

Lewis County
Department of Public Works
Engineering Division

**CONTRACT
PROVISIONS**
MATERIAL PURCHASE AND DELIVERY:

2022


LIQUID ASPHALT

COUNTY PROJECT NO. SM-2301

November, 2021

Lewis County Public Works
2025 NE Kresky Ave.
Chehalis, WA 98532-2626

Approved for Construction:



County Engineer

11-1-21

Date

BOARD OF COUNTY COMMISSIONERS

Sean Swope, District No. 1
Lindsey R. Pollock, DVM, District No. 2
Gary Stamper, District No. 3

TABLE OF CONTENTS

| | |
|---|----------|
| TABLE OF CONTENTS | 1 |
| SPECIAL PROVISIONS | 1 |
| 1-01, DESCRIPTION OF WORK | 1 |
| 1-02, BID PROCEDURES AND CONDITIONS..... | 1 |
| <i>1-02.1 Prequalification of Bidders.....</i> | <i>2</i> |
| <i>1-02.2 Plans and Specifications</i> | <i>2</i> |
| <i>1-02.12 Public Opening Of Proposal.....</i> | <i>2</i> |
| <i>1-02.13 Irregular Proposals</i> | <i>3</i> |
| 1-03, AWARD AND EXECUTION OF CONTRACT | 3 |
| <i>1-03.1 Consideration of Bids</i> | <i>4</i> |
| <i>1-03.4 Contract Bond.....</i> | <i>4</i> |
| <i>1-03.7 Judicial Review.....</i> | <i>4</i> |
| 1-04, SCOPE OF THE WORK | 4 |
| <i>1-04.2 Coordination of Contract Documents, Plans, Special Provisions, Specifications, and Addenda.....</i> | <i>4</i> |
| <i>1-04.6 Variation in Estimated Quantities</i> | <i>4</i> |
| 1-07, LEGAL RELATIONS AND RESPONSIBILITIES TO THE PUBLIC | 4 |
| <i>1-07.1 Laws to be Observed.....</i> | <i>4</i> |
| <i>1-07.2 State Taxes</i> | <i>5</i> |
| <i>1-07.15(1) Spill Prevention, Control, and Countermeasures Plan.....</i> | <i>5</i> |
| <i>1-07.18 Public Liability and Property Damage Insurance.....</i> | <i>5</i> |
| 1-08, PROSECUTION AND PROGRESS..... | 8 |
| <i>1-08.5 Time For Completion.....</i> | <i>8</i> |
| 1-09, MEASUREMENT AND PAYMENT..... | 8 |
| <i>1-09.9 Payments.....</i> | <i>8</i> |
| 1-09.9(1) Retainage..... | 8 |
| (June 27, 2011) | 8 |
| Vacant..... | 8 |
| <i>1-09.11 Disputes and Claims</i> | <i>8</i> |
| 1-09.11(3) Time Limitations and Jurisdiction | 8 |
| <i>1-09.13 Claims Resolution</i> | <i>9</i> |
| 1-09.13(3) Claims \$250,000 or Less..... | 9 |
| <i>1-09.13(3)A Administration of Arbitration.....</i> | <i>9</i> |
| 1-09.13(4) Claims in Excess of \$250,000 | 9 |
| CLAIMS RESOLUTION..... | 9 |
| 5-02 BITUMINOUS SURFACE TREATMENT..... | 11 |
| 5-02.1 Description..... | 11 |
| 5-02.3 Construction Requirements..... | 11 |
| CLEANUP | 11 |
| DELIVERY | 11 |

| | |
|---------------------------------------|-----------|
| 5-02.4 Measurement..... | 12 |
| 5-02.5 Payment..... | 12 |
| 9-02 BITUMINOUS MATERIALS..... | 12 |
| 9-02.1 Asphalt Material, General..... | 12 |
| GENERAL REQUIREMENTS..... | 12 |
| E-VERIFY | 13 |
| APPENDICES..... | 13 |
| APPENDIX A..... | 15 |
| BID PROPOSAL DOCUMENTS..... | 15 |
| NON-COLLUSION DECLARATION..... | 21 |
| PROPOSAL - SIGNATURE PAGE | 21 |
| APPENDIX B..... | 23 |
| CONTRACT DOCUMENTS..... | 23 |

1
2 **INTRODUCTION**

3 (Lewis County)

4 The following Special Provisions are made a part of this contract and supersede any conflicting
5 provisions of the 2022 Standard Specifications for Road, Bridge, and Municipal Construction.

6
7 The said Standard Specifications thereto, the WSDOT Standard Plans, and WSDOT Construction
8 Manual, together with the Special Provisions and the attached plans hereinafter contained, covering all
9 work specified under this contract are incorporated and hereby made a part of this contract. The
10 Special Provisions hereinafter contained shall supersede any conflicting provisions of the Standard
11 Specifications thereto, the WSDOT Standard Plans, and WSDOT Construction Manual.

12
13 Several types of Special Provisions are included in this contract; General, Region, Bridges and
14 Structures, and Project Specific. Special Provisions types are differentiated as follows:

15

| | |
|-------------------|---|
| 16 (date) | General Special Provision |
| 17 (Lewis County) | Lewis County Special Provision |
| 18 (*****) | Notes a revision to a General Special Provision and also notes a Project Specific Special Provision. |
| 19 (APWA GSP) | American Public Works Association General Special Provision |

20
21

22 **General Special Provisions** are similar to Standard Specifications in that they typically apply to many
23 projects, usually in more than one Region. Usually, the only difference from one project to another is
24 the inclusion of variable project data, inserted as a “fill-in”.

25
26 **Project Specific Special Provisions** normally appear only in the contract for which they were
27 developed.

