



CITY OF OKEECHOBEE, PUBLIC WORKS

Memo

To: Gary Ritter, City Administrator  
From: David Allen, Public Works Director  
Date: 1/25/2023  
Re: CW Roberts Roadway Improvements PO Request

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The Public Works Department is requesting a Purchase order for \$100,000.00 CW Roberts Contracting Inc. for asphalt milling and paving. This is a budgeted project in the 2022-23 budget, line item 301-549-6300 Roadway asphalt and reconstruction, \$100,000.00.

The three areas that are proposed for resurfacing are:

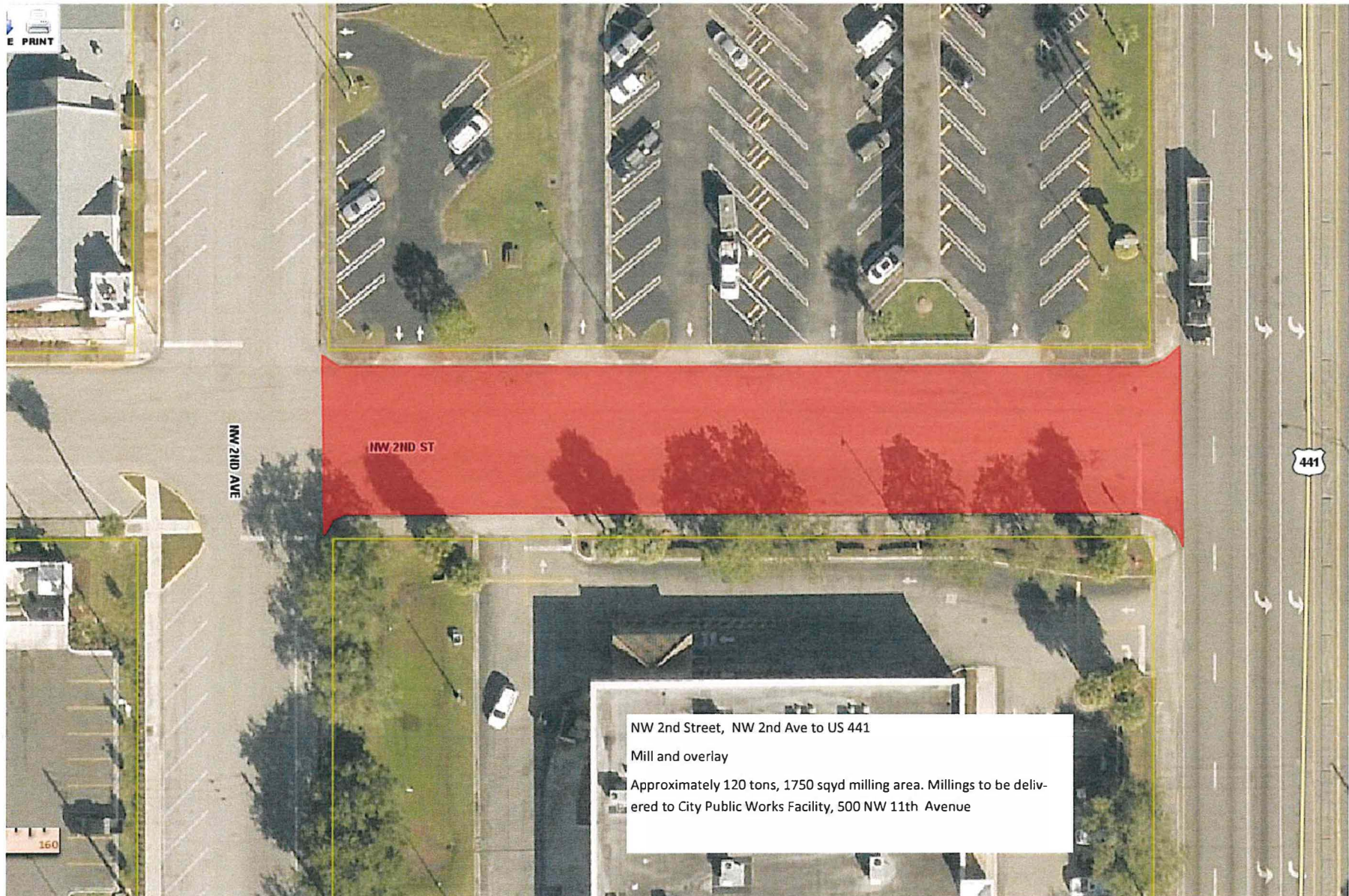
- NE 2<sup>nd</sup> Street from Parrott Avenue (US 441) to NE 2<sup>nd</sup> Avenue. There are two factors in the selection of this road for resurfacing. The first is major areas of “pushing” just west of Parrott Avenue. This area is identical to the section of NE 3<sup>rd</sup> Street one block to the north that was completed last year.
- The Oaks Subdivision. – Pavement depth thorough out the subdivision is minimal. We have had to perform frequent repairs to potholes and damage caused by trash trucks turning around at the end of the two cul-de-sacks
- SW 7<sup>th</sup> Avenue – Areas of sliding Just North of SW 15<sup>th</sup> Street. Project will cover from SW 15<sup>th</sup> Street to approximately 400’ North of the intersection.

The pricing for this project is per the existing paving contract between Okeechobee County and CW Roberts Contracting. We utilized this purchasing mechanism for last year’s paving projects. The initial period of the CW Roberts contract was May 1, 2019 to April 30, 2022. Under the provisions of the contract allowing (2) one year extensions, the contract has been extended until April 30, 2023.

The proposed pricing of \$89,959.00 from CW Roberts is based on an estimated quantity of asphalt. Asphalt estimating is not an exact process. The quantities are based on a uniform application of 1.25” of asphalt over a smooth road surface. Imperfections in the existing road surface will result in the actual quantities of asphalt used being different than the estimate. Given the inexact nature of the estimation, we are proposing an additional 10% being added to the estimate due to the likelihood of additional asphalt being used. The amount paid will be based on the actual amount of asphalt used, established by load tickets for each truck of asphalt.





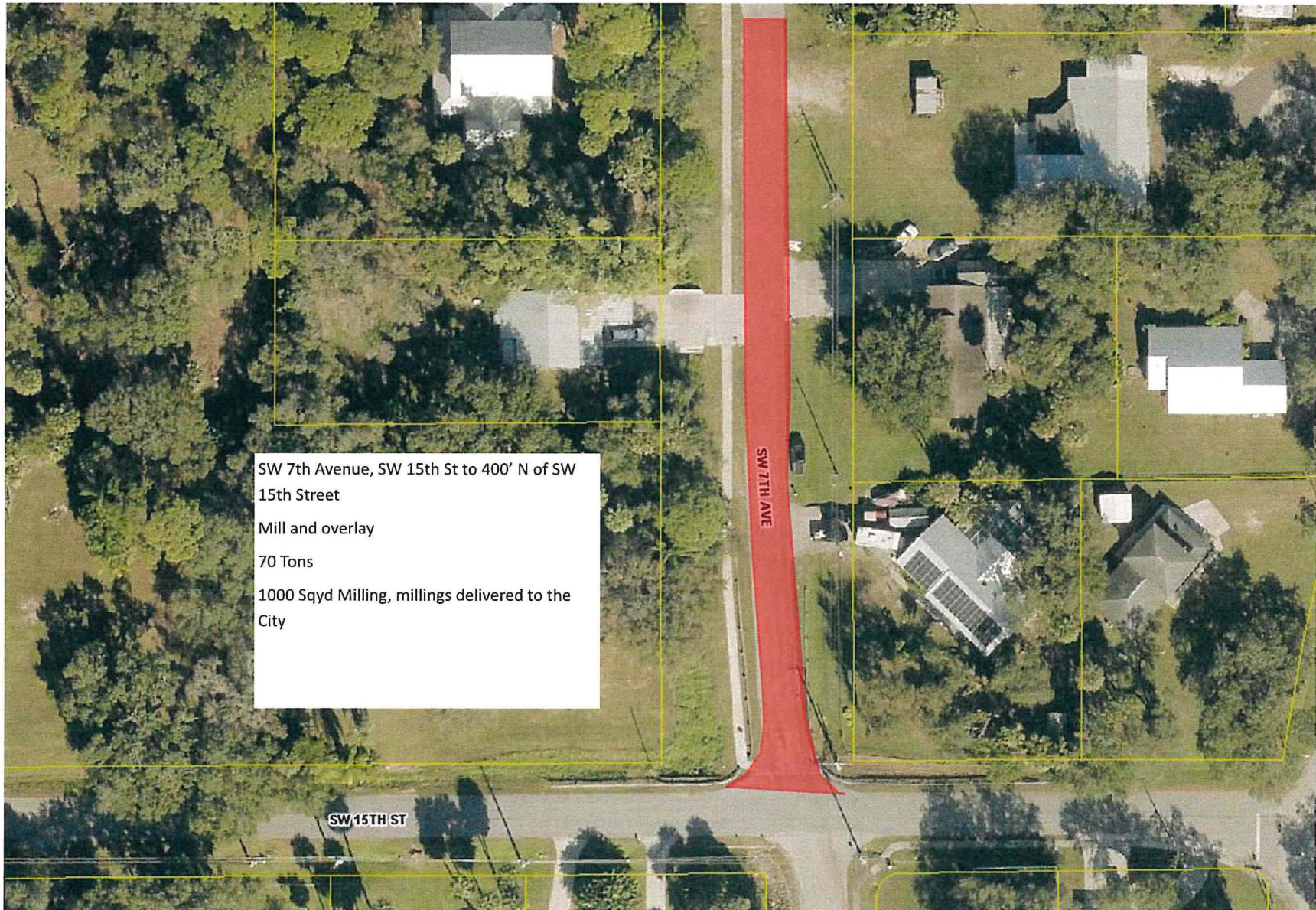


NW 2nd Street, NW 2nd Ave to US 441

Mill and overlay

Approximately 120 tons, 1750 sqyd milling area. Millings to be delivered to City Public Works Facility, 500 NW 11th Avenue





SW 7th Avenue, SW 15th St to 400' N of SW 15th Street  
Mill and overlay  
70 Tons  
1000 Sqyd Milling, millings delivered to the City

**PIGGYBACK AGREEMENT  
BETWEEN  
CITY OF OKEECHOBEE AND  
C.W. ROBERTS CONTRACTING, INCORPORATED, A FLORIDA CORPORATION**

**THIS PIGGYBACK AGREEMENT** ("Agreement") is made and entered into between the CITY OF OKEECHOBEE (the "CITY"), a political subdivision of the State of Florida who address is 55 SE 3<sup>rd</sup> Avenue, Okeechobee, FL 34974, and C.W. Roberts Contracting, Incorporated (the "CONTRACTOR"), a Florida corporation, whose address is 3660 Hartsfield Road, Tallahassee, Florida 32303 (hereinafter collectively referred to as the "Parties").

