

CONSTRUCTION CONTRACT

Parties : Roger Langeliers Construction Co., Oregon CCB #106364 (“Contractor”)
32929 Roberts Ct
Coburg, OR 97408
Attn: Rick Langeliers, Project Manager 541-302-6648

City of Coburg (“Owner”)
91136 N. Willamette Street
PO Box 8316
Coburg, OR 97408
Attn: Anne Heath, City of Coburg 541-682-7871

Project Van Duyn Sidewalk and Driveway Improvement Project
Address: Coburg, OR

This Construction Contract (“Agreement” or “Contract”) is made effective by and between Contractor and Owner dated September __, 2021.

NOW, THEREFORE, in consideration of the covenants and conditions contained in this Agreement and the payments hereinafter specified, it is agreed between Contractor and Owner as follows:

1. General.

1.1. Owner is the owner of real property located in Lane County, Oregon, with an address set forth above (the “Property”). Owner shall inform Contractor of all property lines, easements, and set-backs (“Property Information”); Contractor shall have the right to rely on the Property Information; and Owner shall indemnify and defend Contractor for any claims relating to or arising out of errors to the Property Information.

1.2. Owner desires to hire Contractor to furnish the necessary labor, equipment and materials to perform certain paving and construction work (as set forth in more detail below) (the “work”) on the Property, in accordance with the plans, drawings, and specifications (collectively the “Design Documents”) prepared by Owner, which are attached hereto and incorporated herein by this reference. The work shall consist of and as is more specifically described in Contractor’s quotation dated August 26, 2021, which is attached hereto and incorporated herein by this reference.

1.3. The surfacing and related improvements at the Property are collectively referred to herein as the “Improvements.” The reconstruction and/or construction of the Improvements are hereinafter referred to as the “Project.”

2. Agreement to Hire Contractor. Owner hereby hires Contractor to perform the Project, and Contractor agrees to perform the Project pursuant to the terms herein and in accordance with the Design Documents in a workmanlike manner. Contractor’s price for the Project includes the project description in section 1.2, above, and in Contractor’s bid or proposal, and excludes all other work. Owner has reviewed the bid or proposal and has had an opportunity to make changes, additions, and corrections to the scope of work. Any item not specifically set forth above and/or in Contractor’s bid/proposal shall be considered a change or extra, and the contract price shall be adjusted accordingly.

3. Change Orders. Any unforeseen condition, or any change, addition, or deletion to the plans, drawings, specifications, or this Agreement shall be in writing executed by both the Owner and Contractor and shall specify the changes and increase or reduction in the contract price, using the Owner/Contractor Change Order form attached hereto (or in a substantially similar form acceptable to the Contractor). The change order shall also specify the time and manner for payment of any increase. In the event the change order does not so specify, then any

increase shall be added to the contract price herein and shall be paid in full upon completion of the Project and in accordance with the terms herein.

4. Contract Price.

4.1. The price for the Project to be paid by Owner to Contractor is **\$39,419.16.-** Subject to Quotation dated August 26, 2021.

5. Payment of Contract Price. Owner agrees to timely make all payments to Contractor in accordance with the terms of this Agreement and with all applicable provisions of Oregon law, including but not limited to Oregon's Prompt Pay Act (ORS Chapter 701). Unpaid amounts shall accrue interest at the rate of one and one-half percent (1%) per month until paid.

6. Insurance. Contractor shall provide a standard policy of General Liability, Auto & Excess (Umbrella) insurance, naming Owner as an additional insured. Contractor shall provide a certificate of insurance for workers' compensation coverage naming Owner as certificate holder.

7. Commencement of Construction and Completion. Contractor will commence the Project later in 2021 as mutually agreed by the parties. Work is anticipated to take one to two weeks until completion.

8. Contractor's Warranty. Contractor shall construct the Project in a substantial and workmanlike manner in accordance with applicable building codes and regulations.

The warranties given hereunder shall have no force and effect until the Contractor has received full payment of the contract price and all warranties shall date from the date of work completion.