28
29 The following paragraph pertaining to the Standard Specifications shall obtain and be made a part of
30 this contract:

31
32 Wherever the word “State” or “Contracting Agency” is used it shall mean Lewis County; that
33 wherever the words “Secretary (Secretary of Transportation)” are used they shall mean Lewis
34 County Engineer; that wherever the words “State Treasurer” are used they shall mean Lewis
35 County Treasurer; that wherever the words “State Auditor” are used they shall mean Lewis
36 County Auditor; that wherever the words “Motor Vehicle Fund” are used they shall mean Lewis
37 County Road Fund.
38

39 **SPECIAL PROVISIONS**

40
41 **DIVISION 1**
42 **GENERAL REQUIREMENTS**
43

44 **1-01, DESCRIPTION OF WORK**

45 (*****)

46
47 This contract provides for the purchase and delivery of *** Liquid Asphalt, *** and other work, all in
48 accordance with the attached Plans, these Contract Provisions, and the Standard Specifications.
49

50 **1-02, BID PROCEDURES AND CONDITIONS**

1
2 **1-02.1 Prequalification of Bidders**

3
4 Delete this Section and replace it with the following:

5
6 **1-02.1 Qualifications of Bidder**

7 (January 24, 2011 APWA GSP)

8
9 Before award of a public works contract, a bidder must meet at least the minimum qualifications of
10 RCW 39.04.350(1) to be considered a responsible bidder and qualified to be awarded a public
11 works project.

12
13 **1-02.2 Plans and Specifications**

14 (*****)

15 The first paragraph of section 1-02.2 is revised to read:

16
17 Copies of the plans, specifications and soils information are on file in the office of:

18
19 Lewis County Public Works Department
20 2025 NE Kresky Ave.
21 Chehalis, Washington 98532
22 (360) 740-1123 Ext. 7

23
24 The second paragraph of section 1-02.2 is revised to read:

25
26 Prospective bidders may obtain plans and specifications from Lewis County Public
27 Works Department in Chehalis, Washington or download from Lewis County Website at
28 www.lewiscountywa.gov.

29
30 **1-02.6 Preparation Of Proposal**

31 (August 2, 2004)

32
33 The fifth and sixth paragraphs of Section 1-02.6 are deleted.

34
35 **1-02.7 Bid Deposit**

36 (Lewis County)

37
38 The provisions of Section 1-02.7 are deleted.

39
40 **1-02.12 Public Opening Of Proposal**

41 (Lewis County)

42 Section 1-02.12 is supplemented with the following:

43
44 **Date and Time of Bid Opening**

45 The Board of County Commissioners of Lewis County or designee, will open sealed proposals and
46 publicly read them aloud on or after 12:15 p.m. on November 18, 2021, at the Lewis County
47 Courthouse, Chehalis, Washington, for the 2022 Liquid Asphalt.

48
49 **SEALED BIDS MUST BE DELIVERED BEFORE**
50 **12:15 P.M. on Thursday, November 18, 2021**

51 (Lewis County official time is displayed on Axxess Intertel phones in the office of the Board of County Commissioners.
52 **Bids submitted after 12:15 PM will not be considered for this project.**)

1 **Delivery and Marking of Sealed Bid Proposals**

2 Sealed proposals must be delivered to the Clerk of the Board of Lewis County Commissioners
3 (351 N.W. North Street, Room 210, CMS-01, Chehalis, Washington 98532) by or before **12:15**
4 **p.m.** on the date specified for opening, and in an envelope clearly marked: **“SEALED BID FOR**
5 **THE 2022 LIQUID ASPHALT, TO BE OPENED ON OR AFTER 12:15 P.M. ON NOVEMBER 18,**
6 **2021.**

7
8 **1-02.13 Irregular Proposals**
9 *(October 1, 2020 APWA GSP)*

10
11 Delete this section and replace it with the following:

- 12
13 1. A Proposal will be considered irregular and will be rejected if:
- 14 a. The Bidder is not prequalified when so required;
 - 15 b. The authorized Proposal form furnished by the Contracting Agency is not used or is
16 altered;
 - 17 c. The completed Proposal form contains any unauthorized additions, deletions, alternate
18 Bids, or conditions;
 - 19 d. The Bidder adds provisions reserving the right to reject or accept the award, or enter into
20 the Contract;
 - 21 e. A price per unit cannot be determined from the Bid Proposal;
 - 22 f. The Proposal form is not properly executed;
 - 23 g. The Bidder fails to submit or properly complete a Subcontractor list, if applicable, as
24 required in Section 1-02.6;
 - 25 h. The Bidder fails to submit or properly complete a Disadvantaged Business Enterprise
26 Certification, if applicable, as required in Section 1-02.6;
 - 27 i. The Bidder fails to submit written confirmation from each DBE firm listed on the Bidder's
28 completed DBE Utilization Certification that they are in agreement with the bidder's DBE
29 participation commitment, if applicable, as required in Section 1-02.6, or if the written
30 confirmation that is submitted fails to meet the requirements of the Special Provisions;
 - 31 j. The Bidder fails to submit DBE Good Faith Effort documentation, if applicable, as
32 required in Section 1-02.6, or if the documentation that is submitted fails to demonstrate
33 that a Good Faith Effort to meet the Condition of Award was made;
 - 34 k. The Bidder fails to submit a DBE Bid Item Breakdown form, if applicable, as required in
35 Section 1-02.6, or if the documentation that is submitted fails to meet the requirements
36 of the Special Provisions;
 - 37 l. The Bidder fails to submit DBE Trucking Credit Forms, if applicable, as required in
38 Section 1-02.6, or if the documentation that is submitted fails to meet the requirements
39 of the Special Provisions;
 - 40 m. The Bid Proposal does not constitute a definite and unqualified offer to meet the material
41 terms of the Bid invitation; or
 - 42 n. More than one Proposal is submitted for the same project from a Bidder under the same
43 or different names.
- 44
45 2. A Proposal may be considered irregular and may be rejected if:
- 46 a. The Proposal does not include a unit price for every Bid item;
 - 47 b. Any of the unit prices are excessively unbalanced (either above or below the amount of
48 a reasonable Bid) to the potential detriment of the Contracting Agency;
 - 49 c. Receipt of Addenda is not acknowledged;
 - 50 d. A member of a joint venture or partnership and the joint venture or partnership submit
51 Proposals for the same project (in such an instance, both Bids may be rejected); or
 - 52 e. If Proposal form entries are not made in ink.
- 53

