

**AGREEMENT FOR
PUBLIC WORK PAVEMENT REPAIR SERVICES**

This agreement made and entered into, by and between the CITY OF DAYTON, a Municipal Corporation of the State of Washington, doing business at 111 S. First Street, Dayton, Washington, hereinafter referred to as "CITY", and Humbert Asphalt, Inc., a state of Washington Corporation, doing business at 84899 Highway 11, Milton-Freewater, OR 97862, hereinafter referred to as "CONTRACTOR."

WITNESSETH:

WHEREAS, the purpose of this contract is to perform pavement repair on W. Washington Avenue to Cottonwood Avenue beginning at N. Front Street and ending at Patit Avenue; and

WHEREAS, City and Contractor desire to enter into an agreement to perform the said public works repairs; and

WHEREAS, the specific repair work is in furtherance of the City's and the public's interests.

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE MUTUAL COVENANTS HEREIN CONTAINED, THE PARTIES AGREE AS FOLLOWS:

1. **Purpose:** To complete pavement repairs as specifically described in Attachment "A", attached hereto and incorporated by this reference.
2. **Service Cost.** CONTRACTOR'S lump sum of \$55,000.00 for the specific public work repairs as described in Attachment "A", was accepted by CITY on the 12th day of September, 2018.
3. **Timeline.** The term of this agreement shall be no less than the completion of specific public work repairs as described in Attachment "A". The work contemplated in Attachment "A" shall be completed as mutually agreed by the Parties, but not later than 11/15/2018.
4. **Scope of Work.** CONTRACTOR shall, in a good and workman like manner, consistent with industry practices in Southeastern Washington, perform the work described in Attachment "A".
5. **General Conditions.**
 - a. Compliance with Federal, State and Local Laws. CONTRACTOR agrees to abide by all applicable federal and state statutes and regulations prohibiting employment discrimination, unfair practices and any other statutes and regulations pertaining to the subject matter of this Agreement.

- b. Wage Requirements. This is a public works contract as prescribed in Chapter 39.04 RCW. The State of Washington prevailing wage rates applicable for this public works project, which is located in Columbia County, may be found at the at the Department of Labor and Industries: <http://fortress.wa.gov/line/wagelookup/prvWagelookup.aspx>. The applicable date for prevailing wages for this project is September 12, 2018, based on date the contract was executed between the Contractor and the City. Upon request by the Contractor, the City shall mail a hard copy of the applicable prevailing wages specific to this project.
- c. Indemnification. CONTRACTOR agrees to be responsible for and assumes liability for its own negligent acts or omissions, and those of its officers, agents, officials, employees or volunteers in the performance of work pursuant to this agreement to the fullest extent provided by law, and agrees to save, indemnify, defend and hold the CITY harmless from any such liability. This indemnification clause shall apply to any and all causes of action arising out of performance of work under this agreement. The provisions of this section shall survive the expiration or termination of this agreement with respect to any event occurring prior to expiration or termination.

For purposes of the foregoing indemnification provision only, and only to the extent of claims against CONTRACTOR by the CITY under such indemnification provision, CONTRACTOR specifically and expressly waives any immunity it may be granted under the Washington State Industrial Insurance Act, Title 51 RCW. The indemnification obligation under this contract shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third party under workers' compensation acts, disability benefit acts, or other employee benefit acts.

- d. Severability. If any phrase, sentence or provision of this agreement is held invalid by a court of competent jurisdiction, such invalidity shall not affect the remainder of this agreement, and to this end the provisions of this agreement are declared to be severable.
- e. Attorneys' Fees. Should any party be the substantially prevailing party in a lawsuit to enforce any of the terms of this agreement then the substantially prevailing party shall be entitled to reimbursement from the other party its reasonable costs, expenses, attorneys' fees and expert witness fees, including such costs, expenses and fees incurred in any appeal.
- f. Assignment. No party to this Agreement may assign its rights or obligations arising from this Agreement, in whole or in part, without the prior written consent of the other party.

- g. Entire Agreement. This document contains all covenants, agreements and stipulations of the parties on the subject matter expressed herein. No changes, amendments or modifications of the terms of this agreement shall be valid unless reduced to writing and signed by the duly authorized representatives of both parties as an amendment to this agreement.
- h. Disputes. The laws of Washington State shall govern this Agreement. Venue for any action under this Agreement shall be in Columbia County, Washington.
- i. Waiver. The failure of any party to insist upon strict performance of any of the covenants or conditions of this Agreement in any one or more instances shall not be construed as a waiver of relinquishment for the future of any such covenants or conditions, but the same shall be and remain in full force and effect.

IN WITNESS WHEREOF, CITY and CONTRACTOR caused this agreement to be executed this 12TH day of SEPTEMBER, 2018.