**WHEREAS**, the CITY desires to contract paving services with and through professionals duly licensed and qualified to provide such services;

**WHEREAS**, the Okeechobee County, a political subdivision of the State of Florida (the "COUNTY") entered into a Contract for Services (the "Contract") with the CONTRACTOR on or about April 1, 2019.

**WHEREAS**, the COUNTY renewed the Contract on or about May 1, 2022.

**WHEREAS**, CONTRACTOR has demonstrated capability to provide the CITY with paving services contemplated by this Agreement;

**WHEREAS**, the CITY has determined that the Contract with the COUNTY meets the requirements of the State of Florida and CITY Procurement Code and is an acceptable agreement upon which the CITY and CONTRACTOR may establish an Agreement;

**WHEREAS**, the CONTRACTOR agrees to extend the terms, conditions, and pricing of the Contract with the CITY, subject to the terms and conditions of this Agreement; and

**WHEREAS**, the CITY has determined that entering into this Agreement with the CONTRACTOR is in the best interests of the CITY.

**NOW, THEREFORE**, in consideration of the promises and mutual covenants contained herein and for other good and valuable considerations, the receipt and sufficiency of which are hereby mutually acknowledged, the Parties agree as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated into this CITY Agreement by reference.

2. **Scope of services.** CITY hereby retains CONTRACTOR to furnish the services that are described in the Scope of Services which is attached hereto as **Exhibit A**, and incorporated herein by reference.

3. **Terms and Conditions.** Except as otherwise stated herein, the terms and conditions of the Contract entered into with the COUNTY shall constitute the terms and conditions



of this Agreement. A true and correct copy of the Contract is attached hereto as **Exhibit B** and incorporated herein by reference. Any conflict between the terms and conditions in the body of this Agreement and the terms and conditions set forth in **Exhibit B** will be resolved in favor of the body of this Agreement.

4. **Agreement Term and Commencement of Services.** This Agreement has an initial term of one (1) year, beginning February 1, 2023, and ending January 31, 2024, and may be renewed for up to two additional one-year terms, upon agreement of the Parties in writing, unless sooner terminated under the terms of this Agreement.

5. **Payment.** CITY agrees to compensate CONTRACTOR for work actually performed under this Agreement at the rate/basis described in **Exhibit B**. The CITY reserves the right to withhold amounts in the event of the non-performance of all or part of the CONTRACTOR's obligations under this Agreement.

6. **Termination.** This Agreement may be terminated by the CITY in whole or in part at any time with or without cause by the CITY providing CONTRACTOR with written notice not less than third (30) days prior to the date of termination.

7. **Notices.** All notices to the Parties under this Agreement must be in writing and sent via certified mail to City Administrator, City of Okeechobee.

8. **Insurance.** CONTRACTOR must maintain such insurance as will fully protect both the CONTRACTOR and the CITY from any and all claims under any Workers Compensation Act or Employers Liability Laws, and from any and all other claims of whatsoever kind or nature to the damage or property, or for personal injury, including death, made by anyone whomsoever, that may arise from operations carried on under this Agreement, either by CONTRACTOR, any subcontractor, or by anyone directly or indirectly engaged or employed by either of them.

a. The insurance coverage required by this Agreement must not be less than:

- i. Workers' Compensation (unless exempt) with Employers' Liability with a limit of \$1,000,000.00 each accident, \$1,000,000.00 each employee, \$1,000,000.00 policy limit for disease;
- ii. Commercial General Liability ("CGL") insurance with a limit of not less than \$1,000,000.00 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this work in the amount of \$3,000,000.00. CGL insurance shall be written on an occurrence form and include bodily injury and property damage liability for premises, operations, independent contractors, products and completed operations, contractual liability, broad form property damage and property damage resulting from explosion, collapse or underground (x, c, u) exposures, personal injury, and advertising injury. Damage to rented premises shall be included at \$100,000.00;

iii. Commercial Automobile Liability Insurance with a limit of not less than \$1,000,000.00 each accident for bodily injury and property damage liability. Such insurance shall cover liability arising out of any auto (including owned, hired and non-owned autos) and such policy shall be endorsed to provide contractual liability coverage; and

iv. Fire damage liability shall be included at \$1,000,000.00.

9. **Compliance with Laws.** In providing the Scope of Services, CONTRACTOR must comply with all federal, state, and local laws, statutes, ordinances, rules, and regulations pertaining to or regulating the provision of such services, including those now in effect and hereafter adopted.

10. CONTRACTOR will remain fully responsible for the services of any subcontractors or professional associates.

11. **Independent contractor.** CONTRACTOR is, and will be deemed to be, an independent contractor and not a servant, employee, joint adventurer, or partner of the CITY. None of CONTRACTOR's agents, employees, or servants are, or will be deemed to be, the agent, employee, or servant of the CITY. None of the benefits, if any, provided by the CITY to its employees, including but not limited to, compensation insurance and unemployment insurance, are available from the CITY to the employees, agents, or servants of CONTRACTOR. CONTRACTOR will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, and subcontractors during the performance of this Agreement.

12. **Indemnification.** CONTRACTOR must indemnify and hold the CITY harmless against and from any and all claims, losses, penalties, interest, demands, judgments, costs, damages, or expenses, including attorney's fees and court costs, incurred by the CITY, or its agents, officers, or employees, arising directly or indirectly from CONTRACTOR's performance under this Agreement or by any person on CONTRACTOR's behalf, including but not limited to those claims, losses, penalties, interest, demands, judgments, costs, damages, or expenses arising out of any accident, casualty, or other occurrence causing injury to any person or property. This includes persons employed or utilized by CONTRACTOR (including CONTRACTOR's agents, employees, and subcontractors). CONTRACTOR's obligation will not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance, whether such insurance is in connection with this Agreement or otherwise. Such indemnification is in addition to any and all other legal remedies available to the CITY and not considered to be the CITY's exclusive remedy. The indemnification provisions of this paragraph will survive the termination of this Agreement.

13. **Sovereign Immunity.** Nothing in this Agreement extends, or will be construed to extend, the CITY's liability beyond that provided in Section 768.28, Florida Statutes. Nothing in this Agreement is a consent, or will be construed as consent, by the CITY to be sued by third parties in any matter arising out of this Agreement.

14. **Public records.** CONTRACTOR is a "Contractor" as defined by Section 119.0701(1)(a), Florida Statutes, and must comply with the public records provisions of Chapter 119, Florida Statutes, including the following:

- a. Keep and maintain public records required by the CITY to perform the service.
- b. Upon request from the CITY's records custodian, provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, or as otherwise provided by law.
- c. Upon completion of this Agreement, transfer, at no cost, to the CITY all public records in possession of CONTRACTOR or keep and maintain public records required by the CITY to perform the service. If CONTRACTOR transfers all public records to the CITY upon completion of this Agreement, CONTRACTOR must destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon completion of this Agreement, CONTRACTOR must meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY's custodian of public records, in a format that is compatible with the information technology systems of the CITY.
  - i. "Public records" is defined in Section 119.011(12), Florida Statutes, as may be, from time to time, amended.
  - ii. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS, LANE GAMIOTEA, CITY CLERK, 863-763-3372; EMAIL: [lgamiotea@cityofokeechobee.com](mailto:lgamiotea@cityofokeechobee.com); MAILING ADDRESS: City of Okeechobee, 55 SE 3<sup>rd</sup> Avenue, Room 100, Okeechobee, FL 34974.**

15. **E-Verify Compliance.** Contractor affirmatively states, under penalty of perjury, that in accordance with Section 448.095, Fla. Stat., Contractor is registered with and uses the E-Verify system to verify the work authorization status of all newly hired employees, that in accordance with such statute, Contractor requires from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, and that Contractor is otherwise in compliance with Sections 448.09 and 448.095, Fla. Stat.

16. **General Provisions.** The following general provisions apply to this Agreement:

- a. **Entire Agreement.** This Agreement states the entire understanding between the Parties and supersedes any written or oral representations, statements, negotiations,



or agreements to the contrary. CONTRACTOR recognizes that any representations, statements, or negotiations made by the CITY staff do not suffice to legally bind the CITY in a contractual relationship unless they have been reduced to writing, authorized, and signed by the authorized CITY representatives.

- b. **Amendment.** No modification, amendment, or alteration in the terms or conditions of this Agreement will be effective unless contained in a written document executed with the same formality as this Agreement.
- c. **Severability.** If any term or provision of this Agreement is held, to any extent, invalid or unenforceable, as against any person, entity, or circumstance during the Term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity will not affect any other term or provision of this Agreement, to the extent that the Agreement will remain operable, enforceable, and in full force and effect to the extent permitted by law.
- d. **Waiver.** The indulgence of either party with regard to any breach or failure to perform any provision of this Agreement does not constitute a waiver of the provision or any portion of this Agreement, either at the time the breach or failure occurs or at any time throughout the term of this Agreement. The review of, approval of, or payment for any of CONTRACTOR's work product, services, or materials does not operate as a waiver, and should not be construed as a waiver, of any of the CITY 's rights under this Agreement, or of any cause of action the CITY may have arising out of the performance of this Agreement.
- e. **Law; Venue.** This Agreement is being executed in Okeechobee County, Florida, and is governed in accordance with the laws of the State of Florida. Venue of any action hereunder will be in Okeechobee County, Florida.

**IN WITNESS WHEREOF**, the Parties hereto have signed and sealed this Agreement effective the date first written above.

**APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2023, by C.W. Roberts Contracting, Incorporated, a Florida corporation.

**C.W. Roberts Contracting, Incorporated**

\_\_\_\_\_  
By: \_\_\_\_\_  
(Print name)

Its: \_\_\_\_\_  
(Title)

**APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2023, by the Okeechobee City Council.

**City of Okeechobee, Florida, a municipal  
corporation of the State of Florida**

Attest:

By: \_\_\_\_\_  
Dowling R. Watford, Jr., Mayor

\_\_\_\_\_  
Lane Gamiotea, CMC, City Clerk

Approved as to Form and Legality for  
Okeechobee County:

\_\_\_\_\_  
John J. Fumero, City Attorney



**AGREEMENT EXHIBIT A**  
**SCOPE OF WORK**

Resurfacing of three areas of the CITY:

1) NE 2nd Street from Parrott Avenue (US 441) to NE 2nd Avenue. Mill and resurface with millings delivered to the City Public Works Facility at 500 NW 11<sup>th</sup> Avenue, Okeechobee FL 34972.