54 **1-03, AWARD AND EXECUTION OF CONTRACT**

1 **1-03.1 Consideration of Bids**

2 Section 1-03.1 is supplemented with the following:

3
4 (*****)

5 The Board of County Commissioners reserves the right to reject any or all bids, waive informalities,
6 and to contract as the best interests of the County may appear. In determining the lowest
7 responsive bidder, consideration will be given to such factors as prices quoted, delivery, and
8 quality of products.

9
10 **1-03.4 Contract Bond**

11 Section 1-03.4 is supplemented with the following:

12
13 (*****)

14 No Contract Bond is required for this Contract.

15
16 **1-03.7 Judicial Review**

17 (Lewis County)

18
19 Revise this section to read:

20
21 Any decision made by the Contracting Agency regarding the Award and execution of the Contract
22 or Bid rejection shall be conclusive subject to the scope of judicial review permitted under
23 Washington Law. Such review, if any, shall be timely filed in the Superior Court of the county where
24 the Contracting Agency headquarters is located, provided that where an action is asserted against
25 a county, RCW 36.01.050 shall control venue and jurisdiction.

26
27 **1-04, SCOPE OF THE WORK**

28
29 **1-04.2 Coordination of Contract Documents, Plans, Special Provisions, Specifications, and**
30 **Addenda**

31 Section 1-04.2 is supplemented with the following:

32
33 (*****)

34 Any inconsistency, conflict, or disputes in the parts of the Contract shall be resolved in the order of
35 precedence as described in Section 1-04.2 of the Standard Specifications.

36
37 **1-04.6 Variation in Estimated Quantities**

38 Section 1-04.6 is supplemented with the following:

39
40 (*****)

41 The Contracting Agency will not adjust the Unit Price due the successful bidder for any increases
42 or decreases in the estimated quantities supplied to the Contractor for bidding purposes.

43
44 **1-07, LEGAL RELATIONS AND RESPONSIBILITIES TO THE PUBLIC**

45
46 **1-07.1 Laws to be Observed**

47 Section 1-07.1 is supplemented with the following:

48
49 (*****)

50 **COOPERATIVE PURCHASES**

1 The Washington State Interlocal Cooperative Act, RCW 39.34, provides that other governmental
2 agencies may purchase goods and services on this solicitation or contract in accordance with the
3 terms and prices indicated therein if all parties are willing.
4

5 **1-07.2 State Taxes**

6 Section 1-07.2 is supplemented with the following:

7
8 (March 13, 1995)

9 The work on this contract is to be performed upon lands whose ownership obligates the Contractor
10 to collect State sales tax from the Contracting Agency. The provisions of Section 1-07.2(2) apply.
11

12 **1-07.15(1) Spill Prevention, Control, and Countermeasures Plan**

13 Section 1-07.15(1) is supplemented with the following:

14
15 (*****)

16 The successful bidder shall prepare a Spill Prevention, Control, and Countermeasures Plan
17 (SPCC) and submit to the Contracting Agency for approval 20 days prior the delivery of Liquid
18 Asphalt once for 2022 and once each additional year the Contract is extended.
19

20 **1-07.18 Public Liability and Property Damage Insurance**

21 Delete this section in its entirety, and replace it with the following:

22 **1-07.18 Insurance**

23
24 *(January 4, 2016 APWA GSP)*
25

26 **1-07.18(1) General Requirements**

- 27
- 28 A. The Contractor shall procure and maintain the insurance described in all subsections of section 1-
29 07.18 of these Special Provisions, from insurers with a current A. M. Best rating of not less than A-:
30 VII and licensed to do business in the State of Washington. The Contracting Agency reserves the
31 right to approve or reject the insurance provided, based on the insurer's financial condition.
32
 - 33 B. The Contractor shall keep this insurance in force without interruption from the commencement of
34 the Contractor's Work through the term of the Contract and for thirty (30) days after the Physical
35 Completion date, unless otherwise indicated below.
36
 - 37 C. If any insurance policy is written on a claims made form, its retroactive date, and that of all
38 subsequent renewals, shall be no later than the effective date of this Contract. The policy shall
39 state that coverage is claims made, and state the retroactive date. Claims-made form coverage
40 shall be maintained by the Contractor for a minimum of 36 months following the Completion Date or
41 earlier termination of this Contract, and the Contractor shall annually provide the Contracting
42 Agency with proof of renewal. If renewal of the claims made form of coverage becomes
43 unavailable, or economically prohibitive, the Contractor shall purchase an extended reporting period
44 ("tail") or execute another form of guarantee acceptable to the Contracting Agency to assure
45 financial responsibility for liability for services performed.
46
 - 47 D. The Contractor's Automobile Liability, Commercial General Liability and Excess or Umbrella Liability
48 insurance policies shall be primary and non-contributory insurance as respects the Contracting
49 Agency's insurance, self-insurance, or self-insured pool coverage. Any insurance, self-insurance, or
50 self-insured pool coverage maintained by the Contracting Agency shall be excess of the
51 Contractor's insurance and shall not contribute with it.
52
 - 53 E. The Contractor shall provide the Contracting Agency and all additional insureds with written notice
54 of any policy cancellation, within two business days of their receipt of such notice.

