improvement Contract.



**ATTACHMENT B – BID  
CITY OF TIGARD  
2018 PAVEMENT MANAGEMENT PROGRAM  
PAVEMENT REHABILITATION**

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

Project: 2018 Pavement Management Program – Pavement Rehabilitation \_\_\_\_\_

Bid Due Date: Tuesday, May 1, 2018 – 2:00 pm \_\_\_\_\_

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

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

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

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

\_\_\_\_\_ and \_\_\_\_/100 Dollars (\$\_\_\_\_\_)

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

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

**BID SCHEDULE**  
**2018 PAVEMENT MANAGEMENT PROGRAM**  
**PAVEMENT REHABILITATION**

Item No.	Spec. Sec.	Item Description	Unit	Quantity	Unit Cost	Total Cost
<b>ROADWORK</b>						
1	00305	CONSTRUCTION SURVEY WORK	LS	1		
2	00310	REMOVAL OF SURFACINGS	SQYD	870		
<b>Subtotal</b>						
<b>DRAINAGE AND SEWERS</b>						
3	00490	MINOR ADJUSTMENT OF MANHOLES (MANHOLE FRAME ADJUSTMENT: METHOD C)	EACH	13		
4	00490	ADD OR REPLACE MANHOLE PAVING RINGS	EACH	2		
5	00490	ADJUSTING CATCH BASINS	EACH	11		
6	00490	REPLACE OR INSTALL MONUMENT BOXES	EACH	1		
7	00490	ADJUSTING MONUMENT BOXES	EACH	3		
8	00490	ADJUSTING WATER OR GAS VALVE BOXES	EACH	58		
<b>Subtotal</b>						
<b>BASES</b>						
9	00620	COLD PLANE PAVEMENT REMOVAL, 0 - 1 INCHES DEEP	SQYD	1,408		
10	00620	COLD PLANE PAVEMENT REMOVAL, 0 - 2 INCHES DEEP	SQYD	183		
11	00620	COLD PLANE PAVEMENT REMOVAL, 1 INCHES DEEP	SQYD	331		
12	00620	COLD PLANE PAVEMENT REMOVAL, 2.5 INCHES DEEP	SQYD	10,400		
13	00620	COLD PLANE PAVEMENT REMOVAL, 3 INCHES DEEP	SQYD	2,697		
14	00620	COLD PLANE PAVEMENT REMOVAL, 4 INCHES DEEP	SQYD	277		
15	00640	AGGREGATE SHOULDERS	TON	63		
16	00640	AGGREGATE BASE	TON	120		
<b>Subtotal</b>						
<b>WEARING SURFACES</b>						
17	00705	EMULSIFIED ASPHALT FOR FOG COAT	TON	5.4		
18	00730	EMULSIFIED ASPHALT FOR TACK COAT	TON	10.2		
19	00744	LEVEL 2, 1/2 INCH ACP MIXTURE	TON	1,009		
20	00744	LEVEL 3, 1/2 INCH ACP MIXTURE	TON	2,444		
21	00744	LEVEL 3, 3/8 INCH ACP MIXTURE	TON	692		
22	00744	CURB SEALING	FOOT	3,283		
23	00744	6 INCH WIDE EDGE SEAL	FOOT	970		
24	00749	EXTRA FOR SPOT GRIND AND INLAY AREAS	SQYD	312		
25	0749	ASPHALT BERMS	FOOT	30		