2) The Oaks Subdivision. Mill transitions to existing roads and resurface.

3) SW 7th Avenue – Areas of sliding just North of SW 15th Street. Project will cover from SW 15<sup>th</sup> Street to approximately 400' North of the intersection. Mill and resurface with millings delivered to the City Public Works Facility at 500 NW 11<sup>th</sup> Avenue, Okeechobee FL 34972.

Uniform application of 1.25" of asphalt over a smooth road surface.

## **INDEPENDENT CONTRACTOR'S AGREEMENT**

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**THIS INDEPENDENT CONTRACTOR'S AGREEMENT** (hereinafter this "Agreement") is made effective the 1<sup>st</sup> day of April, 2019, by and between **OKEECHOBEE COUNTY**, a political subdivision of the State of Florida (hereinafter the "COUNTY") and **C.W. ROBERTS CONTRACTING, INCORPORATED**, a Florida corporation (hereinafter "CONTRACTOR").

### **WITNESSETH**

**WHEREAS**, the COUNTY is a political subdivision of the State of Florida, having a responsibility to provide certain services to benefit the citizens of Okeechobee County; and

**WHEREAS**, the COUNTY has the full power and authority to enter into the transactions contemplated by this Agreement; and

**WHEREAS**, CONTRACTOR is in the business of asphalt resurfacing and new road construction in Okeechobee County and elsewhere in the State of Florida; and

**WHEREAS**, CONTRACTOR is competent and has sufficient manpower, training, and technical expertise to perform the services contemplated by this Agreement in a timely and professional manner consistent with the standards of the industry in which CONTRACTOR operates; and

**WHEREAS**, CONTRACTOR was the successful bidder of a project competitively bid and identified as "Okeechobee County Asphalt Resurfacing and New Road Construction" - Bid #2019-05 which satisfies the COUNTY's Procurement Policy; and

**WHEREAS**, CONTRACTOR agrees to provide such goods and services as more particularly described in this Agreement, as well as in any bid or quotation documents issued in connection with this project.

**NOW THEREFORE** in consideration of the premises, and in consideration of the mutual conditions, covenants, and obligations hereafter expressed, the parties agree as follows:

1. **Recitals.** The foregoing recitals are true and correct, constitute a material inducement to the parties to enter into this Agreement, and are hereby ratified and made a part of this Agreement.
2. **Description of Work.**
  - a. The COUNTY hereby retains CONTRACTOR to furnish goods and services as described in the Scope of Services, which is attached hereto as Exhibit "A" and incorporated herein by reference. Any conflict between the terms and conditions in the body of this Agreement and the terms and conditions set forth in Exhibit "A" will be resolved in favor of the body of this Agreement.



- b. CONTRACTOR must provide all permits, labor, materials, equipment, and supervision necessary for the completion of the Scope of Services, unless specifically excluded.
  - c. CONTRACTOR must also comply with, and abide by, all requirements as contained in any invitation to bid (ITB), request for proposals (RFP), request for qualifications (RFQ), bid specifications, engineering plans, shop drawings, material lists, or other similar documents issued for this project by the COUNTY, together with any addenda, hereinafter the "Bid Documents." The Bid Documents are hereby incorporated into this Agreement by reference and are declared to be material part of this Agreement.
3. **Term.** This Agreement has a Term of three (3) years, beginning May 1, 2019 and ending April 30, 2022 and may be renewed for up to two (2) additional one (1) year Terms, upon agreement of the parties in writing, unless sooner terminated under the terms of this Agreement.
4. **Payment.**
- a. The COUNTY agrees to compensate CONTRACTOR, for work actually performed under this Agreement, at the rate or basis described in Exhibit "B," which is attached hereto and incorporated herein by reference. CONTRACTOR must perform all work required by the Scope of Services, but in no event will CONTRACTOR be paid more than the amount of One Million Dollars (\$1,000,000.00) per year during the Term and each renewal, if any, of this Agreement.
  - b. The COUNTY reserves the right to ratably withhold amounts in the event of the nonperformance of all or part of CONTRACTOR's obligations. CONTRACTOR must, without additional compensation, correct and revise any errors, omissions, or other deficiencies in its work product, services, or materials arising from the error or omission or negligent act of CONTRACTOR.
5. **Acceptance of work product, payment, and warranty.** Upon receipt of a periodic work product, or notice that work has progressed to a point of payment in accordance with Exhibit "A" attached or the Bid Documents, if any, together with an invoice sufficiently itemized to permit audit, the COUNTY will diligently review those documents. When it finds the work acceptable under this Agreement the installment payment, found to be due to CONTRACTOR, will be paid to CONTRACTOR within thirty (30) days after the date of receipt of the invoice, unless another payment schedule is provided in Exhibit "A." CONTRACTOR warrants that the data utilized by CONTRACTOR (other than as provided by the COUNTY) is from a source, and collected using methodologies, which are generally recognized in CONTRACTOR's industry or profession to be a reliable basis and foundation for CONTRACTOR's work product. CONTRACTOR must notify the COUNTY in writing if it appears, in CONTRACTOR's professional judgement that the data or information provided by the COUNTY for use in CONTRACTOR's work product is incomplete, defective, or unreliable. CONTRACTOR guarantees to amend, revise, or correct to the satisfaction of the COUNTY any error appearing in the work as a result of CONTRACTOR's failure to comply with the warranties and representations contained herein. Neither inspection nor payment, including final payment, by the COUNTY will relieve CONTRACTOR from its obligations to do and complete

the work product in accordance with this Agreement.

**6. Termination.**

- a. Termination at Will: This Agreement may be terminated by the COUNTY in whole or in part at any time without cause by the COUNTY giving written notice to CONTRACTOR not less than 30 days prior to the date of termination; provided, however, that in such event, neither party will be relieved from its rights or obligations of this Agreement through the date of the actual termination. Notice must be delivered by certified mail, return receipt requested, or in person with proof of delivery.
- b. Termination for Cause: This Agreement may be terminated by either party for cause by the COUNTY or CONTRACTOR giving written notice to the other party not less than ten (10) days prior to the date of termination; provided, however, that in such event, neither party will be relieved from its rights or obligations of this Agreement through the date of the actual termination. Notice must be delivered by certified mail, return receipt requested, or in person with proof of delivery.

**7. Project management.**

- a. COUNTY's Project Manager is: Bryan Moore, Road Director.
- b. CONTRACTOR's Project Manager is: Richard G. Forlifer.

**8. Notices.** All notices to the parties under this Agreement must be in writing and sent certified mail to:

- a. To COUNTY: Okeechobee County Board of County Commissioners, Attention: County Administrator, 304 NW 2nd Street, Okeechobee, Florida 34972;
- b. To CONTRACTOR: C.W. Roberts Contracting, Incorporated, Attention: Robert P. Flowers, President, 3372 Capital Circle NE, Tallahassee, Florida 32308.

**9. Insurance.**

- a. CONTRACTOR must maintain such insurance as will fully protect both CONTRACTOR and the COUNTY from any and all claims under any Workers Compensation Act or Employers Liability Laws, and from any and all other claims of whatsoever kind or nature to the damage or property, or for personal injury, including death, made by anyone whomsoever, that may arise from operations carried on under this Agreement, either by CONTRACTOR, any subcontractor, or by anyone directly or indirectly engaged or employed by either of them.
- b. The insurance coverage required by this Agreement must not be less than the amounts described in the Bid Documents. If the Bid Documents do not state an insurance requirement or the amount of insurance, then the amount of insurance required by this Agreement must not be less than:
  - i. Workers' Compensation (unless exempt) with Employers' Liability with a limit of



\$500,000.00 each accident, \$500,000.00 each employee, \$500,000.00 policy limit for disease;

- ii. Commercial General Liability (CGL) insurance with a limit of not less than \$500,000.00 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this work in the amount of \$1,000,000.00. Products and completed operations aggregate shall be \$1,000,000.00. CGL insurance shall be written on an occurrence form and include bodily injury and property damage liability for premises, operations, independent contractors, products and completed operations, contractual liability, broad form property damage and property damage resulting from explosion, collapse or underground (x, c, u) exposures, personal injury, and advertising injury. Damage to rented premises shall be included at \$100,000.00.
  - iii. Commercial Automobile Liability Insurance with a limit of not less than \$1,000,000.00 each accident for bodily injury and property damage liability. Such insurance shall cover liability arising out of any auto (including owned, hired and non-owned autos) and such policy shall be endorsed to provide contractual liability coverage; and
  - iv. Fire damage liability shall be included at \$500,000.00.
- c. CONTRACTOR must furnish the COUNTY with Certificates of Insurance, which are to be signed by a person authorized by that insurer to bind coverage on its behalf. The COUNTY is to be specifically included as an additional insured and loss payee on all policies except Workers' Compensation. In the event the insurance coverage expires prior to the completion of the project, a renewal certificate must be issued 30 days prior to the expiration date. The policy must provide a 30 day notification clause in the event of cancellation or modification to the policy. All certificates of insurance must be on file with and approved by the COUNTY before commencement of any work activities.
- d. The insurance coverages procured by CONTRACTOR as required herein will be considered as primary insurance over and above any other insurance, or self-insurance, available to CONTRACTOR, and any other insurance, or self-insurance available to CONTRACTOR will be considered secondary to, or in excess of, the insurance coverage(s) procured by CONTRACTOR as required herein.

10. **General Provisions.** CONTRACTOR must comply with the following general provisions:

- a. **Bond.** If a surety bond has been required by the Bid Documents for CONTRACTOR's faithful performance and payment, and if at any time the surety is no longer acceptable to the COUNTY, CONTRACTOR must, at its expense, within five (5) days after the receipt of notice from the COUNTY to do so, furnish an additional bond or bonds in such form and with such Surety or Sureties as are satisfactory to the COUNTY. The COUNTY will not make any further payment to CONTRACTOR, nor will any further payment be deemed to be due to CONTRACTOR, until such new or additional security for the faithful performance of the work is furnished in a manner and form satisfactory to the COUNTY.
- b. **Compliance with Laws.** In providing the Scope of Services, CONTRACTOR must comply

with all federal, state, and local laws, statutes, ordinances, rules, and regulations pertaining to or regulating the provision of such services, including those now in effect and hereafter adopted.

