

RESOLUTION NO. 2290

A RESOLUTION OF THE CITY OF WILSONVILLE ACTING IN ITS CAPACITY AS ITS LOCAL CONTRACT REVIEW BOARD AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH BRIX PAVING TO PROVIDE CONSTRUCTION SERVICES FOR THE 2011 STREET MAINTENANCE PROGRAM (Project #4104)

WHEREAS, the adopted City FY 2010-11 Budget includes funding for annual street maintenance; and

WHEREAS, the City solicited Requests for Qualification for street maintenance construction services, received thirteen responses, performed a qualifications review of all responses, and pre-qualified six bidders on March 15, 2011; and

WHEREAS, competitive bids were requested from the 6 pre-qualified bidders and five bids were received and opened on April 21, 2011, with Brix Paving being the apparent low bidder at a cost of \$362,606.64; and

WHEREAS, the Brix Paving bid was reviewed and evaluated as accurate and responsive, and within the amounts appropriated by the City for the project; and

WHEREAS, no challenges or appeals were filed against the bid process within the required three working days after issuance of the Notice of Intent to Award on April 25, 2011.

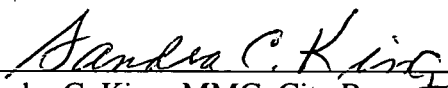
NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. The City Council serving in the role of Local Contract Review Board adopts the above recitals as findings and incorporates them by reference as if fully set forth herein.
2. The City Council serving in its role as Local Contract Review Board does hereby approve and authorize the execution of a Construction Contract for completion of the 2011 Road Maintenance Project (#4014) in the amount of Three Hundred and Sixty Two Thousand Six Hundred and Six Dollars and Sixty Four Cents (\$362,606.64) between the City of Wilsonville and Brix Paving, a copy of which is attached hereto and incorporated herein.
3. This resolution shall be effective upon adoption.

ADOPTED by the City of Wilsonville at a regular meeting thereof this 16th day of May, 2011 and filed with the Wilsonville City Recorder this date.


TIM KNAPP, MAYOR

ATTEST:


Sandra C. King, MMC, City Recorder

SUMMARY OF VOTES:

Mayor Knapp	Yes
Councilor Starr	Yes
Councilor Núñez	Yes
Councilor Goddard	Yes
Councilor Hurst	Excused

Attachments: City of Wilsonville AGREEMENT w/ Brix Paving
Brix Paving Bid Proposal

BID PROPOSAL

City Council
City of Wilsonville
29799 SW Town Center Loop East
Wilsonville, OR 97070

This Bid Proposal is submitted as an offer by the undersigned to enter into contract with the City of Wilsonville, hereinafter referred to as the "Owner," to furnish all labor, material, equipment and services required for the construction of the 2011 Street Maintenance Program project in Wilsonville, Oregon as noted in the completed schedule listed hereinafter and as shown on those detailed Specifications and which are a condition hereof with the same force and effect as though they were attached hereto. This offer is conditioned on the following declarations as to the acts, intentions and understandings of the undersigned and the agreement of the City of Wilsonville to the term and prices herein submitted.

1. The undersigned, hereinafter called the "Bidder," declares that the only persons or parties interested in this Bid Proposal are those named herein, that the Bid Proposal is in all respects fair and without fraud, and that it is made without any connection or collusion with any person making another Bid Proposal on this Contract.
2. The Bidder further declares that they have carefully examined the Specifications for the construction of the proposed improvements; that they have personally inspected the contemplated construction area or areas; that they have satisfied themselves as to the quantities of materials, items of equipment, and conditions of work involved, including the fact that the description of work and materials as included herein is brief and is intended only to indicate the general nature of such items and to identify the said quantities with the detailed requirements of the Specifications; and that this Bid Proposal is made according to the provisions and under the terms of the Specifications which are hereto attached and are hereby made a part of this Bid Proposal.
3. The Bidder agrees that if this Bid Proposal is accepted, they will, within ten (10) calendar days after the notification of acceptance, execute the Contract with the Owner in the form of contract specified, and will, at the time of execution of the Contract, deliver to the Owner the Performance and Payment Bonds required herein, and will, to the extent of this Bid Proposal, furnish all the materials necessary to complete the work by September 01, 2011 according to methods as specified in the Specifications and required by the Project Engineer.
4. All of the Specifications and the Plans, which are listed herein, have been examined by the undersigned and their terms and conditions are hereby accepted.
5. It is understood that the Contract Plans may be supplemented by additional drawings and specifications in explanation and elaboration of the Contract Plans. It

is agreed that such supplemental drawings, where not in conflict with those referred to in paragraph 4 above, will have the same force and effect as if completed and attached hereto, and that when received, they will be considered a part of the Contract Documents.

