

CONTRACT FOR SERVICES

THIS CONTRACT, made and entered into this _____ day of _____, 2024 by and between Corrective Asphalt Materials, LLC hereinafter called "Contractor" (a limited liability corporation organized and existing under the laws of the State of Minnesota) and the City of Shakopee, Minnesota, a municipal corporation, hereinafter called "City."

WITNESSETH:

That Whereas, the Contractor has submitted a quote for the following City improvements:

City of Shakopee Pavement Preservation Project

NOW THEREFORE,

the parties to this contract agree to the following:

1. Manner for Completion

The Contractor, at his own proper cost and expense, shall perform all work and furnish all supervision (needed beyond that provided by the City Engineer), labor, material, tools, supplies, machinery and other equipment necessary for the application of Reclamite Maltene Based Rejuvenating Agent, **City of Shakopee Pavement Preservation Project**, for the City of Shakopee, Minnesota, in a workmanlike and substantial manner, as outlined in the Contractor's quote and specifications.

2. Due Diligence

Time is of the essence in the performance of this Contract. The maintenance of a rate of progress in the work which will result in its completion in a reasonable time, is an essential feature of this Contract, and the Contractor agrees to proceed with all due diligence and care, at all times to take all precautions to ensure the time of completion as defined in this Contract. The Contractor shall fully complete the work called for under the Contract in accordance with the specifications.

3. Contract Price

The City shall pay the Contractor the Total Extended Prices for Unit Price Work (subject to final adjustment based on actual quantities) Eighty-Five Thousand Nine Hundred and Fifty-Six and 00/100ths Dollars (\$85,956.00).

4. Payment

The City agrees to pay, and the Contractor agrees to receive and accept payment in accordance with the prices as quoted in the Contractor's Quote, which is inclusive of sales tax. Payment to the Contractor shall be made based on measurements as shown in the Quote once completed and submission and approval of an invoice.

5. Contractor's Responsibility for Subcontractors

It is further agreed that Contractor shall be as fully responsible to the City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons it directly employs. Contractor shall cause appropriate provisions to be inserted in all subcontracts relating to this work, to bind all subcontractors to Contractor by all the terms herein set forth, insofar as applicable to the work of subcontractors and to give Contractor the same power regarding termination of any subcontract as the City may exercise over Contractor under any provisions of this contract.

Nothing contained in this Contract shall create any contractual relation between the subcontractor and the City or between any subcontractors.

6. Payment to Subcontractors

The Contractor shall pay any subcontractor within ten days of receipt of payment from the City for undisputed services provided by the subcontractor. If the Contractor fails to pay within ten days, the Contractor shall pay the subcontractor interest at the rate of one and one-half percent per month or part of month to the subcontractor on any undisputed amount not paid on time to the subcontractor, in accordance with Minn. State. Sec. 471.425, Subd. 4a.

7. Termination without Cause by City

The City reserves the right to terminate Contractor at will immediately without cause at any time within the term of this Contract. In the event of such termination, the City shall provide Contractor written notice of termination and upon receipt of same, Contractor shall immediately cease and desist Contractor's provision of services under this Contract and City shall have no further obligation under this Contract to pay any further compensation to Contractor except for compensation due and owing for services prior to Contractor's receipts of the written notice of termination.

8. Indemnity

The Contractor agrees to defend, indemnify, and save the City harmless from and against all claims, suits and actions of every description, brought against the City and from all damage and costs, including attorney's and expert fees, by reason or on account of any injuries or damages received or sustained by any person or persons, or their property, by Contractor, its servants, agents or subcontractors in the construction of said work, or by any negligence or carelessness in the performance of same, or on account of any other wrongful act or omission, including breach of any provision of this Contract, of Contractor, its independent subcontractors, agents, employees, or delegates. The Contractor further agrees to indemnify the City for defense cost incurred in defending any claims, unless the City is determined to be at fault.

9. Contract Documents

This Contract, together with the other documents enumerated in this paragraph, forms the Contract between the parties. These documents are as fully a part of the contract as if attached hereto or repeated herein. In the event of any conflict between those documents listed as (a) through (f), they shall govern in the order listed, with this Contract governing over all other documents. The contract documents consist of the following:

- a. This Contract
- b. Contractor's Quote

10. Duplicate Originals

This Contract shall be executed in two copies; one (1) copy being retained by the City, one (1) to be delivered to the Contractor.