**c. Personal nature of Agreement; Assignment.**

- i. The parties acknowledge that the COUNTY places great reliance and emphasis upon the knowledge, expertise, training, and personal abilities of CONTRACTOR. Accordingly, this Agreement is personal and CONTRACTOR is prohibited from assigning or delegating any rights or duties hereunder without the specific written consent of the COUNTY.
- ii. If CONTRACTOR requires the services of any subcontractor or professional associate in connection with the work to be performed under this Agreement, CONTRACTOR must obtain the written approval of the COUNTY Project Manager prior to engaging such subcontractor or professional associate. CONTRACTOR will remain fully responsible for the services of any subcontractors or professional associates.

**d. Discrimination.**

- i. CONTRACTOR shall not discriminate against any employee employed in the performance of this Agreement, or against any applicant for employment because of age, ethnicity, race, religious belief, disability, national origin, or sex. CONTRACTOR shall not exclude any person, on the grounds of age, ethnicity, race, religious belief, disability, national origin, or sex, from participation in, denied the benefits of, or be otherwise subjected to discrimination in any activity under, this Agreement.
- ii. CONTRACTOR shall provide a harassment-free workplace, with any allegation of harassment given priority attention and action by management.

**e. Independent contractor.**

- i. CONTRACTOR is, and will be deemed to be, an independent contractor and not a servant, employee, joint adventurer, or partner of the COUNTY. None of CONTRACTOR's agents, employees, or servants are, or will be deemed to be, the agent, employee, or servant of the COUNTY. None of the benefits, if any, provided by the COUNTY to its employees, including but not limited to, compensation insurance and unemployment insurance, are available from the COUNTY to the employees, agents, or servants of CONTRACTOR. CONTRACTOR will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, and subcontractors during the performance of this Agreement. Although CONTRACTOR is an independent contractor, the work contemplated herein must meet the approval of the COUNTY and is subject to the COUNTY's general right of inspection to secure the satisfactory completion thereof. CONTRACTOR must comply with all Federal, State and municipal laws, rules and regulations that are now or may in the future become applicable to CONTRACTOR, or to CONTRACTOR's business, equipment, or personnel engaged in operations covered by this Agreement or accruing out of the

performance of such operations. The COUNTY will not be held responsible for the collection of or the payment of taxes or contributions of any nature on behalf of CONTRACTOR.

- ii. CONTRACTOR will bear all losses resulting to it on account of the amount or character of the work, or because of bad weather, or because of errors or omissions in its contract price.
- iii. CONTRACTOR must utilize, and must expressly require all subcontractors to utilize, the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by CONTRACTOR and any subcontractors during the Term of this Agreement.

**f. Indemnification.**

- i. CONTRACTOR must indemnify and hold the COUNTY harmless against and from any and all claims, losses, penalties, interest, demands, judgments, costs, damages, or expenses, including attorney's fees and court costs, incurred by the COUNTY, or its agents, officers, or employees, arising directly or indirectly from CONTRACTOR's performance under this Agreement or by any person on CONTRACTOR's behalf, including but not limited to those claims, losses, penalties, interest, demands, judgments, costs, damages, or expenses arising out of any accident, casualty, or other occurrence causing injury to any person or property. This includes persons employed or utilized by CONTRACTOR (including CONTRACTOR's agents, employees, and subcontractors). CONTRACTOR must further indemnify the COUNTY against any claim that any product purchased or licensed by the COUNTY from CONTRACTOR under this Agreement infringes a United States patent, trademark, or copyright. CONTRACTOR acknowledges that CONTRACTOR has received consideration for this indemnification, and any other indemnification of the COUNTY by CONTRACTOR provided for within the Bid Documents, the sufficiency of such consideration being acknowledged by CONTRACTOR, by CONTRACTOR's execution of this Agreement. CONTRACTOR's obligation will not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance, whether such insurance is in connection with this Agreement or otherwise. Such indemnification is in addition to any and all other legal remedies available to the COUNTY and not considered to be the COUNTY's exclusive remedy.
- ii. In the event that any claim in writing is asserted by a third party which may entitle the COUNTY to indemnification, the COUNTY must give notice thereof to CONTRACTOR, which notice must be accompanied by a copy of statement of the claim. Following the notice, CONTRACTOR has the right, but not the obligation, to participate at its sole expense, in the defense, compromise or settlement of such claim with counsel of its choice. If CONTRACTOR does not timely defend, contest, or otherwise protect against any suit, action or other proceeding arising from such claim, or in the event the COUNTY decides to participate in the proceeding or defense, the COUNTY will have the right to defend, contest, or otherwise protect itself against same and be reimbursed for expenses and reasonable attorney's fees and, upon not less



than ten (10) days notice to CONTRACTOR, to make any reasonable compromise or settlement thereof. In connection with any claim as aforesaid, the parties hereto must cooperate fully with each other and make available all pertinent information necessary or advisable for the defense, compromise or settlement of such claim.

iii. The indemnification provisions of this paragraph will survive the termination of this Agreement.

g. **Sovereign Immunity.** Nothing in this Agreement extends, or will be construed to extend, the COUNTY's liability beyond that provided in section 768.28, Florida Statutes. Nothing in this Agreement is a consent, or will be construed as consent, by the COUNTY to be sued by third parties in any matter arising out of this Agreement.

h. **Public records.**

i. CONTRACTOR is a "Contractor" as defined by Section 119.0701(1)(a), Florida Statutes, and must comply with the public records provisions of Chapter 119, Florida Statutes, including the following:

1. Keep and maintain public records required by the COUNTY to perform the service.
2. Upon request from the COUNTY's custodian of public records, provide the COUNTY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement term and following completion of the Agreement if CONTRACTOR does not transfer the records to the COUNTY.
4. Upon completion of this Agreement, transfer, at no cost, to the COUNTY all public records in possession of CONTRACTOR or keep and maintain public records required by the COUNTY to perform the service. If CONTRACTOR transfers all public records to the COUNTY upon completion of this Agreement, CONTRACTOR must destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon completion of this Agreement, CONTRACTOR must meet all applicable requirements for retaining public records. All records stored electronically must be provided to the COUNTY, upon request from the COUNTY's custodian of public records, in a format that is compatible with the information technology systems of the COUNTY.

ii. "Public records" is defined in Section 119.011(12), Florida Statutes, as may, from time to time, be amended.

iii. If CONTRACTOR asserts any exemptions to the requirements of Chapter 119 and related law, CONTRACTOR will have the burden of establishing such exemption, by way of injunctive or other relief as provided by law.

iv. CONTRACTOR consents to the COUNTY's enforcement of CONTRACTOR's

Chapter 119 requirements, by all legal means, including, but not limited to, a mandatory injunction, whereupon CONTRACTOR must pay all court costs and reasonable attorney's fees incurred by COUNTY.

- v. CONTRACTOR's failure to provide public records within a reasonable time may be subject to penalties under Section 119.10, Florida Statutes. Further, such failure by CONTRACTOR will be grounds for immediate unilateral cancellation of this Agreement by the COUNTY.

- vi. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS, ROBBIE L. CHARTIER, COUNTY ADMINISTRATOR, AT 863-763-6441, EXT 1; publicrecords@co.okeechobee.fl.us; MAILING ADDRESS: 304 NW 2nd Street, ROOM 123, OKEECHOBEE, FL 34972.**

- i. **Federal or State Funding.** If any portion of the funding for this Agreement is derived from the State of Florida, or any department of the State of Florida, or from federal funding through the State of Florida, the provisions of this sub-paragraph shall apply, provisions elsewhere in this Agreement to the contrary notwithstanding. CONTRACTOR shall make inquiry from the COUNTY's Project Manager to determine whether Federal or State funding is applicable to this Agreement.
  - i. E-Verify. CONTRACTOR must utilize, and must expressly require all subcontractors to utilize, the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by CONTRACTOR during the Term of this Agreement.
  - ii. Agency. CONTRACTOR agrees and acknowledges that it, its employees, and its subcontractors are not agents or employees of the Federal Government, of the State of Florida, or of any department of the Federal Government or the State of Florida.
  - iii. Indemnification. To the fullest extent permitted by law, CONTRACTOR shall indemnify and hold harmless the COUNTY, the Federal Government, the State of Florida, any department of the Federal Government or the State of Florida, and all officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of CONTRACTOR and persons employed or utilized by CONTRACTOR in the performance of this Agreement. This indemnification shall survive the termination of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida and the COUNTY's sovereign immunity.
  - iv. Workers' Compensation Insurance. CONTRACTOR must provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, CONTRACTOR must ensure that the subcontractor(s) have Workers' Compensation Insurance for their employees in

accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), CONTRACTOR must ensure that such employees are covered by Workers' Compensation insurance through the PEO's or other leasing entities. CONTRACTOR must ensure that any equipment rental agreements that include operators or other personnel who are employees of independent Contractors, sole proprietorships or partners are covered by insurance required under Florida's Workers' Compensation law.

- v. Liability Insurance. Contractor shall carry Commercial General Liability insurance providing continuous coverage for all work or operations performed under the Agreement. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. CONTRACTOR shall cause the State of Florida to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the State of Florida as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than \$1,000,000 for each occurrence and not less than a \$5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Contract, and may not be shared with or diminished by claims unrelated to this Agreement. The policy/ies and coverage described herein may be subject to a deductible. CONTRACTOR shall pay all deductibles as required by the policy. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention. At all renewal periods which occur prior to final acceptance of the work, the COUNTY and the State of Florida shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The COUNTY and the State of Florida shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The COUNTY's or the State of Florida's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the COUNTY or the State of Florida may have.
- vi. Inspections. CONTRACTOR shall permit, and require its subcontractors to permit, the COUNTY's and the State of Florida's authorized representatives to inspect all work, materials, payrolls, and records, to audit the books, records, and accounts pertaining to the financing and development of the Services described in the Contract Documents.
- vii. Auditor General Cooperation. CONTRACTOR shall comply with §20.055 (5), Florida Statutes, and shall incorporate in all subcontracts the obligation to comply with §20.055 (5), Florida Statutes.
- j. **Federal-Aid Construction Contract.** If this is a federal-aid construction project, it shall be subject to the provisions in Exhibit "C", which is attached hereto and incorporated herein by

reference.

