Wabedo Township
Road Work Orders

Work Order number _2012-04_

Issued to: Tri-City Date 04-10-2012
(Contractor)
Road Name: Pine Crest(1) Diamond Crest(1) Stoney Creek(2.1) S. Little Boy(1.4) Norway Lane(.4) Little Boy Road(.5) Sioux Camp(2) Glenmar(2.8) Pikie Point(.9) Woodduck(.6) Island View(1) Shangri-La(.4)

Plowing _____ Grading _____ Special Road Project____x_____

Description of work to be performed;

Apply Chloride 18 ft. wide / .25 rate / 14.1 miles / @.683 pricing / $31,074.00 total or less as some road application rates will be less than .25

Note: a special road map will be provided to mark exact areas chloride s/b applied

Start Date TBA **Work to be completed by** July 11th

Any invoices for work completed after this date will not be paid unless the Township agrees, in writing, to an extension.

Performance of any or all work described on this Work Order constitutes acceptance of these Terms and Conditions.

All invoicing for this project must include the work order number.

Invoices must be received by the clerk by the 5th of each month;
Barbara Anderson Wabedo Twp. Clerk
1535 Bargen Lane
Longville, MN 56655

Approved by Wabedo Township Supervisors on _____

Supervisor_____ Date_____
Bill Gehrman 218-363-2091

Accepted by:_____ Date_____
(Contractor)

Wabedo Township Work Order Terms and Conditions

1. ACCEPTANCE: These terms and conditions and the documents referred to herein govern all Work Orders ("Orders") issued by Wabedo Township to the Contractor identified on each Order. Fulfillment of any part of an Order shall constitute acceptance by Contractor of such Order and all of the terms and conditions included or referenced on this page (the "Contract Terms"). These Contract Terms constitute the complete and exclusive statement of the terms and conditions between Contractor and Wabedo Township. The Contract Terms may be modified only by a written agreement signed by authorized representatives of both Contractor and Wabedo Township. Contractor and Wabedo Township acknowledge that the Order and these Contracts Terms constitutes the entire agreement between Contractor and Wabedo Township with respect to the work proposed.

2. TERMINATION: Wabedo Township may terminate for convenience at any time by written notice any Order, or its obligation to purchase any products or services from Contractor. If an Order is terminated for convenience, then the termination date shall be not less than 10 days from the date of notice, unless otherwise mutually agreed to by the parties. Wabedo Township shall pay for any products delivered or services performed prior to the date that termination becomes effective (on a pro rata basis if Wabedo Township has paid in advance any fees covering a fixed period of Services). Unless Wabedo Township has requested and received a refund in respect of any undelivered product(s) or terminated services, it shall be entitled to the delivery of all product(s) and completion of all services for which it has paid prior to the effective date of the termination. In addition to any other remedy provided at law or equity, either party shall have the right to terminate or cancel an Order, and any obligation to purchase, sell or provide a product or service, in the event the other party (a) fails to comply with any condition of the Order or any related Agreement, and such failure is not remedied within thirty (30) days after written notice thereof has been given to such other party; (b) becomes insolvent, makes an assignment for the benefit of creditors, suffers or permits the appointment of a receiver, trustee in bankruptcy or similar officer for all or parts of its business or assets; or (c) avails itself of or becomes subject to any bankruptcy proceeding under the laws or any jurisdiction relating to insolvency or the protection of rights of creditors.

3. WARRANTY: Contractor expressly warrants that all products and services supplied to Wabedo Township by Contractor as a result of an Order shall conform to the specifications, drawings or other description upon which the Order is based, shall be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, free from defects and free and clear of all liens or encumbrances. Inspection, testing, acceptance or use of the goods by Wabedo Township shall not affect Contractor's obligations under this warranty, and such warranty shall survive inspection, testing, acceptance and use. Contractor agrees to replace or correct promptly defects of any goods or services not conforming to the foregoing warranty without expense to Wabedo Township, when notified of such non-conformity by Wabedo Township. If Contractor fails to correct defects in or replace non-conforming goods or services promptly, Wabedo Township may, after reasonable notice to Contractor, make such corrections or effect cover at Contractor's expense.

4. PRICE: An Order must not be filled at a higher price than shown on the Order. Total price shown on Order is a “not to exceed” price and Contractor shall obtain written approval prior to exceeding the total price shown on Order. The price shall not in any event be higher than the lowest price Contractor provides to any of Contractor's other customers ordering similar quantities, after taking into consideration all rebates, discounts and allowances.

