

RESOLUTION 1788

A RESOLUTION OF THE CITY OF NEVADA, MISSOURI, AUTHORIZING PAYMENT AND ACCEPTING THE BID FROM EMERY SAPP & SONS, INC SPRINGFIELD, MISSOURI, FOR 2024 STREET IMPROVEMENTS

WHEREAS, the City Manager and Public Works Director, have determined additional street improvements are needed; and

WHEREAS, the City has followed the procedures required by chapter 26 of the Code of Nevada, Missouri in selecting a qualified vendor to provide this service; and

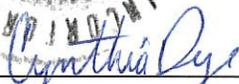
WHEREAS, the City Manager has determined funds are available for this project; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Nevada, Missouri authorizes the City Manager or his designee to make payment to Emery Sapp & Sons, Springfield Missouri in the amount not to exceed \$200,000.00 for chip seal street improvements.

PASSED, APPROVED AND ADOPTED, by the City Council of the City of Nevada, Missouri, this 4th day of June, 2024.



ATTEST:


CYNTHIA DYE, CITY CLERK


GEORGE C. KNOX, MAYOR

AGENDA ITEM

June 4, 2024

Subject: Chip & Seal Street Improvements

Department: Public Works

Bids were solicited for Chip & Seal service. Only one company, Emery Sapp & Sons, INC Springfield Missouri responded with a bid and was able to complete the project this year.

Vendor	Total Bid
Emery Sapp & Sons, INC	\$198,003.00
Tri-State Chip Seal Paving, Joplin MO	No Bid
Innovative Roadway Solutions, Grandview, MO	No Bid
Gee Asphalt	No Bid
Vance Brothers	No Bid

Manager Notes:

- This is a budgeted item.
- Attached bid total.

Street Listing:

Street	Location	length	width	Squ. yd.
W Walnut	1000 - 1200	1170	31	4,030.00
S Lynn	200 - 400	1080	30	3,600.00
S Elizabeth	200 - 400	1085	30	3,616.67
W Sycamore	700 - 800	875	30	2,916.67
S Tucker	200 - 400	1090	30	3,633.33



Proposal

EMERY SAPP & SONS, INC.
Job Code:17-24326 Nevada Chip Seal 2024
Description:Nevada Chip Seal 2024
5/29/2024

Quoted To: City Of Nevada
110 S. Ash St
Nevada, MO 64772
Attn: Tim Wiggans
Phone: 417-448-5114
Email: twiggans@nevadamo.gov

Job Code 17-24326 Nevada Chip Seal 2024
Job Description Nevada Chip Seal 2024

Bid Date 9-May-2024
Bid Time 10:05:00 AM

Line No.	Pay Item No.	Description	Quantity	Unit of Measure	Unit Price	Total Price
		Subtotal Description				
1	1	CRS-2P Chipping Oil	14,240.00	GAL	\$4.20	\$59,808.00
2	2	3/8" Limestone Chips	427.00	TONS	\$285.00	\$121,695.00
3	3	Mobilization	1.00	Each	\$16,500.00	\$16,500.00
GRAND TOTAL:						\$198,003.00

Proposal Certification

****Pricing Based on city doing the final clean up after ESS sweeps and cleans after install****

- ITEMS NOT INCLUDED: REMOVALS (Unless Specifically Bid), ANY AND ALL STORM DRAINAGE IMPROVEMENTS, HANDICAP SIGNS, BUMPER BLOCKS, STAKING/LAYOUT, DOT PERMITS, TEMPORARY OR PERMANENT PAVEMENT MARKING, TRAFFIC CONTROL, ANY AND ALL AGGREGATE BASE ROCK, ANY AND ALL FINE GRADING ASSOCIATED WITH THE BASE ROCK, HERBICIDE, UTILITY ADJUSTMENTS, PATCHING, PAVING FABRIC, ANY AND ALL CONCRETE IMPROVEMENTS, ANYTHING NOT SPECIFICALLY STATED ABOVE, BOND. IF BOND IS REQUIRED CALL FOR PRICING

Any Additional Mobilizations call for pricing

- Any Alteration of deviation from the above specifications involving extra cost will be executed only upon written orders and will become an extra charge over and above the estimate.

- Contract Conditions: All Material is guaranteed to be as specified above. All work is to be completed in a workman like manner according to standard practices.