6. It is understood that all work be performed under the Bid Schedule outlined herein and that for said prices, all services, material, labor, equipment and all work necessary to complete the project in accordance with the Plans and Specifications shall be furnished for the said prices named. If there shall be an increase in the scope of the work covered by the Bid Schedule, it shall be computed on the basis of "extra work" for which an increase in payment will have been earned and if there be a decrease in the Scope of Work, it shall be made only as a result of negotiation between the undersigned and the Owner. Furthermore, it is understood that any estimate with respect to time, materials, equipment or service which may appear on the Plans or in the Specifications, is for the sole purpose of assisting the undersigned in checking their own independent calculations and at no time shall the undersigned attempt to hold the Owner, the Project Engineer, or any other person, firm or corporation, responsible for any errors or omissions that may appear in any estimate. In addition, the Contractor shall notify and obtain approval from the Project Manager of any overtime operations as soon as possible but no less than 48-hours before the work is to occur.
7. The cash, certified check, or bid bond accompanying this Bid Proposal shall be payable to the City of Wilsonville to the extent of 10% of the amount of the bid in case this BID PROPOSAL is accepted by the Owner and the undersigned shall fail or refuse to execute the Contract and furnish a Performance and Payment Bond as required by the Specifications within the time limit named therein after notification that said BID PROPOSAL is accepted, all in accordance with the provisions of this BID PROPOSAL and the Plans and Specifications which are a part hereof.

8. QUALIFICATIONS FOR INSURANCE AND BONDING COMPANIES

Minimum Financial Security Requirements. All bonding and insurance companies providing insurance or bonds required by the Contract must meet certain minimum financial security requirements. These requirements conform to the rating published by A.M. Best & Co. and a current Bests Key Rating Guide-Property-Casualty. All companies providing bonds or insurance under this Contract must:

- o Have a current Bests Rating not less than A- and current;
- o Have a current Bests Financial Size Category not less than Class IX;
- o Be authorized to conduct and transact insurance and surety contracts in State of Oregon; and
- o Be a U.S. Treasury Circular 570 listed company, if providing payment or performance bonds.

Failure to Meet Minimum Financial Security Requirements. If the issuing company does not meet these minimal requirements, or for any other reason is unsatisfactory to Owner, written notification will be made by Owner to Operator, who must promptly obtain a new policy or bond issued by an insurer/surety acceptable to Owner and will submit evidence of that satisfaction to Owner.

9. All items for the Contract for which forms are provided herein have been completed in full by the showing of lump sum price or prices for each and every item thereof, and for the showing of other information indicated by the Bid Proposal form.
10. The undersigned agrees that the "time of completion" shall be as defined in the Agreement of these Specifications and that they will complete the work within the specified time after "Notice to Proceed" has been issued by the Owner.
11. Final Acceptance completion for this section shall be when all contract work is physically completed and approved by the City. The final punch list shall also be complete to the approval of the engineer.

12. Maintenance Warranties and Guarantees

- A. In addition to and not in lieu of any other warranties required under the Contract make all necessary repairs and replacements to remedy, in a manner satisfactory to the Engineer and at no cost to Owner, any and all defects, breaks, or failures of the Work occurring within two (2) years following the date of completion due to faulty or inadequate materials or workmanship. Repair damage or disturbances to other improvements under, within, or adjacent to the Work, whether or not caused by settling, washing, or slipping, when such damage or disturbance is caused, in whole or in part, from activities of the Contractor in performing his/her duties and obligations under this Contract when such defects or damage occur within the warranty period. The two-year maintenance period required shall, with relation to such required repair, be extended two years from the date of completion of such repair.
 - B. If Contractor, after written notice, fails within **ten (10) days** to proceed to comply with the terms of this section, Owner may have the defects corrected, and Contractor and Contractor's Surety shall be liable for all expense incurred. In case of an emergency where, in the opinion of the Engineer, delay would cause serious loss or damage, repairs may be made without notice being given to Contractor and Contractor or Surety shall pay the cost of repairs. Failure of the Engineer to act in case of an emergency shall not relieve Contractor or Surety from liability and payment of all such costs.
 - C. In addition to provisions A & B above, City of Wilsonville water line facilities install by the contractor under this contract that require repair or replacement during the two year maintenance period shall be repaired by the Owner or under direct supervision of the Owner and the Contractor and Contractors surety will be liable for all expenses.
13. The Bidder further proposes to accept as payment in full for the work proposed herein the amount computed under the Bid Schedule and as further provided by the provisions of the Specifications.
 14. If the Bidder is awarded a construction Contract for this bid, the Surety who will provide the Performance Bond will be;