11. Insurance

Prior to the start of deliveries, Contractor shall furnish to the City a certificate of insurance showing proof of the required insurance required under this Paragraph. Contractor shall take out and maintain or cause to be taken out and maintained until six (6) months after the City has accepted the public improvements, such insurance as shall protect Contractor and the City for work covered by the Contract including workers' compensation claims and property damage, bodily and personal injury which may arise from operations under this Contract, whether such operations are by Contractor, or anyone directly or indirectly employed by either of them. The minimum amounts of insurance shall be as follows:

Commercial General Liability (or in combination with an umbrella policy)

Commercial General Liability	Policy limits of not less than:
General Aggregate	\$2,000,000
Products – Completed Operations Aggregate	\$2,000,000
Personal and Advertising Injury	\$2,000,000
Bodily Injury and Property Damage – Each Occurrence	\$2,000,000

Automobile Liability

Automobile Liability	Policy limits of not less than:
Bodily Injury	
Each Person	\$2,000,000
Each Accident	\$2,000,000
Property Damage	
Each Accident	\$2,000,000
or	
Combined Single Limit	
Combined Single Limit (Bodily Injury and Property Damage)	\$2,000,000

Workers Compensation

Worker's Compensation and Related Policies	Policy limits not less than:
Workers' Compensation	
State	Statutory
Applicable Federal (e.g., Longshoreman's)	Statutory
Foreign voluntary workers' compensation (employer's responsibility coverage), if applicable	Statutory
Employer's Liability	
Each accident	\$2,000,000
Each employee	\$2,000,000
Policy limit	\$2,000,000

Umbrella or Excess Liability: Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the Paragraphs above.

Excess or Umbrella Liability	Policy limits of not less than:
Each Occurrence	\$2,000,000
General Aggregate	\$2,000,000

The Contractors' insurance must be "Primary and Non-Contributory".

All insurance policies (or riders) required by this Contract shall be (i) taken out by and maintained with responsible insurance companies organized under the laws of one of the states of the United States and

qualified to do business in the State of Minnesota, (ii) shall name the City, its employees and agents as additional insureds (CGL and umbrella only) by endorsement which shall be filed with the City. A copy of the endorsement must be submitted with the certificate of insurance.

Contractor's policies and Certificate of Insurance shall contain a provision that coverage afforded under the policies shall not be cancelled without at least thirty (30) days' advanced written notice to the City, or ten (10) days' notice for non-payment of premium. An Umbrella or Excess Liability insurance policy may be used to supplement Contractor's policy limits on a follow-form basis to satisfy the full policy limits required by this Contract.

12. Nondiscrimination

The Contractor agrees in the performance of this Contract not to discriminate on the ground or because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation or age, against any employee of Contractor or applicant for employment, and shall include a similar provision in all subcontracts let or awarded hereunder.

13. Independent Contractor

City and Contractor agree that Contractor, while engaged in carrying out and complying with the terms and conditions of this Contract and the provision of services thereunder, shall be considered at all times an independent contractor and not an officer, employee, or agent of the City. City and Contractor further agree that Contractor shall not at any time or in any manner represent that Contractor or any of the Contractor's agents or employees are in any manner agents or employees of the City. City and Contractor further agree that Contractor shall be exclusively responsible under this Contract for Contractor's own FICA payment, workers compensation payments, unemployment compensation payments, withholding amounts, and/or self-employment taxes or other taxes if any such payments, amounts, or taxes are required to be paid by law or regulations.

14. Jurisdiction

This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Minnesota.

15. Supervision of the Contractor

The City's designated supervisor will be the City Engineer. The City Engineer, acting on the City's behalf, shall be responsible for providing communication and direction as to the provision of services by the Contractor under this Contract. The Contractor will contact the City of Shakopee by e-mail as to the supply dates and times they will perform work. City Engineer's mailing address is: 485 Gorman St, Shakopee, MN 55379; telephone number is: (W) 952-233-9361; email address is ajordan@shakopeemn.gov.