- In the unlikely event of any discrepancies regarding quantities or extended prices, the unit prices will prevail

- THIS PROPOSAL IS VOIDABLE IF NOT ACCEPTED WITHIN 10 DAYS

- PLEASE SIGN AND RETURN ONE [1] COPY OF THIS PROPOSAL TO INDICATE ACCEPTANCE. BE SURE YOU HAVE MARKED ALL OPTIONS AND INITIALIZED THE CONTRACT CONDITIONS AND OTHER PROVISIONS [IF APPLICABLE]. NO WORK ORDERS WILL BE ISSUED UNTIL ESS ASPHALT HAVE A SIGNED PROPOSAL.

- Unsuitable Materials are Excluded From this Proposal and will be negotiated if/when Encountered

- Prices are based on performance of work by our open shop crews. We will not sign any union or project labor agreements as a condition to work on this project.

- ESS Asphalt Reserves the right to perform asphalt paving if the ambient temperature is below 50 degrees F or, if in ESS Asphalts sole discretion weather conditions are not suitable for paving. If Owner/Prime Contractor requests ESS Asphalt to perform Asphalt Paving after Receiving notice of an unsuitable subgrade and/or unsuitable weather conditions, then Owner/Prime Contractor hereby agrees to release ESS Asphalt from any and all Liability and/or Costs or Damages caused by or resulting from such Asphalt Paving.

- This Proposal will become part of the contract

- For any paving to be completed between December 15th and March 1st, Please add \$5,000.00 per occurrence to be paid for the purpose of maintaining a heated asphalt source.

- ESS Asphalt expects zero percent retainage on payments, which is the same as MoDOT has with the Prime Contractor

- Subcontracts must be made to: Emery Sapp & Sons, Inc.

- Subgrade is to be on grade prior to ESS Asphalt arriving on site

- Base Rock to be +/- 1/2" Prior to ESS Asphalt Arriving on Site, and Subgrade/Subbase Shall be Proof Rolled with a Loaded Tandem Truck without Deformation

- Emery Sapp and Sons, Inc. shall not be held responsible for any drainage issue where the percent of fall is less than 2%. Any corrective action will be completed on a time and material basis

Proposal Exclusions

2.01 Bond is not included in the above proposal. (Available upon request)

2.02 Excludes Insurance beyond Commercial liability (specifically pollution liability, OCP, builder's risk or asbestos / hazardous waste policies)

2.03 Pavement markings, Bollards, Parking blocks, Handrailing, Fencing, and Permanent signs

2.04 All permits, fees, engineering, testing, quality control, and quality control systems

2.05 Licensed professional survey or as-builts

2.06 Temporary government facilities and controls - bulletin boards, project signs, government field office

2.07 Additional Railroad insurance, flagging and/or work within railroad tracks

2.08 Cleaning and/or sweeping of adjacent streets and roads beyond above listed scope of work

2.09 Excludes traffic control, temporary fence or barricades

2.10 Excludes any SWPPP and temporary stormwater pollution control plans

Payments to be made as follows:

Estimates Monthly

Terms Net 30 Days

Owner Initials: _____

ESS Rep Initials: _____ 1 of 3



100% EMPLOYEE OWNED

5350 East Hwy AA | Springfield, MO 65803 | ☎ 417.833.0915 | f 417.833.9981

Line No.	Pay Item No.	Description	Proposal	Quantity	Unit of Measure	Unit Price	Total Price
		Subtotal Description					

All material is guaranteed to be as specified. All work is to be completed in a substantial workmanlike manner according to the specifications submitted per standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control. Owner to carry fire, tornado, and other necessary insurance. Our workers are fully covered by Workmen's Compensation insurance.

Note: This proposal may be withdrawn by us if not accepted within 30 days.

STANDARD TERMS AND CONDITIONS

Attached to Proposal

Contractual Conditions These Standard Terms and Conditions are not binding upon Emery Sapp & Sons, Inc. (ESS) until Customer has authorized ESS to commence work by execution of the Proposal.

Financial Assurance Customer shall, at the written request of ESS and before the commencement of the Work (or any time thereafter), furnish to ESS reasonable evidence that financial arrangements have been made to fulfill the Customer's obligations to pay ESS. Furnishing of such evidence shall be a condition precedent to commencement or continuation of the Work. After such evidence has been furnished, the Customer shall not materially vary such financial arrangements without prior written notice to ESS.

Warranty Workmanship: ESS warrants that its work will be free from defects caused by faulty workmanship for a period of twelve months after substantial completion of the Work.

Entire Warranty: THE WARRANTIES OF THIS PARAGRAPH ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING (BUT NOT LIMITED TO) THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

ESS's Obligation: ESS shall correct any defects due to faulty workmanship, which appear within twelve (12) months after substantial completion of ESS's Work. ESS's obligation and liability under this warranty are limited to the repair or replacement of any defective workmanship, at Customer's site, and shall not in any case extend to any loss of anticipated profits, rents, shutdown or non-operation of the facility, or other consequential loss suffered by Customer from any cause, including defects covered by this paragraph.