11. **Miscellaneous Provisions.** The following miscellaneous provisions apply to this Agreement:

- a. **Binding Nature of Agreement.** This Agreement is binding upon the successors and assigns of the parties hereto.
- b. **Entire Agreement.** This Agreement states the entire understanding between the parties and supersedes any written or oral representations, statements, negotiations, or agreements to the contrary. CONTRACTOR recognizes that any representations, statements, or negotiations made by the County staff do not suffice to legally bind the COUNTY in a contractual relationship unless they have been reduced to writing, authorized, and signed by the authorized COUNTY representatives.
- c. **Amendment.** No modification, amendment, or alteration in the terms or conditions of this Agreement will be effective unless contained in a written document executed with the same formality as this Agreement.
- d. **Severability.** If any term or provision of this Agreement is held, to any extent, invalid or unenforceable, as against any person, entity, or circumstance during the Term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity will not affect any other term or provision of this Agreement, to the extent that the Agreement will remain operable, enforceable, and in full force and effect to the extent permitted by law.
- e. **Construction.** If any provision of this Agreement becomes subject to judicial interpretation, the court interpreting or considering such provision should not apply the presumption or rule of construction that the terms of this Agreement be more strictly construed against the party which itself or through its counsel or other agent prepared it. All parties hereto have participated in the preparation of the final form of this Agreement through review by their respective counsel, if any, or the negotiation of specific language, or both, and, therefore, the application of such presumption or rule of construction would be inappropriate and contrary to the intent of the parties.
- f. **Headings.** All headings in this Agreement are for convenience only and are not to be used in any judicial construction or interpretation of this Agreement or any paragraph.
- g. **Waiver.** The indulgence of either party with regard to any breach or failure to perform any provision of this Agreement does not constitute a waiver of the provision or any portion of this Agreement, either at the time the breach or failure occurs or at any time throughout the term of this Agreement. The review of, approval of, or payment for any of CONTRACTOR's work product, services, or materials does not operate as a waiver, and should not be construed as a waiver, of any of the COUNTY's rights under this Agreement, or of any cause of action the COUNTY may have arising out of the performance of this Agreement.
- h. **Force Majeure.** Notwithstanding any provisions of this Agreement to the contrary, the parties will not be held liable if failure or delay in the performance of this Agreement arises from



[C.W. Roberts Contracting - Asphalt Resurfacing and New Road Construction]

fires, floods, strikes, embargos, acts of the public enemy, unusually severe weather, out break of war, restraint of government, riots, civil commotion, force majeure, act of God, or for any other cause of the same character which is unavoidable through the exercise of due care and beyond the control of the parties. This provision does not apply if the "Scope of Services" of this Agreement specifies that performance by CONTRACTOR is specifically required during the occurrence of any of the events herein mentioned.

- i. **Attorney's Fees.** In any litigation arising out of this Agreement, the prevailing party is entitled to recover, from the other party, its reasonable attorney's fees and costs, at both the trial and appellate levels.
- j. **Law; Venue.** This Agreement is being executed in Okeechobee County, Florida and is governed in accordance with the laws of the State of Florida. Venue of any action hereunder will be in Okeechobee County, Florida.

12. **Special Provisions.**

- a. This Agreement is a non-exclusive contract; the COUNTY is not prohibited, or deemed to be prohibited, from bidding similar services either as an independent job or a component of a larger project.

IN WITNESS WHEREOF, the parties hereto have signed and sealed this Agreement effective the date first written above.

OKEECHOBEE COUNTY, a political  
subdivision of the State of Florida

By:

Terry W. Burroughs  
TERRY W. BURROUGHS, CHAIRMAN  
BOARD OF COUNTY COMMISSIONERS

ATTEST:

Paula Robertson-Deputy Clerk  
SHARON ROBERTSON, CLERK OF  
THE CIRCUIT COURT & COMPTROLLER

(Seal)

Date signed by COUNTY: 05/09/2019





[C.W. Roberts Contracting - Asphalt Resurfacing and New Road Construction]

C.W. ROBERTS CONTRACTING,  
INCORPORATED

by

Robert P. Flowers

ROBERT P. FLOWERS, as its President and  
authorized agent

(CORPORATE SEAL)



ATTEST:

Robert Delisle  
Robert Delisle, Secretary

STATE OF FLORIDA

COUNTY OF Leon

The foregoing instrument was sworn to and subscribed before me this 13<sup>th</sup> day of May, 2019,  
by **ROBERT P. FLOWERS**, as President and authorized agent of C.W. Roberts Contracting, Incorporated,  
☒ who is personally known to me or ☐ who has produced N/A as  
identification.

Michelle Davis  
Signature of Notary Public - State of Florida

Michelle Davis  
Printed/Typed/Stamped Name of Notary  
My commission expires: 9-2-21



A. The value of such extra work or change shall be determined as follows:

- (1) By estimate and acceptance in lump sum.
- (2) By unit price named in the contract or subsequently agreed upon.

**GC-23. INSURANCE:**

General Liability – Contractor shall maintain commercial general liability (CGL) insurance with a limit of not less than \$1,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this project in the amount of \$3,000,000. Products and completed operations aggregate shall be \$3,000,000. CGL insurance shall be written on an occurrence form and shall include bodily injury and property damage liability for premises, operations, independent contractors, products and completed operations, contractual liability, broad form property damage and property damage resulting from explosion, collapse or underground (x, c, u) exposures, personal injury and advertising injury. Damage to rented premises shall be included at \$100,000.

Worker's Compensation – Coverage is to apply for all employees for statutory limits in compliance with the applicable state and federal laws. The policy must include Employer's Liability with a limit of \$1,000,000 each accident, \$1,000,000 each employee, \$1,000,000 policy limit for disease.

Commercial Automobile Liability Insurance – Contractor shall maintain automobile liability insurance with a limit of not less than \$1,000,000 each accident for bodily injury and property damage liability. Such insurance shall cover liability arising out of any auto (including owned, hired and non-owned autos). The policy shall be endorsed to provide contractual liability coverage.

Evidence of Insurance - The Contractor shall furnish the County with Certificates of Insurance. The Certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. The County is to be specifically included as an additional insured on all policies except Workers' Compensation. In the event the insurance coverage expires prior to the completion of the project (contract), a renewal certificate shall be issued 30 days prior to said expiration date. The policy shall provide a 30-day notification clause in the event of cancellation or modification to the policy. All certificates of insurance must be on file with and approved by the County before the commencement of any work activities.

Cancellation Provisions - (1) Each policy of insurance covering the contractor's or subcontractor's operations under this bid or a contract entered into pursuant to this bid shall provide either in the body of the policy or by appropriate endorsement (rider) of the policy, that such policy cannot be altered or canceled in less than thirty (30) days after the mailing of written notice to the assured (insured) of such alteration or cancellation, or not less than ten (10) days after actual receipt by the County of written notice of such pending alteration or cancellation.

Proof of Coverage - The contractor shall not commence work under this contract until he has furnished the owner, through the Deputy Administrator, with satisfactory proof of carriage of the insurance required.

**GC-24. WORK SITE:** The site where the services described in the scope of services are to be performed shall be kept reasonably free of trash and debris during the contract period and the disposal of refuse shall be at the sole expense of the contractor. The contractor shall not utilize adjacent private property for storage or access without the express written consent of the property owner.

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GC-25. SUPERVISION: The contractor, if selected, agrees to do all the work and furnish all equipment called for by the bid documents, in the manner prescribed herein, in accordance with the contract documents and to the standards of quality and performance established by the Deputy Administrator. The Contractor is required to have at least one supervisor on the work site at all times, that understands and speaks English.

END OF GENERAL CONDITIONS

### SECTION 3.0 SPECIFIC CONDITIONS (SC)

SC-3.01. Payment shall be made within the limits of Florida Statutes after submission of an itemized accurate invoice for the work performed in accordance with the bid documents. In no event shall the contractor be entitled to payment more frequently than monthly.

SC-3.02. Necessary permits have been acquired by the County and will be furnished to the successful bidder as needed.

SC-3.03. Contractor shall supply all equipment, labor, materials and specialized machinery for the performance of the work as shown in the specifications. Contractor shall staff the project with personnel, supervisors, and quality control technicians who are experienced and properly trained in the methods and equipment required to accomplish the work.

SC-3.04. Contract is for a three-year period. It may be extended on a yearly basis, for an additional two, one-year renewals, upon the mutual agreement of both parties.

SC-3.05. Contractor must maintain the required liability insurance and Worker's Compensation throughout the duration of the contract.

SC-3.06. Contractor shall hold and maintain all proper licensing throughout the duration of the contract.

SC-3.07. Contractor shall submit and receive the County's approval on a list of all sub-contractors to be used, if any, prior to the commencement of an assignment (see GC-20).

SC-3.08. Contractor shall be responsible for all work performed and actions resulting from this work. If any private, public or County facilities, structures, and/or individuals are damaged or injured resulting from the Contractor's work, the Contractor will be fully responsible for any and all damages.

SC-3.09. Preparation of paved roads shall be by the Contractor immediately prior to the application of liquid asphalt and asphalt installation.

SC-3.10. Time available between road preparation and asphalt application is, by necessity, minimal and dependent on weather and site conditions, and that asphalt installation is expected when scheduled.

SC-3.11. No mobilization fees will be allowed.

SC-3.12. County makes no commitment, either written or implied, as to quantity of work which may be authorized, if any, during the period this bid is in effect.

SC-3.13. The apparent low bidder shall submit a list of equipment to be used throughout the Contract prior to execution of the Contract. This list shall have the year, make, and model and company number of all equipment to be used. All equipment must have a company number visibly located on the outside of the machine.

SC-3.14. The design mix formula and mix stability for the SP - 9.5 (Superpave) Asphaltic Concrete Surface Course (ACSC) delivered under this contract shall be the most recent mix design for the Contractor's plant and shall consist of aggregate from an FDOT approved source.

SC-3.15. Upon award of Contract, the Contractor shall submit to the County a copy of the design mix to be used throughout the term of the Contract for County approval. Changes in design mix shall be approved in this same manner prior to delivery to the work site. The County reserves the right to test all material delivered to the work site. This testing will be at the expense of the County. The County will not pay for asphalt not meeting the required design mix or FDOT specifications for prime coat, tack coat or SP - 9.5 (Superpave) ACSC.

SC-3.16. The plant and methods of operation for preparing the hot bituminous mixtures described in these specifications shall be governed by provisions of Section 320 & 334 of the FDOT Standard Specifications for Road and Bridge Construction, Latest Edition.

SC-3.17. Paving crews shall consist of an adequate number of employees required to properly install materials in such a manner to satisfy FDOT specifications for pavement and MOT. All vehicles and personnel shall be clearly identified with the company name and/or logo, and present a good appearance, and maintain a professional code of conduct. All personnel shall wear a safety vest with reflective striping when working within the County road Right-of-Way.