5. TAXES: Wabedo Township will not be liable for any taxes with respect to an Order, except for sales, use, retailers occupation, service occupation, excise, ad valorem, value added, or consumption taxes imposed by any governmental authority for the purchase of the products Contractor supplies, which Contractor is required by law to collect from Wabedo Township. Contractor shall not collect or remit, and Wabedo Township shall not be liable for, any such taxes if Wabedo Township has provided Contractor with a tax exemption certificate. Wabedo Township also will not be liable for any taxes of any nature based on the income of Contractor.

6. INVOICES: Contractor agrees to issue invoices referencing the Order number and supply any supporting documentation reasonably requested by Wabedo Township. All invoices shall be mailed to the address below:

Wabedo Township, 1535 Bargen Lane NE, Longville, MN 56655

7. PAYMENT: As full consideration for Contractor's satisfactory provision of the products or performance of the services, Wabedo Township will pay Contractor's invoice not later than sixty (60) days following Wabedo Township's receipt of said invoice unless otherwise indicated in Contractor agreement. Wabedo Township's payment of any such invoice shall constitute full and complete satisfaction of any and all actual and potential fees for the billing period covered by the invoice. Partial payments will not be made, unless

Wabedo Township agrees otherwise in writing. All payment terms will be calculated based upon date of invoice and payment terms will be considered satisfied based upon date of postmark of payment, or if EFT payment, date of transmission. Wabedo Township shall receive invoices within three (3) business days of invoice date.

8. PRESUMPTIONS: Contractor shall be conclusively presumed to have waived Contractor's right to receive payment for products or services covered by any Order if Contractor has not submitted an invoice for the products or services within one (1) year of the date of the Order. Contractor's submission of an invoice shall give rise to a presumption that the charges are the full amount Contractor is due for the products or services listed on or referred to in the invoice for the purpose of determining the existence of any underpayment. Contractor may submit supplemental invoices only if accompanied by a photocopy of the original invoice and documentation acceptable to Wabedo Township that establishes the validity of Contractor's claim for underpayment. Contractor waives any claim for underpayment if a supplemental invoice and supporting documentation have not been furnished within the earlier of (i) one (1) year after the Delivery Date or performance of the services covered by the supplemental invoice, or (ii) three (3) months after the date of submission of the original invoice.

9. FORCE MAJEURE: Neither party shall be liable for a delay in performance of its obligations and responsibilities under this Order due to causes beyond its control, and without its fault or negligence, such as but not limited to war, embargo, national emergency, insurrection or riot, acts of the public enemy, fire, flood or other natural disaster, provided that said party has taken reasonable measures to notify the other promptly in writing, of delay (but in any event, within 72 hours of the force majeure event). Time is of the essence of this Agreement, and should Contractor fail to comply with Wabedo Township's delivery schedule or otherwise fail to comply with its obligations hereunder, Wabedo Township may terminate this Order without liability. Failure of subcontractors or inability to obtain materials shall not be considered as a force majeure delay.

10. INDEMNITY: Contractor shall, at Contractor's sole cost and expense, release, defend indemnify and hold Wabedo Township, its Affiliates, directors, officers, agents, employees, and shareholders harmless from and against all claims, demands, disputes, complaints, causes of action, suits, losses and damages (including attorneys' fees) of any kind to the extent they in any way relate to or arise, in whole or in part, due to (a) the acts or omissions of Contractor, its subcontractors, or agents or the employees of any thereof, in the performance of this Order or any breach or default hereunder or (b) a claim that the goods or services Contractor provides are dangerously defective, or (c) a claim that Contractor's products or services, or any part thereof, infringes a patent, copyright, trademark, trade secret or other intellectual or proprietary right of a third party.

