

**AGREEMENT BETWEEN THE CITY OF RAPID CITY AND HIGHWAY
IMPROVEMENT INC. FOR ASPHALT SURFACE CRACK SEALING
PROJECT NO. ST12-2055**

This Agreement is made and entered into this ____ day of _____, 2012, by and between the City of Rapid City, located at 300 Sixth Street, Rapid City, South Dakota 57701, herein after referred to as the "City," and Highway Improvement Inc., P.O. Box 1803, Sioux Falls, South Dakota 57101, herein after referred to as the "Contractor."

WHEREAS, the City desires to retain a contractor to provide crack sealing services on asphalt streets within the City; and

WHEREAS, the Contractor was the lowest responsible bidder for the same service with Pennington County within the last twelve months; and

WHEREAS, the Contractor is willing to perform crack sealing for the City of Rapid City at the same price as it agreed to perform the work for Pennington County; and

WHEREAS, upon reviewing this bid, City engineering staff is of the opinion that this is a favorable rate for the work to be performed and awarding the contract to the Contractor for this amount is in the City's best interests; and

WHEREAS, the City is awarding this contract without competitive bidding pursuant to the exception contained in SDCL 5-18A-22(3), which allows a local government entity to purchase an item from the lowest responsible bidder of an item competitively bid in the last twelve months by itself, or another governmental entity, at or below the bid price.

NOW THEREFORE, the parties hereby agree as follows:

1. The Contractor shall provide crack sealing services to the City at a rate of \$0.62 per foot. The work shall be performed in accordance with the General and Special Conditions incorporated in the March 22, 2012, agreement with Pennington County and the City's Standard Specifications for Public Works Construction. If there is a conflict between the City's criteria and/or design standards and the general or special conditions contained in the contract with Pennington County, the City standards shall control.
2. The work to be performed under this Contract shall commence within ten (10) calendar days after the Contractor is notified by the City to proceed, and shall be completed on or before October 31, 2012.

Liquidated damages as provided in the Standard Specifications for Public Works Construction will be charged for failure to complete the project on or before the completion date as specified herein. Requests for time extensions shall be made in writing to the City as soon as possible before the project completion date. All time extensions will be issued by the City and will be granted only for good cause beyond the control of the Contractor.

3. The Contractor shall perform the work at the direction of the City Engineer or his designee. The Contractor shall invoice the City for work actually performed. The City shall promptly pay Contractor upon review and approval of the invoices. The City anticipates that 80,000 feet of crack sealing will be performed with a maximum total contract price of \$50,600. The Contractor will be paid for work actually performed at the rate described in paragraph one up to a maximum of \$50,600, which includes a \$500 mobilization fee and a \$500 fee for traffic control. The parties acknowledge that actual quantities and final payment may be less.
4. This Agreement along with the bid documents, Standard Specifications for Public Works Construction, and contract with Pennington County constitutes the entire agreement of the parties. Copies of the Pennington County documents are attached hereto and incorporated herein by this reference. No other documents or statements are incorporated herein.
5. This Agreement is governed under the laws of the State of South Dakota. Any action concerning this Agreement shall be venued in Pennington County, South Dakota in the Circuit Court for the Seventh Judicial Circuit.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(SEAL)

HIGHWAY IMPROVEMENT INC.



By: BRETT MEADOWS
Its: PROJECT MANAGER

State of South Dakota)
)
) ss.
County of Pennington)

On this the _____ day of _____, 2012, before me, the undersigned officer, personally appeared Sam Kooiker and Pauline Sumption, who acknowledged themselves to be the Mayor and Finance Officer, respectively, of the City of Rapid City, a municipal corporation, and that they, as such Mayor and Finance Officer, being duly authorized to do so, executed the foregoing Agreement for the purposes therein contained by signing the name of the City of Rapid City by themselves as its Mayor and Finance Officer.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

Notary Public, South Dakota

My Commission Expires:

(SEAL)

State of South Dakota)
) ss.
County of Minnehaha)

On this 20 day of August, 2012, before me, the undersigned officer, personally appeared Brett Meadors, who acknowledged himself to be the Project Manager of Highway Improvement Inc. and that as such, being duly authorized to do so, executed the foregoing instrument for the purposes herein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Lisa Schneiderman
Notary Public

My Commission Expires: 8-19-17

(SEAL)

