

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON
FOR THE COUNTY OF YAMHILL
SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of the Approval of a Contract)
with Sierra Santa Fe in the Amount of \$742,670.00)
for Annual Chip Seal Paving; and Incorporating) Board Order 22-306
a Change Order in the Amount of \$118,280.00)
to Perform Additional Work on Starr Quarry Road.)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (“the Board”) sat for the transaction of county business in formal session on September 22, 2022. Commissioners Lindsay Berschauer, Casey Kulla, and Mary Starrett being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

- A. Yamhill County Public Works solicited competitive bids for this project, the Yamhill County 2022 Chip Seal Project (the “Project”) in March of 2022. The department opened bids on April 5, 2022. Only one bid was received, which was a bid from the Sierra Santa Fe Corporation.
- B. On May 19, 2022, the Board issued Board Order 22-156, which approved an intent to award the Project contract to Sierra Santa Fe Corporation in the amount of \$742,670.00.
- C. Public Works is now requesting that the Board approve the contract, retroactive to August 21, 2022. *See Exhibit A.*
- D. On or around September 9, 2022, Public Works identified that additional work is needed on Starr Quarry Road and has prepared a change order for this work, which amounts to \$118,280.00 in chip seal paving services. *See Exhibit B.* If the Board approves the contract with Sierra Santa Fe Corporation, then this change order will be made pursuant to the contract. NOW, THEREFORE,

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

- 1. The contract with Sierra Santa Fe Corporation in the amount of \$742,670.00 is hereby approved.

2. The change order in the amount of \$118,280.00 to complete additional work on Starr Quarry Road is hereby approved.

DONE at McMinnville, Oregon, on September 22, 2022.

ATTEST

KERI HINTON
County Clerk

By: *Carolina Rook*
Deputy Carolina Rook



YAMHILL COUNTY BOARD OF COMMISSIONERS

Lindsay Berschauer
Chair LINDSAY BERSCHAUER

Casey Kulla
Commissioner CASEY KULLA

Mary Starrett
Commissioner MARY STARRETT

FORM APPROVED BY:

Christian Boenisch
Christian Boenisch
County Counsel

Exhibit A

CONTRACT AGREEMENT

YAMHILL COUNTY 2022 CHIP SEAL PROJECT (Yamhill County and Sierra Santa Fe Corporation)

THIS AGREEMENT is made by and between **Yamhill County**, a political subdivision of the State of Oregon (referred to as Owner in this Agreement) and **Sierra Santa Fe Corporation**, **Federal Tax Identification Number 91-1736450** referred to as Contractor in this Agreement) for the project known as Yamhill County 2022 Chip Seal Project for which bids were opened **April 5th, 2022** (referred to in this Agreement as the "Project").

STATEMENT OF PURPOSE AND IDENTIFICATION OF CONTRACT DOCUMENTS

A. Owner has budgeted funds to perform the Project. Owner conducted a competitive bidding process to select the lowest responsible bidder to complete the Project. Contractor was the lowest responsible bidder. This Agreement is made to specify the mutual obligations of Owner and Contractor for completion of the Project.

B. This Agreement includes by reference the following Contract Documents that are part of the Project:

- (A) Specifications and Call for Bids March 17th, 2022
- (B) Special Provisions and Supplemental Standard Specifications for County Road Construction, including Standard and Supplemental General Conditions in form of Oregon Standard Specifications for Construction 2021 published by ODOT
- (C) Bid Schedules and Signature Page
- (D) First-tier subcontractor disclosure form, if any
- (E) Bid Bond
- (F) Current Prevailing Wage Rates effective at time of Bid
- (G) Addenda (if any)
- (H) Performance and Payment Bond
- (I) Notice of Intent to Award
- (J) This Agreement
- (K) Agreement Amendments (if any)
- (L) Insurance Certificates
- (M) Notice to Proceed
- (N) Change Orders (if any)
- (O) Notice of Substantial Completion or Project Acceptance
- (P) Warranty Period
- (Q) Prequalification Form

AGREEMENT: In consideration of the mutual covenants contained below, Owner and Contractor hereby agree as follows:

1. **Scope of work and services; filing of payment and performance bond.** The Contractor will commence and complete the construction of the Project in strict accordance with the Contract Documents identified above. The Contractor acknowledges receipt of all Contract Documents in existence at the date it executed this Agreement. Contractor represents to Owner that Contractor has made a reasonable inspection of the Project site(s) and is reasonably familiar with the Project site(s) conditions that might affect Contractor's performance if the Project pursuant to this Agreement. Services provided by Contractor under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily

exercised by members of the same profession currently practicing under similar conditions. The Contractor will file a suitable payment and performance bond before it commences Project work and services.