Item No.	Spec. Sec.	Item Description	Unit	Quantity	Unit Cost	Total Cost
26	00749	ASPHALT DRIVEWAY CONNECTIONS AND SLOPE PAVING	SQFT	123		
27	00759	CONCRETE CURBS, CURB AND GUTTER	FOOT	93		
28	00759	CONCRETE CURBS, STANDARD CURB	FOOT	1,044		
29	00759	CONCRETE CURBS, GRADE CORRECTION	FOOT	379		
30	00759	CONCRETE DRIVEWAYS, REINFORCED	SQFT	157		
31	00759	CONCRETE ISLANDS	SQFT	145		
32	00759	CONCRETE WALKS	SQFT	6,015		
<b>Subtotal</b>						
<b>PERMANENT TRAFFIC SAFETY AND GUIDANCE DEVICES</b>						
33	00855	MONO-DIRECTIONAL WHITE TYPE 1AR MARKERS	EACH	45		
34	00855	BI-DIRECTIONAL YELLOW TYPE 1AR MARKERS	EACH	434		
35	00855	BI-DIRECTIONAL BLUE TYPE 1AR MARKERS	EACH	17		
36	00865	THERMOPLASTIC, EXTRUDED, SURFACE, NON-PROFILED	FOOT	31,314		
37	00867	PAVEMENT LEGEND, TYPE B-HS: ARROWS	EACH	40		
38	00867	PAVEMENT LEGEND, TYPE B-HS: BICYCLE LANE STENCIL	EACH	28		
39	00867	PAVEMENT BAR, TYPE B-HS	SQFT	682		
<b>Subtotal</b>						
<b>BID TOTAL \$</b> _____						
_____ <b>And</b> _____/100 <b>Dollars</b>						
<b>BID TOTAL IN WORDS</b>						

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

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

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

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

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

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

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

The successful Bidder hereby certifies that all subcontractors who will perform construction work as described in ORS 701.005(2) were registered with the Construction Contractors Board in accordance with ORS 701.035 to 701.055 at the time the subcontractor(s) made a Bid to work under the Contract.



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

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

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

\_\_\_\_\_

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

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

**Email:** \_\_\_\_\_

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

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

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

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

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

**ATTACHMENT C – ACKNOWLEDGMENT OF ADDENDA  
CITY OF TIGARD  
2018 PAVEMENT MANAGEMENT PROGRAM  
PAVEMENT REHABILITATION**

I/WE HAVE RECEIVED THE FOLLOWING ADDENDA:

*If none received, write "None Received"*

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

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

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

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Title

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

**ATTACHMENT D – BID CERTIFICATION  
CITY OF TIGARD  
2018 PAVEMENT MANAGEMENT PROGRAM  
PAVEMENT REHABILITATION**

**Non-discrimination Clause**

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

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

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

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

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

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

**ATTACHMENT E – FIRST TIER SUBCONTRACTOR DISCLOSURE FORM  
CITY OF TIGARD  
2018 PAVEMENT MANAGEMENT PROGRAM  
PAVEMENT REHABILITATION**

**BID #:** CIP 2018-95001 OL      **CLOSING: Date:** May 1, 2018      **Time:** 2:00 pm

This form must be submitted at the location specified in the Advertisement for Bids on the advertised Bid closing date and within two working hours after the advertised Bid closing time.

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

	<b>NAME</b>	<b>DOLLAR VALUE</b>	<b>CATEGORY OF WORK</b>
1)	_____	\$ _____	_____
2)	_____	\$ _____	_____
3)	_____	\$ _____	_____
4)	_____	\$ _____	_____

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

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

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

**ATTACHMENT F – BID BOND**  
**CITY OF TIGARD**  
**2018 PAVEMENT MANAGEMENT PROGRAM**  
**PAVEMENT REHABILITATION**

We, \_\_\_\_\_, as “Principal,”  
(Name of Principal)

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

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

**WHEREAS**, the condition of the obligation of this bond is the Principal has submitted a Bid to the Obligee in response to Obligee’s solicitation for the project identified as 2018 Pavement Management Program – Pavement Rehabilitation, which Bid is made a part of this bond by reference, and Principal is required to furnish Bid security in an amount equal to ten percent (10%) of the total amount of the Bid pursuant to the solicitation document.