1
2 G. The Contractor shall not begin work under the Contract until the required insurance has been
3 obtained and approved by the Contracting Agency
4

5 H. Failure on the part of the Contractor to maintain the insurance as required shall constitute a material
6 breach of contract, upon which the Contracting Agency may, after giving five business days' notice
7 to the Contractor to correct the breach, immediately terminate the Contract or, at its discretion,
8 procure or renew such insurance and pay any and all premiums in connection therewith, with any
9 sums so expended to be repaid to the Contracting Agency on demand, or at the sole discretion of
10 the Contracting Agency, offset against funds due the Contractor from the Contracting Agency.
11

12 I. All costs for insurance shall be incidental to and included in the unit or lump sum prices of the
13 Contract and no additional payment will be made.
14

15 **1-07.18(2) Additional Insured**

16 All insurance policies, with the exception of Workers Compensation, and of Professional Liability and
17 Builder's Risk (if required by this Contract) shall name the following listed entities as additional
18 insured(s) using the forms or endorsements required herein:

- 19 ▪ the Contracting Agency and its officers, elected officials, employees, agents, and volunteers
20

21 The above-listed entities shall be additional insured(s) for the full available limits of liability maintained
22 by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than
23 those required by this Contract, and irrespective of whether the Certificate of Insurance provided by the
24 Contractor pursuant to 1-07.18(4) describes limits lower than those maintained by the Contractor.
25

26 For Commercial General Liability insurance coverage, the required additional insured endorsements
27 shall be at least as broad as ISO forms CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for
28 completed operations.
29

30 **1-07.18(3) Subcontractors**

31 The Contractor shall cause each Subcontractor of every tier to provide insurance coverage that
32 complies with all applicable requirements of the Contractor-provided insurance as set forth herein,
33 except the Contractor shall have sole responsibility for determining the limits of coverage required to be
34 obtained by Subcontractors.
35

36 The Contractor shall ensure that all Subcontractors of every tier add all entities listed in 1-07.18(2) as
37 additional insureds, and provide proof of such on the policies as required by that section as detailed in
38 1-07.18(2) using an endorsement as least as broad as ISO CG 20 10 10 01 for ongoing operations and
39 CG 20 37 10 01 for completed operations.
40

41 Upon request by the Contracting Agency, the Contractor shall forward to the Contracting Agency
42 evidence of insurance and copies of the additional insured endorsements of each Subcontractor of
43 every tier as required in 1-07.18(4) Verification of Coverage.
44

45 **1-07.18(4) Verification of Coverage**

46 The Contractor shall deliver to the Contracting Agency a Certificate(s) of Insurance and endorsements
47 for each policy of insurance meeting the requirements set forth herein when the Contractor delivers the
48 signed Contract for the work. Failure of Contracting Agency to demand such verification of coverage
49 with these insurance requirements or failure of Contracting Agency to identify a deficiency from the
50 insurance documentation provided shall not be construed as a waiver of Contractor's obligation to
51 maintain such insurance.
52

53 Verification of coverage shall include:

- 1 1. An ACORD certificate or a form determined by the Contracting Agency to be equivalent.
- 2 2. Copies of all endorsements naming Contracting Agency and all other entities listed in 1-07.18(2) as
3 additional insured(s), showing the policy number. The Contractor may submit a copy of any blanket
4 additional insured clause from its policies instead of a separate endorsement.
- 5 3. Any other amendatory endorsements to show the coverage required herein.
- 6 4. A notation of coverage enhancements on the Certificate of Insurance shall not satisfy these
7 requirements – actual endorsements must be submitted.

8
9 Upon request by the Contracting Agency, the Contractor shall forward to the Contracting Agency a full
10 and certified copy of the insurance policy(s). If Builders Risk insurance is required on this Project, a full
11 and certified copy of that policy is required when the Contractor delivers the signed Contract for the
12 work.

13
14 **1-07.18(5) Coverages and Limits**

15 The insurance shall provide the minimum coverages and limits set forth below. Contractor’s
16 maintenance of insurance, its scope of coverage, and limits as required herein shall not be construed to
17 limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the
18 Contracting Agency’s recourse to any remedy available at law or in equity.

19
20 All deductibles and self-insured retentions must be disclosed and are subject to approval by the
21 Contracting Agency. The cost of any claim payments falling within the deductible or self-insured
22 retention shall be the responsibility of the Contractor. In the event an additional insured incurs a liability
23 subject to any policy’s deductibles or self-insured retention, said deductibles or self-insured retention
24 shall be the responsibility of the Contractor.

25
26 **1-07.18(5)A Commercial General Liability**

27 Commercial General Liability insurance shall be written on coverage forms at least as broad as ISO
28 occurrence form CG 00 01, including but not limited to liability arising from premises, operations, stop
29 gap liability, independent contractors, products-completed operations, personal and advertising injury,
30 and liability assumed under an insured contract. There shall be no exclusion for liability arising from
31 explosion, collapse or underground property damage.

32
33 The Commercial General Liability insurance shall be endorsed to provide a per project general
34 aggregate limit, using ISO form CG 25 03 05 09 or an equivalent endorsement.

35
36 Contractor shall maintain Commercial General Liability Insurance arising out of the Contractor’s
37 completed operations for at least three years following Substantial Completion of the Work.

38
39 Such policy must provide the following minimum limits:

| | | |
|----|-------------|---|
| 40 | \$1,000,000 | Each Occurrence |
| 41 | \$2,000,000 | General Aggregate |
| 42 | \$2,000,000 | Products & Completed Operations Aggregate |
| 43 | \$1,000,000 | Personal & Advertising Injury each offence |
| 44 | \$1,000,000 | Stop Gap / Employers’ Liability each accident |

45
46 **1-07.18(5)B Automobile Liability**

47 Automobile Liability shall cover owned, non-owned, hired, and leased vehicles; and shall be written on
48 a coverage form at least as broad as ISO form CA 00 01. If the work involves the transport of
49 pollutants, the automobile liability policy shall include MCS 90 and CA 99 48 endorsements.