SC-3.18. Prime coat shall be applied over shell roads prior to paving and tack coat shall be applied to existing asphalt prior to paving. The rate of application of prime coat shall not be less than 0.15 gallons per square yard, and the rate of application of tack coat shall be between .04 and .08 gallon per square yard. Prime coat and tack coat shall be in conformance with Section 300 of the FDOT Standard Specifications for Road and Bridge Construction Latest Edition except that payment for prime and tack coat will be included in the per ton price for SP - 9.5 (Superpave) Asphalt.

SC-3.19. All work is to be generally performed between the hours of 7:00 a.m. and 4:00 p.m.; contractor may be required to work past 4:00 p.m. by the County to complete the current project. No work is to be performed on weekends or holidays without permission from the Deputy Administrator or designee.

SC-3.20. The Contractor shall have a competent superintendent or operator, with authority to represent him, present at all times during the progress of the work. Those personnel assigned in such capacity shall remain with the project during any construction until its completion.

SC-3.21. It is the responsibility of the Contractor to notify all utilities companies involved to stake their underground utilities when applicable and to take all precautions necessary to prevent disturbance of same. Okeechobee Utility Authority is the largest Water/Wastewater supplier in Okeechobee County and they can be reached at (863) 763-9460.

SC-3.22. Measurement of the SP - 9.5 (Superpave) ACSC will be the scale method on a tonnage basis as specified in the FDOT Standard Specifications for Road and Bridge Construction, Latest Edition. This pay

tonnage basis of the mix shall include all materials in the mix, including bituminous materials and other additives. Such payment shall be full compensation for all, but not limited to: maintenance of traffic, paved road preparation, prime and tack coat, equipment, MOT, vehicles, tools, labor, fuel, oil, greases, insurances, taxes, fees, plant transportation, suspensions, delays and incidentals necessary to complete work set forth in this contract.

SC-3.23. The Contractor is required to provide maintenance of traffic throughout the entire work site, and be in full compliance with all FDOT and Federal Highway Administration (Manual on Uniform Traffic Control Devices - latest edition) regulations with regard to work zone. Contractor shall provide an approved Maintenance of Traffic (MOT) Plan applicable to the FDOT Design Standard Index from current 600 series and The Manual on Uniform Traffic Control Devices (MUTCD). This MOT Plan index shall include the name of the roadways they represent, and designed for appropriate work activity. The Contractor shall be required to have a qualified person onsite responsible for the setup and maintenance of approved traffic control plan. The qualified person is required to possess a certification card displaying Intermediate or Advance Level Maintenance Traffic. An Intermediate Level Certification will be required for the FDOT Design Standards 600 series. An Advanced Level Certification Card will be required for all non-typical condition MOT plans and road closures. A copy of the MOT plans and updated certifications shall be kept on site at all times.

SC-3.24. Upon execution of the Contract by both parties, the Contractor or his authorized representative shall attend a pre-construction meeting with appropriate County personnel for the purpose of road scheduling, coordination and Purchase Order preparation. The meeting will be held at a mutually agreed upon time by the Contractor and Deputy Administrator. Subsequent meetings will be held throughout the duration of the project, as necessary, until substantial completion of the road list. Meeting attendance is mandatory and with no additional compensation for attendance.

SC-3.25. The Deputy Administrator or authorized representative shall issue a signed Purchase Order to the Contractor for paving assignment. Duplicate delivery tickets must be received by authorized County personnel and signed at each designated work site, as the asphalt is being laid. Copies of the signed tickets shall be included with the Purchase Order upon invoice.

SC-3.26. The Contractor is expected to commence work assignments within ten (10) calendar days of written order by the County. The Contractor should notify the Deputy Administrator or designee in writing of the commencement date. Written orders will be in the form of a Purchase Order or other written means, sent by the County to the Contractor. Liquidated damages in the amount of \$500 per day may be assessed to the Contractor for each day after ten (10) working calendar days a paving crew is not on site. Once initiated, work is to be continuous until completion of the work order or released by the County.

SC-3.27. Purchase Orders, or other written means, will list estimate asphalt tonnage for paving and resurfacing projects.

SC-3.28. Fuel and/or bituminous adjustments: If the bidder desires an adjustment, it is their responsibility to supply to the County any and all data, forms, reports and documentation (using FDOT forms) in accordance with FDOT requirements in order to receive an adjustment. Bidder's submittal must be acceptable, clear and complete. If and when, an adjustment is requested, the bidder will submit their documentation starting from the beginning of this bid/contract and include each month thereafter until contract terminates. Once the adjustment has been requested, each invoice thereafter must include proper fuel/bituminous documentation for processing. Fuel/bituminous adjustments will only be considered with a

timely and properly submitted invoice. If an invoice is submitted with no adjustment documentation (the initial adjustment request), bidder must wait until next invoice period to submit the initial adjustment request. Bidder will not be permitted to request a fuel/bituminous adjustment (the initial request) after submission of an invoice.

SC-3.29. Contractor shall install the new asphalt to ensure that the transition joints are not excessive and a good quality ride is provided when finished. The final result of the installation of the asphalt shall provide an even transition with the existing area. No more than one-quarter (1/4) inch difference in height shall be allowed for the transition of two (2) areas. Saw cutting and removing the existing pavement to provide a clean butt joint is acceptable. Milling the existing asphalt may be approved by the County to provide the same results, is also acceptable. The asphalt key cut or joint shall have a minimum depth of 1" and be 5' wide with an average slope of 1.7%. The asphalt key cut or joint will span the entire longitudinal length of the roadway from edge of pavement to edge of pavement or as directed by the County.

SC-3.30. Milling operations shall be governed by Section 327 of the FDOT Standard Specifications for Road and Bridge Construction, Latest Edition. The price per square yard (SY) will include but not be limited to: cleaning, all MOT required and approved by the Deputy Administrator or designee, hauling and disposal, all labor, equipment and material necessary to remove existing asphalt. Cleaning and preparing surface for tack coat.

END OF SPECIFIC CONDITIONS

## **SECTION 4.0 SPECIFICATIONS FOR ASPHALT PAVING ANNUAL BID**

### **4.1 INTENT**

It is the intent of this solicitation to provide for the construction and completion in every detail of the work described in this proposal for Asphalt Paving in Okeechobee County, Florida for a period of one (1) year with four (4) one (1) year renewal options. Furnish all labor, materials equipment, tools, transportation and supplies to pave, mill, resurfacing, and repair: unpaved streets, paved streets, bike paths, sidewalks, parking lots, open road cut repairs, shoulder restoration, intersection radius and apron repairs, etc. All materials and workmanship shall meet Florida Department of Transportation Standard Specifications for Road and Bridge Construction, Latest Edition, unless otherwise discussed herein.

### **4.2 SCOPE OF WORK**

#### **4.2.1 Paving Options – A total of four (4) different paving options shall be used:**

- |           |  |
|-----------|--|
| 4.2.1.1   | <u>Resurface Existing Streets or Parking Lots, greater than 5 tons:</u>  |
| 4.2.1.1.1 | Pave with Type SP 9.5 Asphalt Level C in accordance with Sections 300, 320, 330, 334 and 916 and all sections referenced therein of the Florida Department of Transportation Standard Specifications for Road and Bridge Construction, latest edition. |
| 4.2.1.1.2 | Match existing curb line with cross slope of ¼ inch per foot to center line or as directed by the County.  |



- 4.2.1.1.3 Hand work may be required in certain areas such as driveways, intersections, storm drains, manholes, water valve covers etc., to prevent "bird baths" in excess of ¼ inch in depth. Payment for this work is incidental to and will be included in the bid price for materials.
- 4.2.1.1.4 Bidder should note Section 330 of Florida Department of Transportation Standard Specifications for Road and Bridge Construction, latest edition, which calls for the finished surface not to vary more than 3/16 of an inch in 15 feet.
- 4.2.1.1.5 Payment will be on a per-ton basis for asphalt, to include all work specified; including applicable requirements of Sections 320 and 330 of the Florida Department of Transportation Standard Specifications for Road and Bridge Construction, latest edition.
- 4.2.1.2 Small Project Asphalt Repairs, less than 5 tons; including but not limited to open cuts, shoulder restoration and intersection radius/apron repairs:
  - 4.2.1.2.1 Small Projects may or may not be grouped together in order to provide the public with smooth riding course in a timely fashion.
  - 4.2.1.2.2 Pave with Type SP 9.5 Asphalt Level C in accordance with Sections 300, 320, 330, 334 and 916 and all sections referenced therein of the Florida Department of Transportation Standard Specifications for Road and Bridge Construction, latest edition.
  - 4.2.1.2.3 Match existing curb line with cross slope of ¼ inch per foot to center line or as directed by the County.
  - 4.2.1.2.4 Hand work may be required in certain areas such as driveways, intersections, storm drains, manholes, water valve covers etc., to prevent "bird baths" in excess of ¼ inch in depth. Payment for this work is incidental to and will be included in the bid price for materials.
  - 4.2.1.2.6 Bidder should note Section 330 of Florida Department of Transportation Standard Specifications for Road and Bridge Construction, latest edition, which calls for the finished surface not to vary more than 3/16 of an inch in 15 feet.
  - 4.2.1.2.6 Payment will be on a per-ton basis for asphalt, to include all work specified; including applicable requirements of Sections 320 and 330 of the Florida Department of Transportation Standard Specifications for Road and Bridge Construction, latest edition.