11. INSURANCE: Before commencing work, Contractor shall furnish Wabedo Township with certificates of insurance showing that Contractor is covered by A) Workers' Compensation as required by law, including a waiver of subrogation in favor of Wabedo Township; B) Employers Liability insurance with limits of $500,000 per occurrence; C) Commercial General Liability with limits of not less than $2,000,000 per occurrence for bodily injury and property damage. The Commercial General Liability policy shall name Wabedo Township as an additional insured as its interest may appear, contain a cross liability (severability of interests) provision and be primary and non-contributory to any insurance available or maintained by Wabedo Township. No exceptions to these coverages may be made unless approved in writing by Wabedo Township. Properly endorsed Certificates of Insurance shall be sent to the following address ten (10) days prior to commencement of delivery of any Product or Services, and upon renewal of insurance policies:

Wabedo Township, 1535 Bargen Lane NE, Longville, MN 56655

12. LIMITATION OF LIABILITY: IN NO EVENT WILL WABEDO TOWNSHIP BE LIABLE TO CONTRACTOR OR ANY THIRD PARTY, IN CONTRACT, TORT OR OTHERWISE, FOR ANY LOSS OF PROFITS OR BUSINESS, OR ANY SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, ARISING FROM OR AS A RESULT OF THESE CONTRACT TERMS, ANY ORDER OR ANY AGREEMENT BETWEEN THE PARTIES RELATING TO THE PRODUCTS, SERVICES OR DELIVERABLES CONTRACTOR PROVIDES, EVEN IF WABEDO TOWNSHIP HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

13. CHANGES: Wabedo Township reserves the right to make changes in drawings, designs, specifications, scope of work to be performed, time and place of delivery and method of transportation. If such change is to be made, it will be evidenced in writing by Wabedo Township in the form of a change Order. If any such change has an effect on the price, warranty, delivery date or indemnification provisions of the Order, an equitable written acknowledgement of the effect on the changed provisions shall be indicated on the change Order. Contractor may not make any change in drawings, design specifications, scope of work to be performed, time and place of delivery and method of transportation without Wabedo Township's written Change Order acknowledging the change. Any such Change Orders accepted by Contractor shall be incorporated in and amend the Order.

14. ACCEPTANCE: Payment by Wabedo Township for the products or services delivered hereunder shall not constitute Wabedo Township's acceptance. Wabedo Township retains the right to inspect the products or services performed and to reject any or all of the products or services performed which are in Wabedo Township's judgment defective.

15. WABEDO TOWNSHIP PROPERTY: Any material or parts furnished by Wabedo Township intended for use by Contractor in Contractor's execution of Contractor's duties as required by this Order are held by Contractor on consignment. All such materials or parts not used by Contractor in connection with this Order shall be returned to Wabedo Township at Wabedo Township's expense unless Contractor is otherwise directed in writing. If not accounted for or not returned to Wabedo Township, Contractor shall pay or reimburse Wabedo Township for such materials or parts. All such materials or parts will be kept insured by Contractor at Contractor's expense in an amount equal to the replacement cost with a loss payable to Wabedo Township.

16. ASSIGNMENT/DELEGATION/SUBCONTRACTING: Contractor may not assign, delegate, subcontract or transfer any Order, the work required to be done or any payments to be made hereunder without Wabedo Township's prior written approval. In the event of agreed delegation or subcontracting, Contractor shall continue to be liable with respect to all of the obligations or liabilities assumed by it hereunder and hereby guarantees satisfactory performance of the Agreement, if any, by its delegate or subcontractor. Contractor shall enter into a written agreement with any permitted subcontractor, which, at a minimum, meets the insurance requirements of these Contract Terms. All claims for monies due or to become due from Wabedo Township shall be subject to deduction by Wabedo Township for any setoff or counterclaim arising out of this or any other Orders with Contractor whether such setoff or counterclaim arise before or after such assignment, delegation, subcontracting or transfer by Contractor.

17. COMPLIANCE WITH LAWS. Contractor shall comply with all laws applicable in any jurisdiction in which any products or services are produced for, or delivered or provided to Wabedo Township.

18. REMEDIES: Wabedo Township's remedies shall be cumulative and shall include any remedies allowed by law. Waiver of any breach by Wabedo Township shall not constitute Wabedo Township's waiver of any other breach of the same or any other provision. Acceptance of any items or payments therefore shall not waive any breach.

19. GOVERNING LAW/SUBMISSION TO JURISDICTION: This agreement shall be construed in accordance with the laws governing contracts made and to be performed in the State of Minnesota, U.S.A. Contractor hereby consents to the jurisdiction of any local, state, or federal court located within the State of Minnesota and waives any objection which Contractor may have based on improper venue or forum non conveniens to the conduct of any proceeding in any such court.

20. ENTIRE AGREEMENT: This Agreement and associated documents referenced herein constitute the entire agreement between the parties with respect to the subject matter hereof; all prior agreements, representations, statements, negotiations and undertakings, whether oral or written, are superseded hereby.