50
51 Such policy must provide the following minimum limit:

1 \$1,000,000 Combined single limit each accident

2
3 **1-07.18(5)C Workers' Compensation**

4 The Contractor shall comply with Workers' Compensation coverage as required by the Industrial
5 Insurance laws of the State of Washington.

6
7 **1-08, PROSECUTION AND PROGRESS**

8
9 **1-08.5 Time For Completion**

10 Section 1-08.5 is supplemented with the following:

11
12 **(*****)**

13 **CONTRACT RENEWAL PERIODS**

14
15 This proposed agreement shall remain in effect for each period between the dates June 1 to October 1,
16 and shall automatically be renewed on a year to year basis thereafter unless either party hereto serves
17 notice upon the other party of its intention to cancel at least 30 days in advance of the termination of the
18 first month, or during any monthly renewal thereof. Notice during each renewal term may occur at any
19 time during the course of such term. Prices will be considered firm for at least the first 30 days of the
20 contract. No change in services or prices will be allowed without written consent of both parties,
21 pursuant to the following conditions:

22
23 “Prices will be subject to increase or decrease in the same proportion once per delivery period
24 as changes occur in the vendor's certified costs, providing the vendor requests an adjustment
25 from the Contracting Agency 30 days prior to the effective contract period. The written request
26 shall be accompanied by written proof of said changes in cost to vendor and is subject to
27 acceptance by the Contracting Agency. The Contracting Agency shall have the option of
28 accepting the price change or canceling the balance of the contract. All price decreases must
29 be offered to the Contracting Agency.”

30
31 Total contract period not to exceed 5 years.

32
33 **1-09, MEASUREMENT AND PAYMENT**

34
35 **1-09.9 Payments**

36 Section 1-09.9 is supplemented with the following:

37
38 **(*****)**

39 The Contracting Agency will provide payment within sixty days of suppliers invoice for work
40 performed, and material furnished and accepted for each month. Invoices shall be developed using
41 the prices accepted in the Proposal Form or as adjusted each year the Contract is extended.

42
43 **1-09.9(1) Retainage**

44 Section 1-09.9(1) content and title is deleted and replaced with the following:

45
46 **(June 27, 2011)**
47 **Vacant**

48
49 **1-09.11 Disputes and Claims**

50
51 **1-09.11(3) Time Limitations and Jurisdiction**

52 **(*****)**

1
2 Section 1.09.11(3) is deleted and replaced by the following:
3

4 This contract shall be construed and interpreted in accordance with the laws of the State of
5 Washington. The venue of any claims or causes of actions arising from this contract shall be in
6 Superior Court of the county where the work is performed.
7

8 For the convenience of the parties of this contract, it is mutually agreed that any claims or causes
9 of action which the Contractor has against the Contracting Agency arising from this contract shall
10 be brought within 180 days from the date of Final Acceptance of the contract by the Contracting
11 Agency. The parties understand and agree that the Contractor's failure to bring such suit within the
12 time period provided shall be a complete bar to any such claims or causes of action.
13

14 It is further mutually agreed by the parties that when any claims or causes of action which a
15 Contractor asserts against the Contracting Agency arising from this contract are filed with the
16 Contracting Agency or initiated in court, the Contractor shall permit the Contracting Agency to have
17 timely access to any records deemed necessary by the Contracting Agency to assist in evaluating
18 the claims or actions.
19

20 **1-09.13 Claims Resolution**

21 **1-09.13(3) Claims \$250,000 or Less**

22 Section 1-09.13(3) is hereby deleted.
23

24 **1-09.13(3)A Administration of Arbitration** 25 (October 1, 2005 APWA GSP) 26

27 Revise the third paragraph to read:
28

29 The Contracting Agency and the Contractor mutually agree to be bound by the decision of the
30 arbitrator, and judgment upon the award rendered by the arbitrator may be entered in the Superior
31 Court of the county in which the Contracting Agency's headquarters are located. The decision of
32 the arbitrator and the specific basis for the decision shall be in writing. The arbitrator shall use the
33 contract as a basis for decisions.
34

35 **1-09.13(4) Claims in Excess of \$250,000**

36 Section 1-09.13(4) is hereby deleted and replaced by the following:
37

38 **CLAIMS RESOLUTION** 39 (Lewis County) 40

41 Any dispute arising from the contract shall be processed in accordance with Section 1-04.5 and
42 Sections 1-09.11 through 1-09.13(1) of the Standard Specifications. The provisions of these
43 sections must be complied with in full as a condition precedent to the Contractor's right to seek
44 claims resolution through arbitration or litigation. The Contractor may file with the Engineer a
45 request for binding arbitration; the Engineer's decision regarding that request shall be final and
46 unappealable. Nothing in this paragraph affects or tolls the limitations period as set forth in
47 Section 1-09.11(3) of the Standard Specifications. However, if the Contractor files a lawsuit
48 raising any claim(s) arising from the contract, the parties shall, if the Engineer so directs, submit
49 such claim(s) to binding arbitration, subject to the rights of any party thereto to file with the
50
51
52
53

1 Lewis County Superior Court motions to dismiss or for summary judgment at any time. In any
2 binding arbitration proceeding, the provisions of subparagraphs (a) and (b) shall apply.

