



PROFESSIONAL AGREEMENT WITH INDEPENDENT CONTRACTOR

This Agreement is made this _____ day of _____, 2018, by and between **SPRINGVILLE CITY**, 110 S Main, Springville, Utah (hereinafter referred to as the “City”), and _____ (hereinafter referred to as the “Contractor”).

RECITALS

A. Contractor owns and operates a **Paint Striping** business at the address set forth above, and owner desires to have the following services performed within Springville City: **Centerline striping and bike path lines on specified roads within the City.**

B. Contractor agrees to perform these services for owner under the terms and conditions set forth in this contract.

NOW THEREFORE, in consideration of the mutual promises set forth in this contract, it is agreed by and between the City and Contractor:

Description of Work: The work to be performed by Contractor includes all services generally performed by Contractor in Contractor’s usual line of business, including those specific services listed on Exhibit “A.”

Payment: Owner will pay contractor the total sum of \$ _____ for the work to be performed under this contract. The unit cost amounts that make up the total sum is attached as Exhibit “B”. Payments will be made within 30 days of receipt of invoice.

Term of the Contract: The Contract shall run for a term of three consecutive years. Each year the outlined streets shall be painted before September 15th. In the event the parties mutually decide to extend this Agreement beyond the term outlined in this Agreement, the parties shall negotiate new terms, conditions and provisions to this Agreement. This is a multi-year contract beginning July 1, 2018 and ending on September 15, 2020.

Default: A default hereunder shall occur if either party shall default in the performance or observation of any covenant or condition of this Agreement to be performed or observed, or by breach of any duty set forth in Exhibit A hereto. If Contractor fails to complete its assigned duties as set forth herein, Contractor shall be in default.

Remedies: In the event of any breach or default of this Agreement by either party hereto, as defined in the section entitled “Default,” then this Agreement may be declared terminated by the non-breaching party. This Agreement and the terms and conditions shall then expire upon receipt of the notice of termination by the breaching party. The rights and remedies afforded to the non-breaching party in the foregoing sentence shall not be exclusive, but shall be in addition

to all other legal rights and remedies. The exercise of any right or remedy by the non-breaching party shall not be to the exclusion of any other right or remedy.

Termination: This Agreement may be terminated at any time and for any reason or no reason by the City by the City giving a 30 days prior written notice of termination.

Independent Contractor: Contractor's relationship with City under this Agreement shall be that of an independent contractor. Contractor certifies that he has done work for others in a similar capacity. All training of Contractor's employees, if any, shall be done by Contractor and not by the City. Contractor is exercising its own discretion in the method and manner of performing its duties, and the City will not exercise control over contractor or its employees.

Taxes and Laws: Contractor acknowledges that, as an independent contractor, Contractor is responsible for paying all state and local taxes. Contractor is responsible for workman's compensation and other insurance required by law. Contractor certifies that Contractor has complied with all Federal, State and Local laws regarding business licenses, permits and certificates.

Time is of the Essence: Both parties acknowledge that time is of the essence.

Liability: The work to be performed under this contract will be performed entirely at Contractor's risk, and Contractor assumes all responsibility for the condition of tools and equipment used in the performance of this contract.

Bond: Contractor acknowledges and agrees that a bond is required for the Project. Contractor will furnish to Owner a Performance Bond in an amount that equals five percent (5%) of the payment by Owner to Contractor for the repairs of the improvements.

Insurance: Contractor agrees to obtain and maintain general public liability insurance and property damage insurance with the Owner named as an additional insured, at the rate of One Million Dollars (\$1,000,000) for each occurrence and Three Million Dollars (\$3,000,000) aggregate throughout the construction period.

Warranty: The Contractor agrees to warrant and assume responsibility for all products it uses and services it provides to the City under this contract for a period of one year.

Indemnity: Contractor and its successor and assigns hereby agrees to indemnify, defend (with counsel acceptable to the City) and hold the City, its elected officials, officers, employees and volunteers harmless from any and all liens, encumbrances, costs, demands, claims, judgments, injuries, employee claims and/or damage caused or arising out of (a) the acts and omissions of Contractor and its agents, servants, employees, and/or contractors and (b) any work performed by the Contractor, its agents, servants, employees, consultants and/or contractors. The terms and conditions of this provision shall remain effective after the expiration or termination of this Agreement, so long as the event for which the indemnification is needed occurred prior to such expiration or termination.

Other Laws: Contractor may be responsible to fulfill other federal, state and local laws, including, but not limited to Workers Compensation and Occupational Safety and Health

Administration regulations. Contractor agrees to comply with all laws during construction of the improvements under this contract.

Assignment: Neither this Agreement nor any of the provisions, terms or conditions hereof can be assigned to any other party, individual or entity without assigning the rights as well as the responsibilities under this Agreement and without the prior written consent of Owner, which shall not be unreasonably withheld.

Attorney's Fees: If any party is required to retain legal counsel in order to enforce this Agreement, with or without the commencement of a formal legal action, such party shall be entitled to recover its attorney's fees and costs from the breaching party or parties. In addition, City shall be entitled to attorney's fees and costs for all expenses arising out of a default by the Contractor.