2. **Retroactive Effectiveness.** Upon execution, this agreement shall be effective retroactive to August 21, 2022.

3. **Agreement performed at Contractor's expense as Independent Contractor.** The Contractor will furnish all of the materials, supplies, tools, equipment, labor, and other services necessary for the construction and completion of the Project as described in the Contract Documents. The Contractor is an independent contractor under this Agreement.

4. **Commencement and completion date.** The Contractor will commence the work and services required by the Contract Documents upon Owner's issuance of a Notice to Proceed and will complete the same by no later than **September 25th, 2022** unless the Contract Period is extended or otherwise modified by written notice or executed Change Order.

5. **Termination.** Owner may terminate this Agreement if the Contractor fails to comply with a material term of this Agreement or for any other reason considered to be in the public interest. If this Agreement is terminated, the Owner will pay for all work and services accepted by the Supervisor, as defined in Section 16, prior to termination.

6. **Penalty for failure to meet deadline.** The parties agree that Owner has a substantial interest in the timely completion of the Project and all work and services to be performed under this Agreement in accordance with the agreed upon schedule. However, the parties agree that the damages to be anticipated from the failure of Contractor to complete this Agreement in the specified time are uncertain and difficult to establish. The parties therefore desire to liquidate Owner's damages for Contractor's failure to complete the Project and all work and services on time. The parties therefore agree that the Contractor is liable for and shall pay as liquidated damages to Owner the sum of \$500.00 per day for each calendar day to commence on the first calendar day after the required completion date under this Agreement and to continue after each and every calendar day until all work is satisfactorily completed as specified in the Contract Documents.

7. **Compensation.** The Contractor agrees to perform all of the work and services described in the Contract Documents and comply with the terms therein at the rates set forth in Contractor's responsive bid schedule for the unit price sum of **\$742,670.00** unless the Contract Price is modified by executed Change Order. Payment shall be made by Owner either in a single payment following final approval of the project by the Yamhill County Director of Public Works, or as otherwise provided in the General Conditions, subject to a 5% retainage. Upon satisfactory completion of Project tasks, the Contractor shall notify the Project Manager in writing that Contractor has completed performance under this Agreement and shall request payment of applicable retained amounts. Upon receipt of written notice, Project Manager will review the Project work and services completed to date and if acceptable, Project Manager shall authorize payment of applicable retained amounts.

8. **Prevailing wages; certified statement.** The Contractor hereby certifies, and it shall be a condition of the Payment and Performance Bond, as provided by ORS 279C.800 through 279C.870, that in performing this Agreement the Contractor will pay and cause to be paid and all subcontractors will pay and cause to be paid not less than the prevailing rate of wages as of the date of the Call for Bids, per hour, per day, and per week for and to each and every worker who may be employed in and about the performance of this Agreement. In the event the Contractor is obligated to abide by prevailing wage requirements imposed by federal law, the Contractor shall comply with the Davis-Bacon Act (40 U.S.C. 3141 et seq). The Contractor shall

file with the Owner certified statements as required under ORS279C.845 with regard to payment of prevailing wages. Pursuant to ORS 279C.845(7) until Owner receives the certified statements, Owner shall retain 25% of any amount earned by the Contractor as required by law. Owner shall pay Contractor any retained amounts under this Section within 14 days of receipt of certified statements.

9. **Incorporation of statutory provisions required for public contracts.** The Contractor certifies it shall comply with all applicable Public Contract Laws to include ORS 279B.200 through 279B.240 and ORS 279C.500 through 279C.545 and 279C.580 (3) and (4). ORS 279B.200 through 279B.240 and ORS 279C.500 through 279C.545 and ORS 279C.580(3) and (4) are incorporated into this Agreement by reference.

10. **Workers' compensation.** The Contractor, its subcontractors, if any, and all employers working under this Agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers.

11. **BOLI fee.** In accordance with ORS 279C.825, as amended in 2009, the Owner shall pay a fee to the Bureau of Labor and Industries (BOLI), Wage and Hour Division, Rom 1160, Prevailing Wage Unit, 800 NE Oregon Street, #32, Portland, Oregon 97232. The fee is an amount equal to one-tenth of one percent (0.1 percent) of the Contract Price, with a minimum fee of \$250.00 and a maximum fee of \$7,500.00. The fee shall be paid at the time Owner enters into this Agreement. The fee shall be paid in accordance with the administrative rules of BOLI.

12. **Certification of compliance with laws.** The Contractor certifies, under penalty of perjury, that Contractor is not in violation of any federal, state or local tax laws, rules or regulations or any federal, state or local laws, rules, codes or regulations applicable to the Project and that Contractor shall remain in compliance with all such laws, codes, rules and regulations during the entire term of this Agreement. In addition, Contractor agrees that it has complied with the tax laws of the State of Oregon or a political subdivision of the State of Oregon, including ORS 305.620 and ORS Chapters 316, 317 and 318.