3
4 a) Unless the parties otherwise agree, all disputes subject to arbitration shall be heard
5 in a single arbitration hearing, and then only after completion of the contract. The
6 parties shall be bound by Ch. 7.04 RCW generally, and by the arbitration rules
7 hereafter stated, and shall, for purposes of administration of the arbitration, comply
8 where applicable with the 1994 Lewis County Superior Court Mandatory Arbitration
9 Rules (LMAR) sections 1.1(b), 1.3, 2.3, 3.1, 3.2(a) and (b), 5.1, 5.2 (except as
10 referenced to MAR 5.2), 5.3, 6.1, 6.2 (including the referenced MAR 6.2), and 8.6.
11 There shall be one arbitrator, to be chosen by mutual agreement of the parties from
12 the list provided by the Lewis County Superior Court Administrator. If the parties
13 cannot agree on a person to serve as arbitrator, the matter shall be submitted for
14 appointment of an arbitrator under LMAR 2.3. The arbitrator shall determine the
15 scope and extent of discovery, except that the Contractor shall provide and update
16 the information required by Section 1-09.11(2) of the Standard Specifications.
17 Additionally, each party shall file a statement of proof with the other party and the
18 arbitrator at least 20 calendar days before the scheduled arbitration hearing. The
19 statement of proof shall include:

- 20
21 1. The name, business address and contact telephone number of each
22 witness who will testify at the hearing.
- 23
24 2. For each witness to be offered as an expert, a statement of the subject
25 matter and a statement of the facts, resource materials (not protected
26 by privilege) and learned treatises upon which the expert is expected to
27 testify and render an opinion(s), synopsis of the basis for such
28 opinion(s), and a resume of the expert detailing his/her qualifications as
29 an expert and pursuant to rendering such opinion(s). A list of
30 documents and other exhibits the party intends to offer in evidence at
31 the arbitration hearing. Either party may request a copy of any
32 document listed, and a copy or description of any other exhibit listed.
33 The party receiving the request shall provide the copies or description
34 within five (5) calendar days. The parties or arbitrator may subpoena
35 parties in accordance with the Superior Court Mandatory Arbitration
36 Rules (MAR) of Washington, Rule 4.3, and witness fees and costs shall
37 be provided for under Rule 6.4, thereof. The arbitrator may permit a
38 party to call a witness or offer a document or other exhibit not included
39 in the statement of proof only upon a showing of good cause.
- 40

41 b) The arbitration hearing shall be conducted at a location within Lewis County,
42 Washington. The extent of application of the Washington Rules of Evidence shall be
43 determined in the exercise of sound discretion of the arbitrator, except that such
44 Rules should be liberally construed in order to promote justice. The parties should
45 stipulate to the admission of evidence when there is no genuine issue as to its
46 relevance or authenticity. The decision of the arbitrator and the specific grounds for
47 the decision shall be in writing. The arbitrator shall use the contract as a basis for its
48 decisions. The County and the Contractor agree to be bound by the decision of the
49 arbitrator, subject to such remedies as are provided in Ch. 7.04 RCW. Judgment
50 upon the award rendered by the arbitrator shall be entered as judgment before the
51 presiding judge of the Superior Court for Lewis County. Each party shall bear its
52 own costs in connection with the arbitration. Each party shall pay one-half of the
53 arbitrator's fees and expenses.

1
2 **5-02 BITUMINOUS SURFACE TREATMENT**

3
4 **5-02.1 Description**

5 Section 5-02.1 is supplemented with the following:

6
7 **(*****)**

8 The Contracting Agency will require the successful bidder to deliver the liquid asphalt to various job sites
9 within the County and provide cleanup after completion of the chip-seal operations.

10
11 **5-02.3 Construction Requirements**

12 Section 5-02.3 is supplemented with the following:

13 **(*****)**

14 **CLEANUP**

15
16 Within thirty (30) days of written notice of completion of the chip-seal operations for the year, the
17 supplier shall be required to pick up and dispose all unused samples (including containers) taken in
18 conjunction with this contract, all unused product (maximum per tank listed in Proposal), and clean all
19 storage tanks (2/10,000 gal, 1/8,000 gal), and distributors used for the BST season.

20
21 **(*****)**

22 **DELIVERY**

23
24 Lewis County will require the successful bidder to deliver the liquid asphalt to various job sites within the
25 County. Loading temperature shall be between 160° F to 180° F for all emulsified asphalt. The liquid
26 asphalt shall reach the job site at a temperature that will allow immediate application as described in
27 Section 5-02.3(3). The successful bidder shall assume full responsibility for any delays in the delivery of
28 the liquid asphalt. If these delays create additional costs to the Contracting Agency, the successful bidder
29 will be responsible to reimburse the Contracting Agency for these costs.

30
31 All bidders are requested to submit a price per ton to deliver the liquid asphalt to various job sites within the
32 County between June 1st and October 1st. This price may be adjusted up or down once each additional
33 year the contract is extended. This adjustment shall be agreed to before the beginning of the delivery
34 period each year the contract is extended. The Contracting Agency will require the successful bidder to
35 load the liquid asphalt at their loading plant, and:

- 36
37
- 38 • Deliver the liquid asphalt to various locations within the County.
 - 39 • The liquid asphalt shall reach the job site between minimum and maximum temperatures as
40 stated in Section 5-02.3(3) of the Standard Specifications.
 - 41 • The successful bidder shall have a minimum of four (4) truck-trailer transport vehicles with a
42 hauling capacity of thirty (30) or more tons available for deliveries to the Contracting Agency
43 during the Contract period.
 - 44 • The successful bidder shall allow the Contracting Agency two (2) hours unloading time after the
45 liquid asphalt reaches the scheduled road in the designated area. The Contracting Agency has
46 entered a bid item for demurrage for hourly truck time beyond the two hour unloading time.
 - 47 • The Contracting Agency's personnel shall schedule arrival times for the loads of liquid asphalt.

48 The successful bidder will be notified by an agreed time each day, whether or not the Contracting Agency
will be applying liquid asphalt that day.