City of Dayton

By:



Craig George, Mayor

Owner

Attest:



Trina Cole, City Clerk-Treasurer

Approved as to form:



Quinn Plant, City Attorney

ATTACHMENT "A"

Contractor shall complete an overlay of West Washington Street from North Front Street to North Cottonwood Street, and North Cottonwood Street from West Washington Street to West Patit Avenue. The overlay area is approximately 780' long x 18' wide. The work shall be completed per the attached exhibit, City of Dayton standard plans, WSDOT Standard Specifications, and per the following description.

- Excavate and install approximately 130 SY of 8" thick CSTC at the intersection of West Washington Street and North Cottonwood Street.
- Install CSTC shoulder rock 2'-4' wide along both sides of the overlay area to transition the new pavement to existing ground.
- Clean and tack coat West Washington Street and North Cottonwood Street prior to the pre-level.
- Pre-level West Washington Street and North Cottonwood Street prior to completing the overlay. It is assumed that the pre-level thickness will average 1".
- Overlay West Washington Street and North Cottonwood Street with a minimum of 2" thick HMA CL. ½". PG 64-28.
- Adjust existing utility casting(s) to grade within the overlay area.

All work shall be completed no later than November 15, 2018.

All work will be completed for the lump sum price of \$55,000.

Work shall be performed in accordance with the City of Dayton Design Standards for pavement repairs.

Contractor shall coordinate all work with the City Public Works Director or designee

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HUMBERT ASPHALT INC

Owner or tradesperson

Principals

HUMBERT, DAN LEE, PRESIDENT

HUMBERT, TROY ALLEN, VICE PRESIDENT

HUMBERT, TYLER LEE, SECRETARY

HUMBERT, JENNIFER

ELIZABETH, TREASURER

HUMBERT, CHARLEENE

FRANCIS, PRESIDENT

(End: 03/20/2017)

HUMBERT, CASEY DANIEL, SECRETARY

(End: 03/20/2017)

BEECHER CARLSON INSURANCE

AGEN, AGENT

(End: 03/20/2017)

Doing business as

HUMBERT ASPHALT INC

WA UBI No.

601 735 516

Business type

Corporation

Governing persons

DAN

L

HUMBERT

CHARLEENE F HUMBERT;

TROY HUMBERT;

CASEY HUMBERT;

JENNIFER HUMBERT;

License

Verify the contractor's active registration / license / certification (depending on trade) and any past violations.

Construction Contractor

Active.

Meets current requirements.

License specialties

GENERAL

License no.

HUMBEAI044QG

Effective — expiration

11/07/1996— 03/28/2019

Bond

Travelers Cas and Surety Co of America

\$12,000.00

Bond account no.

106492144

Received by L&I

05/23/2016

Effective date

07/01/2016

Expiration date

[Help us improve](#)

Until Canceled

Bond history**Insurance****BITCO General Ins Corp** \$1,000,000.00

Policy no.

CLP3664745

Received by L&I

02/09/2018

Effective date

02/10/2018

Expiration date

02/10/2019**Insurance history****Savings****No savings accounts during the previous 6 year period.****Lawsuits against the bond or savings****No lawsuits against the bond or savings accounts during the previous 6 year period.****L&I Tax debts****No L&I tax debts are recorded for this contractor license during the previous 6 year period, but some debts may be recorded by other agencies.****License Violations****No license violations during the previous 6 year period.****Workers' comp**

Do you know if the business has employees? If so, verify the business is up-to-date on workers' comp premiums.

L&I Account ID

867,974-01**Account is current.**

Doing business as

HUMBERT ASPHALT INC

Estimated workers reported

Quarter 2 of Year 2018 "0" Workers

L&I account contact

T4 / TERRI MADISON (360)902-4654 - Email: KIRT235@lni.wa.gov**Public Works Strikes and Debarments**

Verify the contractor is eligible to perform work on public works projects.

Contractor Strikes**No strikes have been issued against this contractor.****Contractors not allowed to bid****No debarments have been issued against this contractor.****Workplace safety and health**

No inspections during the previous 6 year period.

RCW 35.23.352**Public works—Contracts—Bids—Small works roster—Purchasing requirements, recycled or reused materials or products.**

(1) Any second-class city or any town may construct any public works, as defined in RCW 39.04.010, by contract or day labor without calling for bids therefor whenever the estimated cost of the work or improvement, including cost of materials, supplies and equipment will not exceed the sum of sixty-five thousand dollars if more than one craft or trade is involved with the public works, or forty thousand dollars if a single craft or trade is involved with the public works or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project.

Whenever the cost of the public work or improvement, including materials, supplies and equipment, will exceed these figures, the same shall be done by contract. All such contracts shall be let at public bidding upon publication of notice calling for sealed bids upon the work. The notice shall be published in the official newspaper, or a newspaper of general circulation most likely to bring responsive bids, at least thirteen days prior to the last date upon which bids will be received. The notice shall generally state the nature of the work to be done that plans and specifications therefor shall then be on file in the city or town hall for public inspections, and require that bids be sealed and filed with the council or commission within the time specified therein. Each bid shall be accompanied by a bid proposal deposit in the form of a cashier's check, postal money order, or surety bond to the council or commission for a sum of not less than five percent of the amount of the bid, and no bid shall be considered unless accompanied by such bid proposal deposit. The council or commission of the city or town shall let the contract to the lowest responsible bidder or shall have power by resolution to reject any or all bids and to make further calls for bids in the same manner as the original call.