Exclusions: This warranty does not cover any failure or defect resulting from: (1) Substrate deterioration or earth movement; (2) Harmful chemicals, fumes, or vapors; (3) Buried hazardous materials; (4) Vandalism or physical abuse; (5) Lack of proper maintenance and repair; (6) Unauthorized penetrations or repairs; (7) Acts beyond the reasonable control of ESS, including without limitation, fire, flood, earthquake, tornado, explosions, Acts of God, or other catastrophic events.

Notice: Any warranty claim must be presented in writing to ESS within 12 months after the substantial completion of the ESS's Work, or the claim shall be waived.

Terms of Payment Payments are due within thirty days from the submission to Customer of an invoice or Application for Payment. A "late payment" charge of one and one-half percent (1-1/2%) per month or the maximum legal interest rate, whichever is greater, will be made on all monies past due and shall be paid immediately.

Permits Unless otherwise provided in the Proposal, all building, construction, and other permits required for the Work shall be obtained by Customer at no cost to ESS. Customer shall be responsible for all cost attributable to any delays caused by the Customer's failure to obtain all required permits within the time frame anticipated in this Contract. In addition, the Customer shall be responsible for any and all inspections or tests required by regulatory agencies or code enforcement agencies, as well as corrective measures if required.

Performance Dates The performance schedule, if stated in the Proposal, is approximate and is not guaranteed by ESS. ESS shall not be liable for delays in delivery, fabrication or installation when such delays result from acts of government, acts of God, adverse weather, war, riot, labor disputes, civil insurrection or any other causes beyond ESS's reasonable control, and the date of performance shall be adjusted for any such delays. Further, ESS shall not be responsible for delays in the project caused by the failure of material/equipment suppliers to deliver material, equipment or services in the time and manner agreed upon or in the time and manner anticipated.

Scope Limitations Any material, equipment, structure or service item that is not explicitly a part of this Contract is specifically excluded from ESS's Work. Any item which is not specifically made a responsibility of ESS in this Contract is specifically excluded.

Contract Amendments Either ESS or Customer may propose changes to the Work, and such changes shall be incorporated into the final design as long as proper adjustments in price and schedule are made. The following contract amendment procedure is to be used for work performed for the Customer by ESS, which is beyond the Scope of the signed Proposal. As change order items are identified and before any work is done, ESS and the Customer will review and agree on the work to be performed.

A contract amendment or change order will be completed with regard to scope and price and any schedule impact. All parties involved will sign the contract amendment or change order.

ESS will perform the work and bill the Customer. For time and materials work, back-up documentation will be provided upon request by Customer.

Facility/Site Conditions Customer shall provide adequate working and storage areas, utilities, and reasonable access to the job site. Customer shall pay any additional costs incurred by ESS as a result of variations in the conditions of the project or site (including but not limited to conditions that were not anticipated by ESS.)

Drawings Any drawings and specifications attached or incorporated into the Proposal have been approved by Customer. No changes shall be made in these drawings or specifications without the express written consent of ESS. ESS shall be entitled to full compensation inclusive of profit and overhead for any and all changes in the drawings and specifications and the work depicted therein, and for any schedule delays, caused in whole or in part by any changes. Customer shall take full responsibility for the completeness and accuracy of any and all drawings and data for the Project. Should this information be incomplete or inaccurate, then Customer shall pay any and all additional costs (including overhead and profit) incurred by ESS as a result.

Use of Specifications and Drawings ESS shall make no use of the specifications, drawings, or other documents except in connection with this Contract.

Indemnification Customer agrees to defend and indemnify ESS against any loss or expense from any claim or suit against ESS as a result of any personal injury or property damage caused by the negligence of Customer or its agent, employees, or suppliers. ESS agrees to indemnify Customer for any loss or expense from any claim or suit against Customer as a result of any personal injury or property damage caused by the negligence of ESS or its agents or employees. Neither party shall be required to indemnify the other party for the other party's negligence.

Customer's Insurance Customer will procure and maintain the insurance described below: (a) Construction All Risk, (2) Commercial General Liability, and (3) Property/Casualty Insurance.