1
2 **5-02.4 Measurement**

3 Section 5-02.4 is supplemented with the following:

4
5 (*****)

6 No specific unit of measurement will apply to the lump sum bid item "Cleanup".

7
8 (*****)

9 "Delivery", shall be measured per ton, and shall include delivery, two hour unloading time, and be
10 based on 28 ton minimum loads.
11

12
13 **5-02.5 Payment**

14 Section 5-02.5 is supplemented with the following:

15
16 (*****)

17 Payment will be made in accordance with Section 1-04.1. for each of the following Bid items that
18 are included in the Proposal:

19
20 (*****)

21 "Cleanup", per Lump Sum.

22
23 (*****)

24 "Delivery", per Ton.
25

26 **9-02 BITUMINOUS MATERIALS**

27
28 **9-02.1 Asphalt Material, General**

29 Section 9-02.1 is supplemented with the following:

30
31 (*****)

32 **GENERAL REQUIREMENTS**

- 33
- 34 1. Bidders shall submit with their bids, copies of appropriate AASHTO certified specifications for each
35 product bid upon.
36
 - 37 2. Liquid Asphalt shall meet the requirements of section 9-02 of the Standard Specifications.
38
 - 39 3. All bidders agree to submit materials samples for specification conformance testing, if so
40 requested by the Contracting Agency. The successful bidder will be required to make products
41 available for similar testing during the contract period.
42
 - 43 4. All bidders shall have sufficient tank and mixing facilities to meet the specification and time
44 scheduling requirements of the Contracting Agency.
45
 - 46 5. All bidders shall submit along with their bid, a list of agencies which are currently supplied from
47 their batch plant.
48
 - 49 6. In addition to the requirements of the Washington State Department of Transportation/ American
50 Public Works Association Standard Specifications for Road, Bridge, and Municipal Construction
51 dated 2022, the quality of this material shall comply with the following:
52
53 a.) The latest edition of the Asphalt Institute Manual.
54 b.) General and specific requirements of the Federal Highway Administration (FHWA).
55

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33

E-VERIFY

(*****)

“Effective June 21st, 2010, all contracts with a value of ≥ \$100,000 shall require that the awarded contractor register with the Department of Homeland Security E-Verify program. Contractors shall have sixty days after the execution of the contract to register and enter into a Memorandum of Understanding (MOU) with the Department of Homeland Security (DHS) E-Verify program. After completing the MOU the contractor shall have an additional sixty days to provide a written record on the authorized employment status of their employees and those of any sub-contractor(s) currently assigned to the contract. Employees hired during the execution of the contract and after submission of the initial verification will be verified to the county within 30 days of hire, as reported from the E-Verify program. The contractor will continue to update the County on all corrective actions required and changes made during the performance of the contract.”

APPENDICES

(July 12, 1999)

The following appendices are attached and made a part of this contract:

- ***** APPENDIX A:
Bid Proposal Documents

- APPENDIX B:
Contract Documents*****

APPENDIX A

BID PROPOSAL DOCUMENTS

INCLUDING:

Notice to Contractor

Proposal Form

Non-Collusion Declaration

Proposal Signature Page



Lewis County Department of Public Work

Josh S. Metcalf, PE, Director
Tim Fife, PE, County Engineer

NOTICE TO CONTRACTORS

NOTICE IS HERBY GIVEN that the Board of County Commissioners of Lewis County or designee, will open sealed proposals and publicly read them aloud on or after 12:15 p.m. on Thursday, November 18, 2021, at the Lewis County Courthouse in Chehalis, Washington for the 2022 Liquid Asphalt. This contract provides for the purchase and delivery of *** Liquid Asphalt,*** and other work, all in accordance with the attached Contract Plans, these Contract Provisions, and the Standard Specifications.

SEALED BIDS MUST BE DELIVERED BY OR BEFORE 12:15 P.M. on Thursday, November 18, 2021

(Lewis County official time is displayed on Axxess Intertel phones in the office of the Board of County Commissioners.
Bids submitted after 12:15 PM will not be considered for this project.)

Sealed proposals must be delivered to the Lewis County Commissioners Office (351 N.W. North Street, Room 210, CMS-01, Chehalis, Washington 98532) by or before **12:15 p.m.** on the date specified for opening, and in an envelope clearly marked: **“SEALED BID FOR THE 2022 LIQUID ASPHALT, TO BE OPENED ON OR AFTER 12:15 P.M. ON NOVEMBER 18, 2021.”**

Informational copies of maps, plans and specifications are on file for inspection in the office of the County Engineer of Lewis County in Chehalis, Washington. The contract documents may be viewed and downloaded from Lewis County’s Web Site @ www.lewiscountywa.gov/.

The Lewis County Public Works Department in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, subtitle A, Office of the Secretary, Part 21, nondiscrimination in Federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 26 will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin, or sex in consideration for an award.

PROPOSAL

TO: BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY
CHEHALIS, WASHINGTON 98532

This certifies that the undersigned has examined the locations of the 2022 Liquid Asphalt Contract, in Lewis County, Washington, and that the plans, specifications and contract governing the work embraced in these improvements, and the method by which payment will be made for said work is understood. The undersigned hereby proposes to undertake and complete the work embraced in this improvement, or as much thereof as can be completed with the money available in accordance with the said plans, specifications and contract, and the following schedules of rates and prices:

NOTE: Unit prices for all items, all extensions, and total amount of bid shall be shown: All entries must be typed or entered in ink.

| | BID ITEM | MILES OF ROAD | TONS | UNIT PRICE DOLLARS CENTS | AMOUNT DOLLARS CENTS |
|---|----------------------|--|-------|-----------------------------|-------------------------|
| 1 | *CRS-2 | 0 | 0 | \$ _____ | \$ _____ |
| 2 | *CRS-2P | 125 | 3,085 | \$ _____ | \$ _____ |
| 3 | *CSS-1 or *CSS-1H | Central Shop Storage Tank | 75 | \$ _____ | \$ _____ |
| 4 | Delivery per ton | Based on 28 Ton Minimum Loads | 3,160 | \$ _____ | \$ _____ |
| 5 | SPCC Plan | | | Lump Sum | \$ _____ |
| 6 | Clean-up | | | Lump Sum | \$ _____ |
| | | | | SUB-TOTAL | \$ _____ |
| | | | | Sales Tax @ 7.8% | \$ _____ |
| | | | | TOTAL BID | \$ _____ |
| 7 | Demurrage | Hourly Rate | | | \$ _____ |
| | | * Asphalt Emulsion (Liquid Asphalt) | | | |