13. **Certification of reading and understanding of documents.** The Contractor certifies it has read and fully understands all Contract Documents including Solicitation Documents and terms and conditions. The Contractor understands and acknowledges that in signing this Agreement the Contractor waives all rights to plead any misunderstandings regarding the same.

14. **Payment.** The Owner agrees to pay the Contractor in the manner and at such times as set forth in the General Conditions such amounts as required by the Agreement, unless otherwise modified by written notice or executed Change Order.

15. **Warranty Period.** Where the warranty period is not otherwise stated in the General Conditions, the warranty period is 365 days commencing upon the date Project Acceptance is issued by Owner.

16. **Public Works Bond.** Before commencing work, the Contractor shall have a public works bond as described in ORS 279C.836 filed with the Construction Contractors Board. Contractor shall include a provision in any subcontract for the Project that the subcontractor shall have a public works bond filed with the Construction Contractors Board before commencing work.

17. **Status of the Project Supervisor.** Greg Haffner, Yamhill County Engineering Manager, is the Project Manager. The Project Manager or his designee shall perform technical

inspections of work and services and shall have authority to stop the work or services whenever such stoppage shall be necessary to insure proper execution of the Agreement. The Project Manager or his designee may reject all work and materials that do not conform to the Agreement and shall decide questions that arise in the execution of the Project work or services. The Supervisor has authority to reject or accept the Project work or services.

18. **Prohibition of Discrimination.** In hiring employees for performance of work under this Agreement neither Contractor, any subcontractor nor any other person acting on their behalf shall by reason of race, religion, age, color, creed, physical handicap or sex discriminate against a person who is qualified and available to perform work or services to which employment relates.

19. **Risk of Loss.** The risk of loss or damage to the subject matter of this Agreement arising from any cause whatsoever, including acts of God, shall be upon the Contractor until such time as the Owner has accepted the work and services as provided in this Agreement.

20. **Indemnification.** Contractor shall indemnify, defend and save harmless Owner from and against any suits, actions, legal or administrative proceedings, demands, claims, liabilities, fines, penalties, losses, injuries, damages, expenses or costs, including interest and attorney fees, in any way connected with any injury to any person or damage to any property occasioned in any way by Contractor's or Contractor's subcontractors' prosecution of work or services under this Agreement.

21. **Insurance.** Contractor, at its expense, shall obtain the following insurance coverage and keep them in effect during the entire term of this Agreement:

1. Workers Compensation Insurance in compliance with statutory requirements.
2. Comprehensive General Liability Insurance (including contractual liability and completed operations coverage) on an occurrence basis, with not less than \$2,000,000 per occurrence for bodily injury and property damage liability, with an annual aggregate limit of \$3,000,000;
3. Commercial Automobile Liability Insurance, with a combined single limit, or the equivalent of not less than \$1,000,000 per occurrence, for bodily injury and property damage with respect to Contractor's vehicles, whether owned, hired, or non-owned, assigned to, or used by Contractor in connection with the services provided under the Agreement;

The required insurance coverages shall be (i) with insurance companies admitted to do business in the state of Oregon and rated A or better by Best's Insurance Rating, and (ii) acceptable to Owner. Evidence of such insurance will be furnished to Owner before commencing Project work or services. The certificates of insurance shall indicate (a) the types of insurance coverage, (b) the identity of all persons or entities covered, (c) the amounts of insurance coverage, and (d) the period of insurance coverage. Any required insurance coverage shall provide that it may not be canceled except after at least 30 days written notice to Owner.

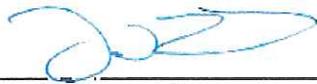
The Commercial General Liability and Commercial Automobile Liability shall (i) name Owner, its directors, officers, and employees, as additional insureds, (ii) provide that it is primary insurance with respect to the interests of Owner and that any insurance maintained by Owner is excess and not contributory, and (iii) include a cross-liability and severability of interest clause and a waiver of subrogation clause.

31. **Prequalification of Bidder.** The applicant shall be prequalified as defined under 00120.00 of the ODOT Standard Specifications. See attached form.

THIS AGREEMENT AND THE CONTRACT DOCUMENTS CONSTITUTE THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE IN TERMS OF THIS AGREEMENT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY FOR THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THE CONTRACTOR, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT HE/SHE HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed on the date indicated by their duly authorized officials, this Agreement in duplicate, each of which shall be deemed an original on the date executed by all parties.