When the contract is let then all bid proposal deposits shall be returned to the bidders except that of the successful bidder which shall be retained until a contract is entered into and a bond to perform the work furnished, with surety satisfactory to the council or commission, in accordance with RCW 39.08.030. If the bidder fails to enter into the contract in accordance with his or her bid and furnish a bond within ten days from the date at which he or she is notified that he or she is the successful bidder, the check or postal money order and the amount thereof shall be forfeited to the council or commission or the council or commission shall recover the amount of the surety bond. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

If no bid is received on the first call the council or commission may readvertise and make a second call, or may enter into a contract without any further call or may purchase the supplies, material or equipment and perform the work or improvement by day labor.

(2) The allocation of public works projects to be performed by city or town employees shall not be subject to a collective bargaining agreement.

(3) In lieu of the procedures of subsection (1) of this section, a second-class city or a town may let contracts using the small works roster process provided in RCW 39.04.155.

Whenever possible, the city or town shall invite at least one proposal from a minority or woman contractor who shall otherwise qualify under this section.

(4) The form required by RCW 43.09.205 shall be to account and record costs of public works in excess of five thousand dollars that are not let by contract.

(5) The cost of a separate public works project shall be the costs of the materials, equipment, supplies, and labor on that construction project.

(6) Any purchase of supplies, material, or equipment, except for public work or improvement, where the cost thereof exceeds seven thousand five hundred dollars shall be made upon call for bids.

(7) Bids shall be called annually and at a time and in the manner prescribed by ordinance for the publication in a newspaper of general circulation in the city or town of all notices or newspaper publications required by law. The contract shall be awarded to the lowest responsible bidder.

(8) For advertisement and formal sealed bidding to be dispensed with as to purchases with an estimated value of fifteen thousand dollars or less, the council or commission must authorize by resolution, use of the uniform procedure provided in RCW 39.04.190.

(9) The city or town legislative authority may waive the competitive bidding requirements of this section pursuant to RCW 39.04.280 if an exemption contained within that section applies to the purchase or public work.

(10) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(4), that are negotiated under chapter 39.35A RCW.

(11) Nothing in this section shall prohibit any second class city or any town from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

(12)(a) Any second-class city or any town may procure public works with a unit priced contract under this section for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

(b) For the purposes of this section, "unit priced contract" means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of the city or town, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price for each category of work.

(c) Unit priced contracts must be executed for an initial contract term not to exceed three years, with the city or town having the option of extending or renewing the unit priced contract for one additional year.

(d) Invitations for unit price bids shall include, for purposes of the bid evaluation, estimated quantities of the anticipated types of work or trades, and specify how the city or town will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. Contracts must be awarded to the lowest responsible bidder as per RCW 39.04.010. Whenever possible, the city or town must invite at least one proposal from a minority or woman contractor who otherwise qualifies under this section.

(e) Unit price contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts must have prevailing wage rates updated annually. Intents and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous twelve-month period of the unit priced contract.

[2018 c 74 § 2; 2009 c 229 § 4; 2002 c 94 § 2; 2000 c 138 § 204; 1998 c 278 § 3; 1996 c 18 § 2. Prior: 1994 c 273 § 9; 1994 c 81 § 18; 1993 c 198 § 10; 1989 c 431 § 56; 1988 c 168 § 3; 1987 c 120 § 2; prior: 1985 c 469 § 24; 1985 c 219 § 2; 1985 c 169 § 7; 1979 ex.s. c 89 § 2; 1977 ex.s. c 41 § 1; 1974 ex.s. c 74 § 2; 1965 c 114 § 1; 1965 c 7 § 35.23.352; prior: 1957 c 121 § 1; 1951 c 211 § 1; prior: (i) 1907 c 241 § 52; RRS § 9055. (ii) 1915 c 184 § 31; RRS § 9145. (iii) 1947 c 151 § 1; 1890 p 209 § 166; Rem. Supp. 1947 § 9185.]

NOTES:

Purpose—Part headings not law—2000 c 138: See notes following RCW 39.04.155.

Competitive bidding violations by municipal officer, penalties: RCW 39.30.020.

Subcontractors to be identified by bidder, when: RCW 39.30.060.

- g. Entire Agreement. This document contains all covenants, agreements and stipulations of the parties on the subject matter expressed herein. No changes, amendments or modifications of the terms of this agreement shall be valid unless reduced to writing and signed by the duly authorized representatives of both parties as an amendment to this agreement.
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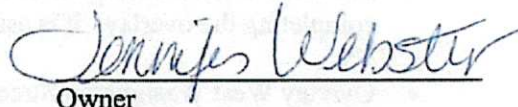
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City of Dayton



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