Surety Co. Name:
Agent Name:

ZURICH Surety Co. Fidelity + Depositor - MARYLAND
PAUL JENSEN / LARRY BUCK

2011 Street Maintenance Program

Address: 13500 SW PACIFIC Hwy Suite 116
TIGARD OR 97223
Phone No.: 503 579 6992
Fax No.: 503 579 6240
Email: darnel.jambe@zurichna.com
Bond No.: Big Bond

A.M. Best & Co. rating:

A+ SUPERIOR

Best Finance Size Category:

XV C \$ 2 Billion Plus)

Conduct Business in Oregon:

YES

U.S. Treasury Circular 507 list (Payment or Performance Bond only):

Limit Exceeding \$ 300 Million

15. The name of the Bidder who is submitting this bid is;

Bidder Co. Name:

Brix Diving Co

Contact Name:

RICK BEYER

Address:

PO BOX 12388 TUALATIN OR

Phone No.:

503 570 9355

Fax No.:

503 570 9365

Email:

Rbeyer@brixdiving.com

Which is the address to which all communications concerned with this bid and with the Contract shall be sent.

16. The names of the Insurance Company is;

Insurance Co.

Name:

CONTINENTAL WESTGAIN INS

Contact Name:

WARD INS - PAUL JENSEN

Address:

560 COUNTY CLUB PKWY Eugene OR 97401

Phone No.:

541-687-1117

Fax No.:

541-342-8280

Email:

PAUL@WARDINSURANCE.NET

17. The names of the principal officers of the corporation submitting this bid or of the partnership, or of all parties interested in this bid as principals are as follows:

Brick R Obye

President

Jeri L Obye

Treasurer

2011 Street Maintenance Program

18. The undersigned, as Bidder, acknowledges that Addenda No. 1 through 1 have been delivered to them and have been examined as part of the Contract Documents.
19. In the prosecution of this work, the Bidder proposes to use the following subcontractors. The subcontractors by name and specialty of work are as follows:

Name	Specialty
<u>LANBIS + LANBIS</u>	<u>EXCAVATION</u>
<u>E-2 Rentals</u>	<u>FLAGGING</u>
<u>HICKS</u>	<u>PLACEMENT + MARKING</u>
<u>CR CONTRACTING</u>	<u>JOINT SEAL</u>

20. The undersigned, as Bidder, acknowledges that they will comply with the provisions of ORS 279C.800 to 279C.870 relating to prevailing wage rates that are included in the agreement. Signing of this bid constitutes compliance and a separate statement is not necessary.

21. In accordance with ORS 279C.505(2), the Contractor shall demonstrate that an employee drug-testing program is in place. The contractor shall provide a copy of the drug testing policy to demonstrate that such a program is in place

22. Declaration of Residency

I "AM" a "resident bidder"* as defined by ORS 279A.120.
("am" or "am not")

I _____ a licensed contractor pursuant to ORS 701.055.
("am" or "am not")

*"Resident Bidder" means a bidder that has paid unemployment taxes or income taxes in Oregon during the 12 calendar months immediately preceding submission of the bid, has a business address in the state and has stated in the bid whether the bidder is a "resident bidder" pursuant to ORS 279A.120(1)(b).

23. Oregon law requires that all contractors must be registered with the Construction Contractors Board or licensed by the State Landscape Contractors Board in order to submit a bid to do work as a contractor. The Construction Contractors Board registration number is 131043
_____ The State Landscape Contractors Board license number is _____

(If sole Proprietor or Partnership)

In witness hereto, the undersigned has set this (its) hand this _____ day of _____, 2011.

2011 Street Maintenance Program

Name (Proprietor of Partnership) _____

Address _____

Signature of Bidder

Title

Attest (if applicable): Partner

(If Corporation)

In witness whereof, the undersigned corporation has caused this instrument to be executed and its seal affixed by its duly authorized officers this 21st day of April, 2011.