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

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

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

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

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

BY ATTORNEY-IN-FACT

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

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

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

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

**ATTACHMENT G – PUBLIC IMPROVEMENT CONTRACT  
PWR COVERED PROJECT  
CITY OF TIGARD  
2018 PAVEMENT MANAGEMENT PROGRAM  
PAVEMENT REHABILITATION**

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

**RECITALS**

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

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

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

**TERMS OF AGREEMENT**

**1. Services**

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

- A. Construction of asphaltic concrete thin pavement overlays and normal pavement inlays and overlays
- B. Asphalt concrete removal (grinding)
- C. Applying sealant along pavement edges and joints
- D. Temporary signage, protection, and traffic control
- E. Striping and pavement marking
- F. Construction of concrete curbs ramps, islands and driveways
- G. Performance of additional and incidental work as called for by the specifications and plans.

**2. Contract Documents**

The Contractor is hereby bound to comply with all requirements of the Contract Documents prepared by the City and performance pertaining to this Agreement, in the City of Tigard, Oregon, and by this reference made a part hereof to the same legal force and effect as if set forth herein in full.

**3. Compensation**

- A. City agrees to pay Contractor (Enter amount in written form) Dollars (\$Enter amount in numerical form) for performance of those services provided herein.
- B. City certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract during the current fiscal year. Funding in future fiscal years shall be contingent upon budgetary approval by the Tigard City Council.

**4. Early Termination**

- A. This Agreement may be terminated without cause prior to the expiration of the agreed upon term by mutual written consent of the parties and for the following reasons:
  - 1) If work under the Contract is suspended by an order of a public agency for any reason considered to be in the public interest other than by a labor dispute or by reason of any third party judicial proceeding relating to the work other than a suit or action filed in regard to a labor dispute; or

2) If the circumstances or conditions are such that it is impracticable within a reasonable time to proceed with a substantial portion of the Contract.

B. Payment of Contractor shall be as provided by ORS 279C.660 and shall be prorated to and include the day of termination and shall be in full satisfaction of all claims by Contractor against City under this Agreement.

C. Termination under any provision of this paragraph shall not affect any right, obligation, or liability of Contractor or City which accrued prior to such termination.

#### 5. Cancellation with Cause

A. City may terminate this Agreement effective upon delivery of written notice to Contractor, or at such later date as may be established by City, under any of the following conditions:

- 1) If City funding from federal, state, local, or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services. This Agreement may be modified to accommodate a reduction in funds,
- 2) If Federal or State regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement,
- 3) If any license or certificate required by law or regulation to be held by Contractor, its Subcontractors, agents, and employees to provide the services required by this Agreement is for any reason denied, revoked, or not renewed, or
- 4) If Contractor becomes insolvent, if voluntary or involuntary petition in bankruptcy is filed by or against Contractor, if a receiver or trustee is appointed for Contractor, or if there is an assignment for the benefit of creditors of Contractor.

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

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

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

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

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

**6. Force Majeure**

Neither City nor Contractor shall be considered in default because of any delays in completion of responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the party so disabled, including, but not restricted to, an act of God or of a public enemy, volcano, earthquake, fire, flood, epidemic, quarantine, restriction, area-wide strike, freight embargo, unusually severe weather or delay of Subcontractor or suppliers due to such cause; provided that the party so disabled shall within ten (10) days from the beginning of such delay, notify the other party in writing of the causes of delay and its probable extent. Such notification shall not be the basis for a claim for additional compensation. Each party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under Contract.

**7. Nonwaiver**

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

**8. Attorney's Fees**

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

**9. Governing Law**

The provisions of this Agreement shall be construed in accordance with the provisions of the laws of the State of Oregon. Any action or suits involving any questions arising under this Agreement must be brought in the appropriate court of the State of Oregon.

**10. Indemnification**

Contractor agrees to indemnify and defend the City, its officers, agents and employees and hold them harmless from any and all liability, causes of action, claims, losses, damages, judgments or other costs or expenses including attorney's fees and witness costs and (at both trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity which in any way arise from, during or in connection with the performance of the work described in this Contract, except liability arising out of the sole negligence of the City and its employees. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this indemnification.