Construction All Risk Insurance: Construction All Risk Insurance or Customer's risk insurance having a "replacement value" basis, and including flood and collapse coverage, on all equipment and activities included in the Proposal and all materials and equipment intended for permanent use or incidental to the construction the Project, the cost of which is included in the cost of the Proposal, while in transit to the site of construction, while at temporary storage locations and while in or about the premises awaiting and during construction until the project is accepted in its entirety by the Customer. The policy will: (a) Provide that all losses shall be adjusted with, and made payable to, the Customer or ESS as their interest may appear. (b) Contain no co-insurance clause. (c) Contain 30-day cancellation notice. (d) All deductibles shall be paid by Customer.

Commercial General Liability Insurance: Customer shall maintain commercial general liability insurance from commencement of the Work until twelve (12) months after the Project is finally completed. The limit of liability under such insurance shall be at least \$1,000,000 for any one occurrence.

Property/Casualty Insurance: Customer shall purchase and maintain the usual property/casualty insurance on the property and facility in the full replacement value of the property. All monies received under any such policy shall be applied in or towards the replacement and repair of the Work that is lost, damaged or destroyed. Customer and ESS waive all rights against each other and any of their subcontractors, agents, and employees for any damages or liability covered by Customer's insurance, including any right of subrogation.

Owner Initials: _____



100% EMPLOYEE OWNED

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Line No.	Pay Item No.	Description Subtotal Description	Proposal	Quantity	Unit of Measure	Unit Price	Total Price
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ESS's Insurance ESS will provide and maintain, until completion of the Work, Automobile liability insurance, general liability insurance, and workers' compensation insurance. Proof of insurance will be provided if requested.

Limitation of Liability In no event shall ESS be liable for any indirect, special or consequential loss or damage arising out of any work performed for Customer, including, but not limited to, loss of use, loss of profit, business interruption, interest, loss by reason of shutdown or non-operation of the Customer's facilities, increased expenses of operation of the Project, the facility or other facilities, or special consequential loss or damage, arising from any cause whatsoever, including without limitation, fire. To the fullest extent permitted by law, the total liability, in the aggregate, of ESS to Customer or anyone claiming by or through Customer, for any and all liabilities, claims, losses, expenses, or damages whatsoever arising out of or in any way related to ESS's services, the Project, or the Proposal, from any cause or causes whatsoever, including without limitation, negligence, strict liability, indemnity, warranty, or breach of contract, shall not exceed the Contract Amount.

Cancellation Upon cancellation of this Contract, Customer shall be responsible to ESS for all costs of cancellation, including (1) the proportionate contract price for all Work completed, whether shipped or not, prior to ESS's receipt of notice or cancellation; (2) all costs incurred by ESS in connection with Work not completed at the time notice of cancellation is received; (3) ESS's full anticipated fee for this Contract; (4) all expenses incurred by ESS by reason of such cancellation, including costs arising from termination of subcontractors and vendors; and (5) ESS's reasonable attorney's fees incurred to enforce or defend this provision. This clause shall not limit nor apply to Customer's remedies in the event ESS shall breach or fail to perform any of the terms of this Contract; provided, however, that ESS's liability shall not exceed the limitation of liability set forth in these Terms and Conditions.

Termination If the Customer fails to make payment for a period of 10 days after the date the payment is due, ESS may, upon seven days written notice to Customer, terminate this Contract and recover from the Customer payment for Work executed and for loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead and profit applicable to the Project. If ESS defaults or persistently fails or neglects to carry out the Work in accordance with this Contract or fails to perform a provision of the Contract, Customer, after seven days written notice to ESS, may make good such deficiencies and may deduct the cost thereof from the payment due ESS. If the unpaid balance of the Contract Amount exceeds costs of finishing the Work, such excess shall be paid to ESS, but if such costs exceed such unpaid balance, ESS shall pay the difference to Customer, subject to the limitation of liability set forth in these Terms and Conditions.

Choice of Law This Contract and any disputes arising under or related to it shall be governed by the laws of place where the Project is located.

Dispute Resolution The parties will attempt in good faith to resolve through negotiation any dispute, claim, or controversy arising out of or relating to this agreement. Any party may initiate negotiations by providing written notice in letter form to the other party, setting forth the subject of the dispute and the relief requested. The recipients of such notice will respond in writing within five business days with a statement of their position on and recommended solution to the dispute.

Assigns This Contract shall be binding upon the heirs, executors, administrators, successors, survivors, and assigns of the respective parties. Neither party shall assign this Contract without written consent of the other party.

Complete Agreement This Contract sets forth the entire and integrated agreement between Customer and ESS and supersedes any and all prior agreements, representations, and negotiations. No verbal agreement or conversation with any representative or employee of ESS, either before or after execution of the Contract, shall affect or modify any of the terms or obligations of this Contract

Submitted By: Brian Pickett

Signed: _____

Title: _____

Date: _____