Name (of Corporation) Brix Paving Company

Address P.O. BOX 2388
Tualatin OR 97062

[Signature]
Signature
President

Title

[Signature]
Attest (Secretary)

-End-

2011 Street Maintenance Program

BRIX
BID SCHEDULE

2011 Street Maintenance Program

Description	Quantity	Unit	Unit Price	Total
1. Mobilization	All Req'd.	LS	\$6,268 ⁹⁹	\$6,268 ⁹⁹
2. Temporary Traffic Control Devices (includes all labor to setup/remove).	All Req'd.	LS	\$20,837 ⁶¹	\$20,837 ⁶¹
3. Temporary Traffic Control Labor (flagging hours only).	2,240	HRS	\$45 ⁹⁰	\$102,816 ⁻
4. Crack Sealing ,AC pavement. (See SP)	76,000	LF	\$-59	\$4,484 ⁻
5. Joint Sealing, PCC pavement. (See SP)	2000	LF	\$-73	\$146 ⁻
6. 12" Dig-out with 6" Base Rock & 6" (1/2") Level 3 HMAC (See SP).	3200	SY	\$52 ⁵⁵	\$168,160 ⁻
7. Remove/Replace existing waterline blow- off (See SP).	5	EA	\$1,351 ⁸⁰	\$6,759 ⁻
8. Remove/Replace Concrete Sidewalk (See SP).	75	SF	\$20 ⁴⁶	\$1,534 ⁵⁰
9. Remove/Replace Concrete Residential Driveway (If needed) (See SP).	25	SF	\$36 ⁷¹	\$917 ¹⁵
10. Thermoplastic Continental Crosswalk Striping (See SP)	300	SF	\$53 ⁵	\$1,605 ⁻
11. 8 1/2" Thick Class 4000 (1 1/2" max. agg.) PCC Pavement (See SP).	20	SF	\$82 ⁸⁸	\$1,657 ⁶⁰
12. Thermoplastic 8" white Bike Lane Striping (See SP)	655	LF	\$15 ⁸	\$10,349 ⁰
13. Preformed Thermoplastic Bike Symbol with arrow(See SP)	2	EA	\$298 ⁵⁰	\$597 ⁰⁰
14. Thermoplastic 4" double yellow with reflectors (See SP)	1300	LF	\$18 ²	\$2,346 ⁻
15. Thermoplastic 8" white turn lane striping with reflectors (See SP)	30	LF	\$16 ⁰	\$48 ⁻
16. Erosion Control (See SP)	All	LS	\$1,126 ⁵⁰	\$1,126 ⁵⁰

2011 Street Maintenance Program

	Req'd.			
17. Preformed Thermoplastic left turn arrow (See SP)	1	EA	\$ 30979	\$ <u>30979</u>
18. Thermoplastic 4" white strip (See SP)	190	LF	\$ <u>141</u>	\$ <u>26790</u>

LS = Lump Sum, HRS = Man-hours
 SY = Square Yards, LF = Lineal Feet,
 EA = Each, SF = Square Feet,
 CY = Cubic Yards, AC = Acres

TOTAL \$ 362,606 64

-End-

✓
MTC

AGREEMENT

AGREEMENT, made on the _____ day of _____, 2011 by and between the City of Wilsonville, party of the first part, hereinafter called the OWNER, and Brix Paving Company party of the second part, hereinafter called the CONTRACTOR.

WITNESSETH, that the Contractor and the Owner, for the considerations hereinafter named, agree as follows:

ARTICLE I - SCOPE OF THE WORK

The Contractor hereby agrees to furnish all of the materials and all of the equipment necessary, and to perform all of the work shown on the Drawings and described in the Specifications for the City of Wilsonville project entitled:

2011 Street Maintenance Program

All in accordance with the requirements and provisions of the Contract Documents dated April 6, 2011.

The following Addenda are included as a part of these Contract Documents:

No: <u> NONE </u>	Date: _____
No: _____	Date: _____
No: _____	Date: _____
No: _____	Date: _____
No: _____	Date: _____

ARTICLE II - TIME OF COMPLETION

- (A) The work will be completed and ready for final payment in accordance with the contract document by September 01, 2011, or within the agreed time of completion, whichever occurs first.
- (B) Owner and Contractor recognize that time is of the essence of this agreement and that the Owner will suffer financial loss if the work is not substantially completed within the time specified above, plus any extensions thereof allowed. They also recognize the delays, expenses and difficulties involved in proving, in a legal

preceding the actual loss suffered by Owner if the work is not substantially complete on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner \$1000.00 (one thousand dollars) for each calendar day that expires after the time specified for substantial completion until the work is substantially complete