16. Written Notice or Other Correspondence

Any written notice or other correspondence to be provided by or between the City and the Contractor in accordance with this Contract shall be hand delivered or mailed by registered or certified mail to the following address:

CITY: City of Shakopee
 485 Gorman Street
 Shakopee, MN 55379
 Attn: William Reynolds, City Administrator

CONTRACTOR: _____

Attn: _____

17. No Assignment

Neither party shall assign this Agreement, nor any interest arising herein, without the written consent of the other party.

18. Invalidity of Provisions

If any term or provision of this Contract or any application hereof to any person or circumstances, shall to any extent be invalid or unenforceable, the remainder of this Contract or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be effected hereby and each term and provision of this Contract shall be valid and be enforced to the fullest extent permitted by law.

19. Warranty

The Contractor shall be held responsible for any and all defects in workmanship, materials, and equipment which may develop in any part of the contracted service, and upon proper notification by the City shall immediately replace, without cost to the City, any such faulty part or parts and damage done by reason of the same in accordance with the bid specifications. No warranty bond shall be required. The warranty period shall be 2 years from the date of application.

20. Work Hours

Work hours shall be Monday through Friday between 7:00 a.m. and 7:00 p.m. daily. No work will be permitted on Saturdays, Sundays, and Holidays.

21. Miscellaneous

A. Owner and Contractor each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

B. Any provision or part of the Contract Documents held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provisions.

C. Data Practices/Records.

(1) All data created, collected, received, maintained or disseminated for any purpose in the course of this Contract is governed by the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, any other applicable state statute, or any state rules adopted to implement the act, as well as federal regulations on data privacy.

(2) All books, records, documents and accounting procedures and practices to the Contractor, relative to this Contract are subject to examination by the City.

D. All reports, plans, models, software, diagrams, analyses, and information generated in connection with performance of this Agreement shall be the property of the City. The City may use the information for its purposes.

E. Patented devices, materials and processes. If the Contract requires, or the Contractor desires, the use of any design, devise, material or process covered by letters, patent or copyright, trademark or trade name, the Contractor shall provide for such use by suitable legal agreement with the patentee or owner and a copy of said agreement shall be filed with the Owner. If no such agreement is made or filed as noted, the Contractor shall indemnify and hold harmless the Owner from any and all claims for infringement by reason

of the use of any such patented designed, device, material or process, or any trademark or trade name or copyright in connection with the Project agreed to be performed under the Contract, and shall indemnify and defend the Owner for any costs, liability, expenses and attorney's fees that result from any such infringement.

F. In providing services hereunder, Contractor shall abide by all statutes, ordinances, rules and regulations pertaining to the provisions of services to be provided.

G. Assignment. Neither party may assign, sublet, or transfer any interest or obligation in this Contract without the prior written consent of the other party, and then only upon such terms and conditions as both parties may agree to and set forth in writing.

H. Waiver. In the particular event that either party shall at any time or times waive any breach of this Contract by the other, such waiver shall not constitute a waiver of any other or any succeeding breach of this Contract by either party, whether of the same or any other covenant, condition or obligation.

I. Governing Law/Venue. The laws of the State of Minnesota govern the interpretation of this Contract. In the event of litigation, the exclusive venue shall be in the District Court of the State of Minnesota for Dakota County.

J. Severability. If any provision, term or condition of this Contract is found to be or become unenforceable or invalid, it shall not affect the remaining provisions, terms and conditions of this Contract, unless such invalid or unenforceable provision, term or condition renders this Contract impossible to perform. Such remaining terms and conditions of the Contract shall continue in full force and effect and shall continue to operate as the parties' entire contract.

K. Entire Agreement. This Contract represents the entire agreement of the parties and is a final, complete and all-inclusive statement of the terms thereof, and supersedes and terminates any prior agreement(s), understandings or written or verbal representations made between the parties with respect thereto.

22. Term

The term of this Contract shall begin on March 7, 2024, and end on December 31, 2024, both dates inclusive, unless sooner terminated as hereinafter provided.

CONTRACTOR

CITY OF SHAKOPEE, MINNESOTA

By _____

By _____
Mayor/Matt Lehman

By _____
Name / Title

By _____
City Administrator/Bill Reynolds