Sierra Santa Fe Corporation

By: 

(Signature)

Date: 9/19/2022

David Zimmerly
(Printed Name)

Title: President

Fed. Tax I.D. No: 91-1736450

Contractor
Registration No: 144238

YAMHILL COUNTY, OREGON



Lindsay Berschauer, Chair
County Commissioner
Date: 9/22/22



Mark Lago, Director
Department of Public Works
Date: 9/19/22

APPROVED AS TO FORM

By: 

CHRISTIAN BOENISCH.
County Counsel

Exhibit B

Change Order No. 1



Revisions to the Contract for Construction between **Yamhill County** and **Sierra Sante Fe** are agreed as follows.

PROJECT: Yamhill County 2022 Chip Seal Project

Sierra Sante Fe	PO Box 1058, Ridgefield Wa, 98642	Sept. 14th, 2022
Contractor Name	Address	Date of Commencement

CHANGES: Description of the added/deleted/revised Work

WORK:

Contractor to add additional scrub seal work, 2nd standard chip layer, and fog sealing on Starr Quarry Road from Walnut Hill to Amity/Dayton Highway - 155. Half of this work utilizes bid prices and the scrub seal is a new type of sealing work.

REASON FOR CHANGES:

Starr Quarry road is deteriorating quickly and requires timely attention in order to slow down the degregation of the roadway pavement. This double layer application should extend the life of the road section 10 plus years.

LIST OF SUPPLEMENTAL INFORMATION/DRAWINGS (ATTACHED):

Note: Under B.O. 22-35, \$270K of funds were allocated for Starr Quarry Road for repairs. This maintenance approach saves 43% of the budgeted funds (\$118k vs. \$270k).

CONTRACT SUM:

Contract Sum PRIOR to this Change (including previously approved Change Orders):	\$742,670.00
Contract change for new work: Scrub seal, 2nd layer of chip seal, Fog Seal	\$118,280.00
REVISED TOTAL CONTRACT AMOUNT:	\$860,950.00

CONTRACT DURATION:

Substantial Completion PRIOR to this Change (including previously approved Change Orders):	September 30th, 2022
Substantial Completion AFTER this Change:	September 30th, 2022
TOTAL CHANGE:	days + or - 0

APPROVALS:

CHANGE SUBMITTED BY: G. Haffner, YC Engineering Mgr. Public Works

APPROVED BY:

Lindsey Berschauer, Yamhill County Board Chair

9/22/22

DATE:

Dave Zimmerly, Sierra Santa Fe

DATE:

SUPPORTING DATA
PAGE 1

Greg Haffner

From: David Zimmerly <dz@sierrasantafe.com>
Sent: Monday, September 12, 2022 4:58 PM
To: Greg Haffner
Cc: Parker Zimmerly; Steve Sims; Mark Lago
Subject: Re: Possible Change Order to scrub seal Starr Quarry road between Hwy 155 and Walnut Hill

[This email originated outside of Yamhill County]

Greg,

16,407 SQ YDS Scrub Seal followed by 16,407 SQ YDS Chip Seal- \$105,408.00
Scrub Seal oil will be PMRE shot at approx. 0.42.
Chip Seal oil will be PMCRS-2H shot at approx. 0.45.
Sierra Santa Fe will provide the traffic control and sweeping after the Scrub Seal and Chip Seal is completed.
Yamhill County will provide the chip rock and cleaning prior to Scrub and Chip Seal application.

\$118,280.00 Total

If you would like to fog seal, 16,407 SQ YDS Fog Seal would be an additional \$12,872.00.

Thank you,

On Sep 8, 2022, at 2:52 PM, Greg Haffner <haffnerg@co.yamhill.or.us> wrote:

Dave/Parker,

Please provide an estimate for a change order to scrub seal Starr Quarry road between Hwy 155 and Walnut Hill.

This is approximately 6900' x 21.4'

This would be a double application of chip. First would be scrub, and the second would be normal chip with fog.

I am assuming we would need 510 tons of 3/8" medium chip at 31 lbs/sy.

Thanks,

Greg Haffner
Engineering Manager
2060 NE Lafayette Ave.
McMinnville Or 97128

SUPPORTING DATA
PAGE 2

503-434-7515 Ext. 3605
Direct 503-434-7365
Haffnerg@co.yamhill.or.us
<image003.png>

<013 Starr Quarry Rd Scrub Seal.kmz>

Sierra Santa Fe Corporation
David Zimmerly, Pres.
PO Box 1058
Ridgefield, WA. 98642
360-887-2222 work
360-887-4422 fax
360-606-5611 cell
WA# SIERRSF033MM
OR CCB# 144238
ID# RCE-35507



<https://www.sierrasantafe.com>

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