- 4.2.1.3                    New Pavement (Base prepared and Finished by County):
- 4.2.1.3.1                Base will be finished by the County in accordance with Sections 200, 210, 230, 204 and all sections referenced therein of the Florida Department of Transportation Standard Specifications for Road and Bridge Construction, latest edition.
- 4.2.1.3.2                Pave with Type SP 9.5 Asphalt Level C in accordance with Sections 300, 320, 330, 334 and 916 and all sections referenced therein of the Florida Department of Transportation Standard Specifications for Road and Bridge Construction, latest edition.
- 4.2.1.3.3                Match existing curb line with cross slope of ¼ inch per foot to center line or as directed by the County.
- 4.2.1.3.4                Hand work may be required in certain areas such as driveways, intersections, storm drains, manholes, water valve covers etc., to prevent “bird baths” in excess of ¼ inch in depth. Payment for this work is incidental to and will be included in the bid price for materials.
- 4.2.1.3.5                Payment will be on a per-ton basis for asphalt, to include all work specified.
- 4.2.1.4                    Asphalt pavement in areas where vehicle traffic does not travel, such as bike paths, sidewalks, pavement under guardrail etc.
- 4.2.1.4.1                Pave with any plant-mixed hot bituminous mixture that produces a finished pavement which will not distort or mar under bicycle or mower wheel loads in accordance with Section 339 and all sections referenced therein of the Florida Department of Transportation Standard Specifications for Road and Bridge Construction, latest edition. Apply soil treatment to foundation soil using a pre-emergent herbicide approved for use under paved surfaces; applied in accordance with the label.
- 4.2.1.4.2                Match existing pavement edges.
- 4.2.1.4.3                Hand work may be required in certain areas such as posts, driveways, water valve covers, storm drains, manholes etc. If posts are to be installed in pavement area, holes may be cut for installation through the completed pavement. After completing installation of posts and compaction of the backfill material, patch the area around each post with fresh hot bituminous mixture.
- 4.2.1.4.5                Payment will be on a per-ton basis for asphalt, to include all work specified; including applicable requirements of Sections 339 of the

**4.2.2 Milling of Existing Asphalt Streets or Parking Lots:**

- 4.2.2.1 Remove existing asphalt pavement by milling to improve the readability and cross slope of the finished pavement, to lower the finished grade adjacent to existing curb prior to resurfacing or to completely remove existing asphalt.
- 4.2.2.2 Provide a milling machine capable of maintaining depth of cut and cross slope that will achieve the results of the specifications provided by the County. Use a machine with a minimum overall length (out to out measurement excluding the conveyor) of 18 feet and a minimum cutting width of 6 feet. Equip the milling machine with a built-in automatic grade control system that can control the transverse slope and the longitudinal profile to produce the specified results. The Contractor may use a smaller milling machine when milling to lower the grade adjacent to existing curb or other areas where it is impractical to use the above described equipment.
- 4.2.2.3 Core samples of the existing asphalt surface shall be required in order to determine the appropriate milling depth. Asphalt cores shall be taken a minimum of every 500 linear feet.
- 4.2.2.4 Mill existing streets or portions of existing streets in accordance with Section 327 and all sections referenced therein of the Florida Department of Transportation Standard Specifications for Road and Bridge Construction, latest edition.
- 4.2.2.4 Mill depth shall be an average of 1", 1 ½" or 2" as directed by the County.
- 4.2.2.5 Milled areas should be overlaid as soon as possible to prevent dust problems or damage.
- 4.2.2.6 All damage due to dust or otherwise entailed in this project will be the responsibility of the Contractor and should be bid this way.
- 4.2.2.6 All excess milled material becomes the property of the Contractor.
- 4.2.2.7 Payment will be on a square-yard per depth basis for plan quantity area for all work specified in this Section, including hauling off and stockpiling or otherwise disposing of the milled material.

#### 4.2.3 Testing:

Testing of material will be performed to ensure compliance with Florida Department of Transportation Standard Specifications for Road and Bridge Construction, latest edition. All acceptable field and laboratory tests will be at the County's expense. Failings test will be paid by the Contractor.

4.2.4.1 Asphalt Testing: One (1) set of the following tests for each 200 tons placed or one (1) set per day if less than 200 tons placed.

SP-01. Price per linear feet (LF) will include but not be limited to: cleaning, all MOT required and approved by the County or Deputy Administrator, hauling and disposal, all labor, equipment and material necessary to remove existing asphalt. Cleaning and preparing surface for tack coat.

SP-02. Maintenance of Traffic Plan (MOTP) acceptable to the County, must be submitted and followed for each assignment. If a State highway is involved a FDOT/MOTP will be required.

SP-03. All application methods, material and configurations shall be in accordance with the applicable section of

- A) FDOT Standard Specifications for Road and Bridge Construction, Latest Edition, Sections 300, 320, 327, 330, 334, 339, 901, 902, 916, 917
- B) Manual on Uniform Traffic Control Devices (MUTCD), including Part VI (Latest Edition) Published by Federal Highway Administration

SP-04. Bidder is not required to be an F.D.O.T. approved vendor, but the County reserves, at its sole discretion, the right to reject any bidder for any reason whatsoever.

SP-05. Certification (satisfactory to the County) must be furnished to the County that materials meet or exceed FDOT specifications.

END OF SPECIFICATIONS



*CW Roberts  
Contracting*

V. BID PROPOSAL  
Page 1 of 2  
BID NO: 2019-05  
OKEECHOBEE COUNTY  
ASPHALT RESURFACING AND  
NEW ROAD CONSTRUCTION

The undersigned bidder has carefully examined the bid documents and the contract documents, the site of work and is familiar with the nature and extent of the work, and any local conditions that may in any manner affect the work to be done and the equipment, materials, labor and expertise required and accordingly submits the following bid:

ITEM NO. 1: Furnish and place SP - 9.5 (Superpave) Asphalt, including tack coat:

1 to 20 Tons	\$ 247.90 /Ton
20 to 50 Tons	\$ 156.00 /Ton
Over 50 Tons	\$ 128.40 /Ton

ITEM NO. 2: Mill Transitions in existing asphalt five feet (5') wide with a minimum depth of one inch (1") at the tie in location to zero inches (0"). The linear foot price shall be the total length of the milled joint at the tie

1' to 20'	\$ 32.00 /Linear Foot
21' to 100'	\$ 14.50 /Linear Foot
Over 100'	\$ 11.00 /Linear Foot

ITEM NO. 3: Asphalt Milling, Removal and Disposal - 1" Average Depth:

0 to 100 S.Y.	\$ 65.15 /Square Yard
101 to 500 S.Y.	\$ 25.00 /Square Yard
501 to 1000 S.Y.	\$ 11.50 /Square Yard
Over 1000 S.Y.	\$ 6.30 /Square Yard

ITEM NO. 4: Asphalt Milling, Haul to County Stockpile\* - 1" Average Depth:

0 to 100 S.Y.	\$ 69.00 /Square Yard
101 to 500 S.Y.	\$ 29.00 /Square Yard
501 to 1000 S.Y.	\$ 15.50 /Square Yard
Over 1000 S.Y.	\$ 7.20 /Square Yard

\* County stockpile is located at 2442 US Highway 441 North (access is from NW 23rd Lane just west of US 441)

ITEM NO. 5: Full Size (7' +/-) Road Miller \$ 5,800.00 /Day

**ITEM NO. 6: Painted Pavement Markings**

6" Solid White 0 - 2000 lf	\$4.25	/Linear Feet
6" Solid White 2001 to 5000 lf	\$0.80	/Linear Feet
6" Solid White over 5000 lf	\$0.50	/Linear Feet
6" Solid Yellow 0 - 2000 lf	\$4.25	/Linear Feet
6" Solid Yellow 2001 to 5000 lf	\$0.80	/Linear Feet
6" Solid Yellow over 5000 lf	\$0.50	/Linear Feet
6" 10'-30' Skip White 0-1 mi	\$1,925.00	/Gross Mile
6" 10'-30' Skip White 1 to 5 mi	\$1,700.00	/Gross Mile
6" 10'-30' Skip White over 5 mi	\$1,200.00	/Gross Mile
6" 10' - 30 Skip Yellow 0-1 mi	\$1,925.00	/Gross Mile
12" Solid White 0 - 500 lf	\$1.80	/Linear Feet
12" Solid White over 500 lf	\$1.10	/Linear Feet
24" Solid White 0 - 100 lf	\$3.25	/Linear Feet
24" Solid White over 100 lf	\$2.75	/Linear Feet

Does the bidder take any exceptions to the Bid Specifications? Yes \_\_\_\_\_ No **X** \_\_\_\_\_  
 If "Yes", please detail those exceptions on this form. [Additional signed & dated sheets may be used].

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**VL Bid proposal**

**Acknowledgement of Addendums: (Initial and date)**

Addendum: Number 1: B. G. Initial 03-15-2019 Date  
 Addendum: Number 2: \_\_\_\_\_ Initial \_\_\_\_\_ Date  
 Addendum: Number 3: \_\_\_\_\_ Initial \_\_\_\_\_ Date

**SUPPLEMENTARY PROVISIONS  
FOR NON-FEDERAL ENTITY CONTRACTS  
UNDER FEDERAL AWARDS**

This Contract is subject to state and federal laws, rules, and regulations due to the County's receipt of federal funds necessary to enter into this Contract. Federal laws and regulations as applicable to the Contractor's scope of work, including, but not limited to those enumerated in the following subparagraphs, are incorporated into this Contract unless otherwise provided in the solicitation, bid documents, specific program, or funding award, or unless excluded by law. Some provisions have thresholds and exclusions that may apply due to the contract amount, solicitation, bid documents, specific program, or funding award. The Contractor is advised to be aware of the specific requirements of the federal funding source for this Contract.

- a. **GENERAL:** 2 C.F.R. 200.326 as described in Appendix II to Part 200 – Contract Provisions for non-Federal Entity Contracts Under Federal Awards;
- b. **USDA:** 7 C.F.R. 624 - USDA, NRCS Emergency Watershed Protection;
- c. **FEMA:** FEMA Public Assistance Program and Policy Guide, FEMA 325 Debris Management Guide, FEMA Recovery Policy 9500 series; and any other Federal rule, regulation or policy relating to disaster repair, reconstruction and debris. Further, Contractor hereby declares that Contractor, its principles, and its subcontractors are not currently debarred or suspended by federal or state law.

Contractor and all associated contractors are considered recipients therefore the following provisions must be included in all contract provisions; inclusive those of the subcontractor when and where applicable.

**1. TERMINATION FOR CAUSE AND/OR CONVENIENCE.**

- 1.1 The County, by written notice to the Contractor, may terminate this Contract with or without cause, in whole or in part, when the County determines in its sole discretion that it is in the County's best interest to do so. In the event of termination, the Contractor will not incur any new obligations for the terminated portion of this Contract after the Contractor has received notification of termination.
- 1.2 If this Contract is terminated before performance is completed, the Contractor shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount that is the same percentage of this Contract price as the amount of work satisfactorily completed is a percentage of the total work called for by this Contract. All work in progress shall become the property of the County and shall be turned over promptly by the Contractor.