THIS CONTRACT CONTAINS ALL THE REPRESENTATIONS, WARRANTIES AND PROMISES OF THE CONTRACTOR. THE CONTRACTOR MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, AND HEREBY EXPRESSLY DISCLAIMS THE WARRANTIES OF GOOD WORKMANSHIP, HABITABILITY, FITNESS OF PURPOSE, AND MERCHANTABILITY. NO AGENT OR REPRESENTATIVE OF THE CONTRACTOR IS AUTHORIZED TO MAKE ANY REPRESENTATION OR PROMISE ON BEHALF OF THE CONTRACTOR OTHER THAN THOSE CONTAINED HEREIN.

9. Contractor's Obligations.

9.1. Contractor shall be responsible for all materials and supplies used in the performance of this Contract.

9.2. Contractor shall be responsible for the unloading of all materials, supplies and equipment to be used on the Project and shall protect such materials and supplies from the elements, vandalism, theft or other damage.

9.3. Contractor shall be responsible to remove excess debris and surplus materials created by Contractor's work on the Project. Contractor shall leave the Improvement in an orderly manner and in a broom clean condition upon completion of the Project.

10. Owner's Acknowledgements and Obligations.

10.1. Owner agrees to provide Contractor unrestricted access to the Property and Improvement during regular business hours unless otherwise agreed in writing. Owner agrees to provide adequate on-site storage space for Project materials and Contractor's equipment unless otherwise agreed in writing.

10.2. The Owner shall be responsible to remove, make arrangements for and/or protect any property or possessions, including but not limited to personal property; pets or animals; landscaping; and/or mail and deliveries on the Property (collectively "Possessions"). Contractor shall not under any circumstances be responsible or liable for the loss or damage to Possessions, which responsibility and liability remains the sole obligation of Owner.

11. Indemnification. To the fullest extent permissible under law, Owner shall indemnify and defend Contractor, Contractor's subcontractors and suppliers, and anyone for whom Contractor may be liable from, for, and against any and all claims for death or bodily injury to persons or damage to property to the extent that the death or bodily injury to persons or damage to property arises out of the fault of the Owner or the fault of the Owner's agents, representatives, or subcontractors. Owner shall not be required to indemnify Contractor from or against claims arising out of (and to the extent of) Contractor's negligence or the negligence of its subcontractors.

12. Attorneys Fees. In case suit, action, arbitration, or any other proceeding, and any appeal therefrom, initiated related to or arising from this agreement, the losing party agrees to pay the prevailing party such sums as the court or arbiter may deem reasonable as attorneys' fees together with costs and disbursements as provided for by statute.

13. Entire Agreement; Modification. This document is the entire, final, and complete understanding of the parties with respect to the transaction contemplated herein, and supersedes and replaces all prior and contemporaneous agreements, understandings, representations, and statements, both written and oral, whether between the parties or their representatives. This contract is the product of mutual negotiations between the parties and, accordingly, shall not be construed against the drafter. This contract may not be modified except by a written instrument signed by the party against whom the enforcement of such modification is sought.

14. Notices. Notices under this Contract shall be sent to Contractor at the following address:
Roger Langeliers Construction Co.
32929 Roberts Ct.
Coburg, OR 97408

and shall be sent to Owner at the following address:

City of Coburg
P.O. Box 8316
Coburg, OR 97408

20. Binding Agreement. This Contract shall be binding upon the heirs, executors, administrators, successors, and assigns of the parties provided, however, that Owner's rights herein, other than warranty rights, may not be assigned without the prior written consent of the parties.

21. Governing Law. This Contract shall be governed by the laws of the State of Oregon. Venue of any action or proceeding herein shall be exclusively in Lane County, Oregon.

22. Independent Contractor. Contractor is in all respects an independent contractor and at no time shall be considered an employee of Owner.

CONTRACTOR – Roger Langeliers Construction Co.:

By: _____ Date: _____
Webster Langeliers, President & C.E.O.

OWNER: City of Coburg

By: _____ Date: _____
Anne Heath, City Administrator