**11. Insurance**

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

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

- A. Commercial General Liability Insurance:** Contractor shall obtain, at contractor's expense, and keep in effect during the term of this Contract, Comprehensive General Liability Insurance covering Bodily Injury and Property Damage on an "occurrence" form (CG 2010 1185 or equivalent). This coverage shall include Contractual Liability insurance for the indemnity provided under this Contract. The following insurance will be carried:



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

- B. Commercial Automobile Insurance:** Contractor shall also obtain, at Contractor’s expense, and keep in effect during the term of the Contract, “Symbol 1” Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than \$2,000,000.
- C. Workers’ Compensation Insurance:** The Contractor, its Subcontractors, if any, and all employers providing work, labor or materials under this Contract are subject employers under the Oregon Workers’ Compensation Law and shall comply with ORS 656.017, which requires them to provide workers’ compensation coverage that satisfies Oregon law for all their subject workers. Out-of-state employers must provide Oregon workers’ compensation coverage for their workers who work at a single location within Oregon for more than 30 days in a calendar year. Contractors who perform work without the assistance or labor of any employee need not to obtain such coverage.” This shall include Employer’s Liability Insurance with coverage limits of not less than \$1,000,000 each accident.
- D. Additional Insured Provision:** The City of Tigard, Oregon, its officers, directors, and employees shall be added as additional insureds with respect to this contract. All Liability Insurance policies will be endorsed to show this additional coverage.
- E. Insurance Carrier Rating:** Coverage provided by the Contractor must be underwritten by an insurance company deemed acceptable by the City. The insurance carrier shall have a minimum of an AM Best Rating “A” with a financial strength of VII or better. The City reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
- F. Certificates of Insurance:** A copy of each insurance policy, certified as a true copy by an authorized representative of the issuing insurance company, or at the discretion of City, in lieu thereof, a certificate in form satisfactory to City certifying to the issuance of all such insurance provisions of this Contract shall be forwarded to:

City of Tigard  
 Attn: Office of Contracts and Purchasing  
 13125 SW Hall Blvd  
 Tigard, Oregon 97223

Such policies or certificates must be delivered prior to commencement of the work and no Contract shall be effected until the required certificates have been received and approved by the City. Ten days cancellation notice shall be provided City by certified mail to the name at the address listed above in event of cancellation or non-renewal of the insurance. A renewal certificate will be sent to the above address 10 days prior to coverage expiration. The procuring of such required insurance shall not be construed to limit Contractor’s liability hereunder. Notwithstanding said insurance, Contractor shall be obligated for the total amount of any damage, injury, or loss connected with this Contract.

- G. Primary Coverage Clarification:** All parties to this contract hereby agree that the contractor's coverage will be primary in the event of a loss.

**H. Cross-Liability Clause:** A cross-liability clause or separation of insureds clause will be included in all general liability, and pollution policies required by this Contract.

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

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

CITY OF TIGARD		(CONTRACTOR)	
Attn:	Mike McCarthy, P.E.	Attn:	(insert contract manager's name)
Address:	13125 SW Hall Boulevard Tigard, Oregon 97223	Address:	(insert contract manager's address)
Phone:	503-718-2462	Phone:	(insert #)
Email:	mikem@tigard-or.gov	Email:	(insert address)

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

**13. Severability**

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

**14. Representations and Warranties**

Contractor represents and warrants to the City that:

- A. Contractor has the power and authority to enter into and perform this Agreement.
- B. This Agreement, when executed and delivered, is a valid and binding obligation of Contractor, enforceable in accordance with its terms.
- C. Contractor (to the best of Contractor’s knowledge, after due inquiry), for a period of no fewer than six calendar years (or since the firm’s inception if less than that) preceding the effective date of this Agreement, faithfully has complied with:
  - 1) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
  - 2) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor’s property, operations, receipts, or income, or to Contractor’s performance of or compensation for any work performed by Contractor;
  - 3) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and
  - 4) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.
- D. Any intellectual property rights or such delivered to the City under this Agreement, and Contractor’s services rendered in the performance of Contractor’s obligations under this Agreement, shall be provided to the City free and clear of any and all restrictions on or conditions of use, transfer, modification, or

assignment, and shall be free and clear of any and all liens, claims, mortgages, security interests, liabilities, charges, and encumbrances of any kind.