NON-COLLUSION DECLARATION

I, by signing the proposal, hereby declare, under penalty of perjury under the laws of the United States that the following statements are true and correct:

1. That the undersigned person(s), firm, association or corporation has (have) not, either directly or indirectly, entered into any agreement, participation in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the project for which this proposal is submitted.
2. That by signing the signature page of this proposal, I am deemed to have signed and have agreed to the provisions of this declaration.

NOTICE TO ALL BIDDERS

To report bid rigging activities

1-800-424-9071

The U.S. Department of Transportation (USDOT) operates the above toll-free “hotline” Monday through Friday, 8:00 a.m. to 5:00 p.m., eastern time. Anyone with knowledge of possible bid rigging, bid collusion, or other fraudulent activities should use the “hotline” to report such activities.

The “hotline” is part of USDOT’s continuing effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the USDOT Inspector General. All information will be treated confidentially and caller anonymity will be respected.

DOT Form 272-036H
Revised 10/94

PROPOSAL - SIGNATURE PAGE

The bidder is hereby advised that by signature of this proposal he/she is deemed to have acknowledged all requirements and signed all certificates contained herein.

A proposal guaranty in an amount of five percent (5%) of the total bid, based upon the approximate estimate of quantities at the above prices and in the form as indicated below, is attached hereto:

CASH IN THE AMOUNT OF _____

CASHIER'S CHECK _____ DOLLARS

CERTIFIED CHECK (\$_____) PAYABLE TO THE LEWIS COUNTY TREASURER

PROPOSAL BOND IN THE AMOUNT OF 5% OF THE BID

** Receipt is hereby acknowledged of addendum(s) No.(s) _____, _____, _____, & _____

SIGNATURE OF AUTHORIZED OFFICIAL(S)

Proposal Must be Signed

Firm Name

Address

State of Washington Contractor's License No.

Unified Business Identifier (U.B.I.) No.

Federal ID No.

Note:

This proposal form is not transferable and any alteration of the firm's name entered hereon without prior permission from the Lewis County Engineer will be cause for considering the proposal irregular and subsequent rejection of the bid.

*Attach Power of Attorney

APPENDIX B

CONTRACT DOCUMENTS

INCLUDING:

Contract Form

CONTRACT

THIS AGREEMENT, made and entered into this ___ day of _____, 2021, between the BOARD OF COUNTY COMMISSIONERS of LEWIS COUNTY, State of Washington, acting under and by virtue of RCW 36.77.040, hereinafter called

the Board, and _____ of _____

for ___sel___, heirs, executors, administrators, successors and assigns, hereinafter called the Contractor.

WITNESSETH:

That in consideration of the payments, covenants and agreements hereinafter mentioned to be made and performed by the parties hereto, the parties hereto covenant and agree as follows:

DESCRIPTION OF WORK:

1. This contract provides for the purchase and delivery of *** Liquid Asphalt,*** and other work, all in accordance with the attached Plans, these Contract Provisions, and the Standard Specifications, and in full compliance with the terms, conditions and stipulations herein set forth and attached, now referred to and by such reference incorporated herein and made a part hereof as fully for all purposes as if here set forth at length, and shall perform any alterations in or additions to the work covered by this contract and every part thereof and any extra work which may be ordered as provided in this contract and every part thereof.

The Contractor shall provide and be at the expense of all materials, labor, carriage, tools, implements and conveniences and things of every description that may be requisite for the transfer of materials and for constructing and completing the work provided for in this contract and every part thereof.

2. The County hereby promises and agrees with the Contractor to hire and does hire the Contractor to provide the materials and to do and cause to be done the above described work and to complete and furnish the same according to the attached plans and specifications and the terms and conditions herein contained, and hereby contracts to pay for the same according to the schedule of unit or itemized prices at the time and in the manner and upon the conditions provided for in this contract and every part thereof. The County further agrees to hire the contractor to perform any alterations in or conditions to the work covered by this contract and every part thereof and any force account work that may be ordered and to pay for the same under the terms of this contract and the attached plans and specifications.

3. The Contractor for himself, and for his heirs, executors, administrators, successors and assigns, does hereby agree to the full performance of all the covenants herein contained upon the part of the Contractor.

4. It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein.

Contract - 1

5. CANCELLATION OF CONTRACT FOR VIOLATION OF STATE POLICY

This contract, pursuant to RCW 49.28.040 to RCW 49.28.060, may be canceled by the officers or agents of the Owner authorized to contract for or supervise the execution of such work, in case such work is not performed in accordance with the policy of the State of Washington.

6. DOCUMENTS COMPRISING CONTRACT

All documents hereto attached, including but not being limited to the advertisement for bids, information for bidders, bid proposal form, general conditions (if any), special conditions (if any), complete specifications and the complete plans, are hereby made a part of this contract.

IN WITNESS WHEREOF, the said Contractor has executed this instrument, and the said Board of County Commissioners of aforesaid County, pursuant to resolution duly adopted, has caused this instrument to be executed by and in the name of said Board by its Chairman, duly attested by its Clerk, the day and year first above written, and the seal of said Board to be hereunto affixed on the date in this instrument first above written.

By: _____

Contractor

Date: _____, 2021

APPROVED AS TO FORM:

JONATHAN L. MEYER, Prosecuting Attorney

By: _____
Civil Deputy

APPROVED:

County Engineer

Contract – 2