Change Orders: The parties may agree to change the scope of the work contained in the Project. Change Orders must be in writing and signed by both parties. Change Orders must contain the change agreed upon and a specific cost or credit associated with the change in work.

Non-appropriation of Funds: The Contractor acknowledges that the City cannot contract for the payment of funds not yet appropriated by the Springville City Council. If funding to the City is reduced due to an order by the City Council, or the Mayor or designee, or is required by State law, or if federal funding (when applicable) is not provided, the City may terminate this contract or proportionately reduce the services and purchase obligations from the City upon 30 days written notice. In the case that funds are not appropriated or are reduced, the City will reimburse Contractor for products delivered or services performed through the date of cancellation or reduction, and the City will not be liable for any future commitments, penalties, or liquidated damages.

Quantity Estimates: The City does not guarantee to purchase any amount under the contract to be awarded. Estimated quantities are for proposing purposes only and are not to be construed as a guarantee to purchase any amount. The City may make an award for all or some of the items set forth in the RFP and reserves the right to reject any or all proposals.

Binding Effect: This Agreement shall be binding on the parties and their respective heirs successors and assigns.

Governing Law: This Agreement shall be governed by the laws of the State of Utah.

Modifications: This Agreement shall not be amended or modified except by written document signed by the party to be charged with such amendment or modification.

Notices: Any notice, demand, request, consent, approval or other communication (collectively, the "Notices") required or permitted to be given by any provision of this agreement shall be in writing and sent by hand-delivery, by special courier (for example Federal Express), by United States Certified Mail (return receipt requested, postage prepaid), or by telefax, addressed to the party to be so notified. Notice pursuant to this Agreement shall be deemed given pursuant to the following rules: if hand delivered, at the time of delivery; if sent by special courier, on the third

(3rd) day after deliver to the courier; if mailed, on the later of the date of receipt or the third day after deposit thereof in the United States Mails; and if sent by telefax, on the date that the telefax is acknowledged as received.

Assignment: Contractor may not assign this Agreement without the written consent of City.

No Waiver: No failure to exercise, delay in exercising or single or partial exercise of any right, power or remedy by any party hereto shall constitute a waiver thereof or shall preclude any other or further exercise of the same or any other right, power or remedy.

Conflict of Interest: Contractor certifies that it has not offered or given any gift or compensation prohibited by the laws to any officer or employee of the Springville City.

Section Headings: The headings and captions contained in this Agreement are for convenience only and shall not be considered in interpreting the provisions hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, to be effective for all purposes as of the date first written above.

SPRINGVILLE CITY

By: _____
Title: _____

CONTRACTOR –

By: _____
Title: _____

EXHIBIT "A"

- A. Furnish, place, maintain, and remove all traffic control signs and devices. Traffic control must comply with Manual on Uniform Traffic Control Devices (MUTCD).
- B. Notify Public Safety if vehicles need to be moved.
- C. Do not work in the direction of rush hour traffic during peak commute times.
- D. Paint streets (Refer to the attached street map) using Type "F" (Fast Dry) ready-mix AASHTO (M-248) paint and Glass Beads (M-247), according to map provided with bid. The streets shall be painted annually for a period of three years.
- E. Coordinate start date with Jason Riding, Street's Superintendent, to make sure all road surface treatments have been completed. Roads will not be painted at the same time each year, depending on road construction projects. Contractor may be asked to paint some roads early summer and come back towards end of summer to finish remaining. Re-striping of certain roads may be needed throughout the year, and contractor will need to be available within a 2 week notice period.

Exhibit "B"

<u>Map Index</u>	<u>Description</u>	<u>Estimated Quantity</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Total Amount</u>
1	Broken Double Yellow	14,680.00	L.F.		
2	Broken Double Yellow Median	5,415.00	L.F.		
3	Broken Double Yellow Median with White Lane Stripes	2,251.00	L.F.		
4	Broken Single Yellow	10,719.00	L.F.		
5	Double Yellow	114,774.00	L.F.		
6	Double Yellow Median with White Lane Stripes and 6 inch Turn Lanes	389.00	L.F.		
7	Double Yellow with 6 inch Bike Lanes	18,006.00	L.F.		
8	Double Yellow with Median	4,075.00	L.F.		
9	Double Yellow with Median and 6 inch Turn Lane	10,859.00	L.F.		
10	Double Yellow with 6 inch Turn Lane	5,899.00	L.F.		
11	Double Yellow with 6 inch Turn Lane and 6 inch Bike Lanes	10,223.00	L.F.		
12	Pavement Markings (43 Total Bike Symbols)	43	Each		
		Bid Total:			
	Notes				
	Total Linear Feet of Road	197,295.00			
	Total Linear Feet of Road with Bike Path	28,229.00			

*****PAVEMENT MARKING PAINT BID WITH UDOT SPECIFICATION WATERBOURNE PAINT AND REFLECTIVE GLASS BEAD*****

**Quantity is measured by the the length of the Road, NOT the exact Linear Feet of the required paint striping.
Example: (Double yellow) estimated quantity = 100 linear feet, Unit Cost should include 200 linear feet to Include Two 4" yellow lines.**

I have read and understand the 2018 Paint Street Striping Agreement: _____ (initial)

Business Name: _____

Contact Person: _____

Address: _____

Phone Number: _____