**2. EQUAL EMPLOYMENT OPPORTUNITY.**

During the performance of this Contract, the Contractor agrees as follows:

- 2.1 The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- 2.2 The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- 2.3 The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation

of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

- 2.4 The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 2.5 The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 2.6 The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 2.7 In the event of the Contractor's non-compliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- 2.8 The Contractor will include the portion of the sentence immediately preceding paragraph 2.1 and the provisions of paragraphs 2.1 through 2.8 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

**3. DAVIS BACON ACT AND COPELAND ANTI-KICKBACK ACT.**

- 3.1 Applicability of Davis-Bacon Act and the Copeland "Anti-Kickback Act."
  - 3.1.1 All prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction). See 2 C.F.R. Part 200, Appendix II, § D.
  - 3.1.2 FEMA funded projects: The Davis-Bacon Act only applies to the Emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program. It does not apply to other FEMA grant and cooperative agreement programs, including the Public Assistance Program. In situations where the Davis-Bacon Act does not apply, neither does the Copeland "Anti-Kickback Act."
  - 3.1.3 NRCS funded projects: Emergency Watershed Protection projects may not require compliance with the Davis-Bacon Act. Refer to the proposal, bid specifications, or specific grant award funding the project.
  - 3.1.4 Other federally funded projects: If not indicated in the County invitation to bid, it is incumbent upon

the Contractor to inquire as to the federal funding sources to determine the applicability of The Davis-Bacon Act. and the Copeland "Anti-Kickback Act."

- 3.2 If the Contract is a construction contract in excess of \$2,000.00 the Contractor must comply with the Davis-Bacon Act (40 U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction). See 2 C.F.R. Part 200, Appendix II, § D.
- 3.3 Compliance with the Copeland "Anti-Kickback" Act. If the Contract is subject to the Davis-Bacon Act, the Contractor must comply with the Copeland "Anti-Kickback" Act (18 U.S.C. § 874, 40 U.S.C. § 3145), as supplemented by Department of Labor regulations at 29 C.F.R. Part 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States).
  - 3.3.1 The Uniform Rules authorize FEMA to require additional provisions for non-Federal entity contracts. Contracts involving FEMA funds or projects seeking FEMA reimbursement shall be deemed to incorporate the following additional provisions:
    - 3.3.1.1 Contractor. The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this Contract.
    - 3.3.1.2 Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
    - 3.3.1.3 Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.
- 4. **COMPLIANCE WITH THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT.**
  - 4.1 Overtime requirements. No Contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
  - 4.2 Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 4.1 of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under Contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 4.1 of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 4.1 of this section.
  - 4.3 Withholding for unpaid wages and liquidated damages. The County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such Contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 4.2 of this section.
  - 4.4 Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs



4.1 through 4.4 of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 4.1 through 4.4 of this section.

**5. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT.**

If the federal award meets the definition of "funding agreement" under 37 CFR section 401.2 (a) and the Contract involves the performance of experimental, developmental or research work under that "funding agreement", the contractor must comply with the requirements of 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding federal agency.

**6. CLEAN AIR ACT & FEDERAL WATER POLLUTION CONTROL ACT**

6.1 Applicability. The provisions of this section 6 apply to Contracts of amounts in excess of \$150,000.00.

6.2 Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-767 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387), and will report violations to the County and the Regional Office of the Environmental Protection Agency (EPA).

6.3 The Contractor agrees to include these requirements in each subcontract exceeding \$150,000.00.

**7. SUSPENSION AND DEBARMENT**

7.1 This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Contractor is required to verify that none of the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

7.2 The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

7.3 This certification is a material representation of fact relied upon by the County. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

7.4 The Contractor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C throughout the period of the Contract. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

**8. BYRD ANTI-LOBBYING AMENDMENT**

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Contractor and each tier shall also disclose any lobbying with nonfederal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Contractor and then to the County.

**9. RECOVERED MATERIALS**

9.1 Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding

fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. [78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014].

9.2 Additional FEMA Requirements.

9.2.1 The Uniform Rules authorize FEMA to require additional provisions for non-Federal entity contracts. Contracts involving FEMA funds or projects seeking FEMA reimbursement shall be deemed to incorporate the following additional provisions:

9.2.1.1 Changes Orders. To be eligible for FEMA assistance under the County's FEMA grant or cooperative agreement, the cost of the change, modification, change order, or constructive change must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope.

9.2.1.2 Any Change Order that would be outside the scope of the County's grant or cooperative agreement or would otherwise be non-reimbursable under FEMA disaster relief guidelines, must state that fact in the Change Order.

10. **RECORDS**

10.1 Contractor shall provide, when requested, access by the County, federal granting agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

10.2 Contractor shall retain all records associated with this Contract for three (3) years after final payments and all other pending matters are closed.

10.3 The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the Contract.

11. **REMEDIES**

11.1 In the event the Contractor fails to satisfactorily perform or has failed to adhere to the terms and conditions under this Contract, the County may, upon fifteen (15) calendar days written notice to the Contractor and upon the Contractor's failure to cure within those fifteen (15) calendar days, exercise any one or more of the following remedies, either concurrently or consecutively:

11.1.1 Withhold or suspend payment of all or any part of a request for payment.

11.1.2 Require that the Contractor refund to the County any monies used for ineligible purposes under the laws, rules and regulations governing the use of these funds.

11.1.3 Exercise any corrective or remedial actions, to include but not be limited to:

11.1.3.1 requesting additional information from the Contractor to determine the reasons for or the extent of non-compliance or lack of performance;

11.1.3.2 issuing a written warning to advise that more serious measures may be taken if the situation is not corrected;

11.1.3.3 advising the Contractor to suspend, discontinue or refrain from incurring costs for any activities in question; or

11.1.3.4 requiring the Contractor to reimburse the County for the amount of costs incurred for any items determined to be ineligible.

11.2 Pursuing any of the above remedies will not keep the County from pursuing any other rights or remedies which may be otherwise available under law or in equity. If the County waives any right or remedy in this Contract or fails to insist on strict performance by the Contractor, it will not affect, extend or waive any other right or remedy of the County, or affect the later exercise of the same right or remedy by the County for any other default by the Contractor.

**12. USE OF FEDERAL AGENCY SEALS, LOGOS AND FLAGS.**

The Contractor shall not use the seal(s), logo(s), crest(s), or reproduction(s) of flags of any funding federal agency or likenesses of a federal agency officials without specific written preapproval of that agency. Agencies include, but are not limited to Department of Homeland Security (DHS); Federal Emergency Management Agency (FEMA); United States Department of Agriculture (USDA); National Resources Conservation Service (NRCS); U.S. Department of Transportation (USDOT); Federal Highway Administration (FHWA) and U.S. Environmental Protection Agency (USEPA). Use of a U.S. government work in a way that implies endorsement by a U.S. Government Agency, official or employee is prohibited.

**13. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS.**

This is an acknowledgment and agreement that federal financial assistance will be used to fund the Contract only. The contractor will comply with all applicable federal law, regulations, executive orders, policies, procedures, and directives.

**14. NO OBLIGATION BY FEDERAL GOVERNMENT.**

The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-federal entity, contractor, or any other party pertaining to any matter resulting from the Contract.

**15. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS.**

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract.

**16. FEDERAL-AID CONSTRUCTION CONTRACTS FOR HIGHWAY PROJECTS REQUIRING ATTACHMENT OF FORM FHWA-1273.**

Where the attachment and compliance with the provisions of Form FHWA-1273 is required, any provision of the Contract or other provisions of this Supplementary Provisions shall not be construed to amend or waive the provisions of Form FHWA-1273.

**AGREEMENT FOR RENEWAL AND AMENDMENT  
OF INDEPENDENT CONTRACTOR'S AGREEMENT**

THIS AGREEMENT FOR RENEWAL AND AMENDMENT OF INDEPENDENT CONTRACTOR'S AGREEMENT (hereinafter "this Renewal") is made and entered into effective the 1<sup>st</sup> day of May, 2022, by and between OKEECHOBEE COUNTY, a political subdivision of the State of Florida (hereinafter the "COUNTY") and C.W. ROBERTS CONTRACTING, INC., a Florida corporation (hereinafter "CONTRACTOR").

**WITNESSETH**

**WHEREAS**, the COUNTY is a political subdivision of the State of Florida, having a responsibility to provide certain services to benefit the citizens of Okeechobee County; and

**WHEREAS**, the COUNTY and CONTRACTOR entered into an Independent Contractor's Agreement dated April 1, 2019 (hereinafter the "2019 Agreement"), as amended by an Agreement for Amendment of Independent Contractor's Agreement dated August 13, 2020 (hereinafter the "2020 Amendment"); and

**WHEREAS**, the CONTRACTOR has provided services under the Agreement, in a manner satisfactory to the COUNTY; and

**WHEREAS**, the 2019 Agreement provided for a three (3) year Term commencing May 1, 2019, and provided for two (2) additional one (1) year terms, upon written agreement by the parties, and the parties are desirous of extending the 2019 Agreement, as amended by the 2020 Amendment; and

**WHEREAS**, Section 448.095, Fla. Stat., imposes certain obligations on public agencies with regard to the use of the E-Verify system by their contractors and subcontractors.

**NOW THEREFORE**, in consideration of the premises, and in consideration of the mutual conditions, covenants, and obligations hereafter expresses, it is agreed as follows:

1. **Recitals.** The foregoing recitals are true and correct and constitute the material basis for this Amendment. Said recitals are hereby ratified and made a part of this Amendment Agreement.
2. **Renewal.** The 2019 Agreement as amended by the 2020 Amendment is hereby renewed and extended for an additional one (1) year term, through April 30, 2023.
3. **Amendment.** The 2019 Agreement is hereby amended to include the following provision: **E-Verify Compliance.** Contractor affirmatively states, under penalty of perjury, that in accordance with Section 448.095, Fla. Stat., Contractor is registered with and uses the E-

Verify system to verify the work authorization status of all newly hired employees, that in accordance with such statute, Contractor requires from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, and that Contractor is otherwise in compliance with Sections 448.09 and 448.095, Fla. Stat.


4. All remaining terms, provisions, and conditions, including, but not limited to the terms for payment, of the 2019 Agreement dated April 1, 2019, as amended by the 2020 Amendment dated August 13, 2020, remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have signed and sealed this Renewal Agreement on the day and date first written above.

OKEECHOBEE COUNTY, a political  
subdivision of the State of Florida

  
TERRY W. BURROUGHS, CHAIRMAN  
BOARD OF COUNTY COMMISSIONERS  
Date: 05/26/2020

ATTEST:

  
JERALD D. BRYANT, CLERK OF  
THE CIRCUIT COURT & COMPTROLLER  
OKEECHOBEE COUNTY, FLORIDA

(Seal)

C.W. ROBERTS CONTRACTING, INC.

  
ROBERT P. FLOWERS, as its President and  
authorized agent

(CORPORATE SEAL)

ATTEST:

  
Robert Delisle, Secretary