**15. Compliance with Tax Laws**

- A. Contractor must, throughout the duration of this Agreement and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of the State of Oregon. For the purposes of this Section, “tax laws” includes all the provisions described in subsection 14.C. 1) through 4) of this Agreement.
  
- B. Any violation of subsection A of this section shall constitute a material breach of this Agreement. Any violation shall entitle the City to terminate this Agreement, to pursue and recover any and all damages that arise from the breach and the termination of this Agreement, and to pursue any or all of the remedies available under this Agreement, at law, or in equity, including but not limited to:
  - 1) Termination of this Agreement, in whole or in part;
  - 2) Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to State’s setoff right, without penalty; and
  - 3) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. The City shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Agreement, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing a replacement Contractor.

These remedies are cumulative to the extent the remedies are not inconsistent, and the City may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

**16. Complete Agreement**

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

**IN WITNESS WHEREOF**, City has caused this Agreement to be executed by its duly authorized undersigned officer and Contractor has executed this Agreement on the date hereinabove first written. Approved by Tigard’s Local Contract Review Board at their \_\_\_\_\_ business meeting.

**CITY OF TIGARD**

**(CONTRACTOR)**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

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

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**ATTACHMENT H – PERFORMANCE BOND  
PUBLIC IMPROVEMENT CONTRACT  
CITY OF TIGARD  
2018 PAVEMENT MANAGEMENT PROGRAM  
PAVEMENT REHABILITATION**

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

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

\_\_\_\_\_ (Surety #1)  
\_\_\_\_\_ (Surety #2)\*

Bond Amount No. 1: \$ \_\_\_\_\_

Bond Amount No. 2:\* \$ \_\_\_\_\_

Total Penal Sum of Bond: \$ \_\_\_\_\_

*\* If using multiple sureties*

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

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

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

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

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

Said surety for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract, or the Work to be performed thereunder, or the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the Contract or to the Work or to the specifications.

This Performance Bond shall also guarantee the subject project against defects in materials or workmanship for a period of one (1) year from the date of written Substantial Completion acceptance of the subject project by the City of Tigard.

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

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

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

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

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

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

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

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

**BY ATTORNEY-IN-FACT:**

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

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

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

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

**ATTACHMENT I – PAYMENT BOND  
PUBLIC IMPROVEMENT CONTRACT  
CITY OF TIGARD  
2018 PAVEMENT MANAGEMENT PROGRAM  
PAVEMENT REHABILITATION**

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

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

\_\_\_\_\_ (Surety #1)  
\_\_\_\_\_ (Surety #2)\*

Bond Amount No. 1: \$ \_\_\_\_\_

Bond Amount No. 2:\* \$ \_\_\_\_\_

Total Penal Sum of Bond: \$ \_\_\_\_\_

\* *If using multiple sureties*

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

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

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

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

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

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

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

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

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

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

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

Signature

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

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

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

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

**BY ATTORNEY-IN-FACT:**

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

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

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

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

**ATTACHMENT J – OREGON PREVAILING WAGE RATES  
CITY OF TIGARD  
2018 PAVEMENT MANAGEMENT PROGRAM  
PAVEMENT REHABILITATION**

May be downloaded from: [http://www.oregon.gov/boli/WHD/PWR/Pages/pwr\\_state.aspx](http://www.oregon.gov/boli/WHD/PWR/Pages/pwr_state.aspx)