ARTICLE III - CONTRACT AMOUNT

\$ Three hundred sixty two thousand six hundred six and sixty four
(\$362,606.64) In consideration of the faithful performance of the work herein embraced, as set forth in these Contract Documents, and in accordance with the direction of the Owner and to the satisfaction to the extent provided in the Contract Documents, the Owner agrees to pay to the Contractor the total amount bid, to make periodic payment in the manner and times provided in the following paragraphs:

On not later than the fifth day of every month the Contractor shall prepare and submit an estimate covering the total quantities under each item that have been completed from the start of the job up to and including the last day of the proceeding month, and the value of the work so completed determined in accordance with the Schedule of Prices for such items together with such supporting evidence as may be required by the Owner and/or Contractor.

On not later than the 15th day of the month, the Owner shall, after deducting previous payment made, pay to the Contractor 95% of the amount of the estimate as approved by the Project Manager. The 5% retained percentage will be held by the Owner until the final completion of all the work under the Contract. The retained amount will be deposited by the City in the State Investment Pool and held until the final payment is made.

ARTICLE IV-PREVAILING WAGE RATES

The Contractor hereby agrees to pay all workers prevailing wage rates in accordance with ORS 279C.800 to 279C.870. Contractor shall pay the prevailing wage rate fee to BOLI (ORS 279C.825). The Contractor shall pay daily, weekly, holiday and weekend overtime as required by (ORS 279C.520. If Contractor fails to pay labor and services, the City can pay and withhold these amounts from payments due the Contractor as allowed under ORS 279C.515(1).

ARTICLE V - PERFORMANCE AND PAYMENT BOND

The Contractor shall, within ten (10) days after the receipt of the "Notice of Award," and before the commencement of any operations hereunder, execute the Contract and furnish the Owner with a signed copy of the Performance and Payment Bond constituting a portion of the Contract Documents.

ARTICLE VI - ACCEPTANCE AND FINAL PAYMENT

Upon receipt of written notice that the work is ready for final inspection and acceptance, the Owner shall make such inspection, and when the work is acceptable under the Contract fully performed, promptly issue a final certificate, stating that the work required by the Contract has been completed under the terms and conditions thereof and the entire balance found to be due the Contractor by the Owner will be paid.

Before final payment is due, the Contractor shall submit evidence satisfactory to the Owner that all payrolls, material bills, and other indebtedness connected with the work have been paid, except that in case of disputed indebtedness or liens the Contractor may submit in lieu of evidence of payment, a surety bond satisfactory to the Owner guaranteeing payment of all such disputed amounts when adjudicated in cases where such payment has not already been guaranteed by surety bond.

The making and acceptance of the final payment shall constitute a waiver of all claims by the Contractor, except those previously made and still unsettled.

If after the work has been substantially completed, full completion thereof is materially delayed through no fault of the Contractor, the Owner shall without terminating the Contract, make payment of the balance due for the portion of the work fully completed. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

Final acceptance completion for this section shall be when all contract work is physically completed and approved by the City. The final punch list shall also be complete to the approval of the engineer.

Final payment of all monies shall be made within 30 days of the final completion and acceptance of the work, including project correction list, by the Owner.

ARTICLE VII – DRUG TESTING POLICY

In accordance with ORS 279C.505(2), the Contractor shall demonstrate that an employee drug-testing program is in place. The contractor shall provide a copy of the drug testing policy to demonstrate that such a program is in place

ARTICLE VIII - MAINTENANCE OF THE SYSTEM

The Contractor agrees to indemnify and save harmless the Owner from any and all defects appearing or developing in the workmanship or materials performed or furnished under this contract for a period of two (2) year after the date of **final acceptance** of the entire project by the Owner.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the day and year first above written.

CONTRACTOR:

CITY OF WILSONVILLE

Brix Paving Company
Name Firm

By: _____
Jeanna Troha
City Manager

By: _____

Attest: _____
Sandra C. King
City Recorder

Typed or
Printed by: Lisa Smith

Mailing Address:
29799 SW Town Center Loop East
Wilsonville, OR 97070

Title: Office Manager

Mailing
Address: PO Box 2388
Tualatin OR, 97062

Approved as to form:

Michael E. Kohlhoff
City Attorney

Employer I.D. No.: 93-1250477

- End -