
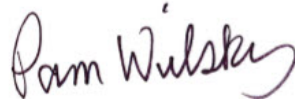






Date: 12/06/2022		AGENDA ITEM		Item: 06	
<input type="checkbox"/> Ordinance		<input type="checkbox"/> Resolution		<input type="checkbox"/> Budget Resolution	
<input checked="" type="checkbox"/> Other					
County Goals					
<input type="checkbox"/>	Thriving Communities	<input type="checkbox"/>	Economic & Financial Vitality	<input type="checkbox"/>	Excellence In Government
				<input checked="" type="checkbox"/>	NA
Department: Public Works					
Division: Road and Bridge					
Subject: Award of contract to multiple firms for Professional Contractors for Road Resurfacing Services, 22-SQ-151SR.					
Benjamin Bartlett  Department Approval		Pamela Wilsky  Approved in Accordance with Purchasing Policies and Procedures		Legal Heather Wallace Assistant County Attorney  Approved as to Form and Legality	
Lori Koontz Director Stormwater/Road and Bridge  Division Approval		Aaron Van Kleeck  Approved as to Budget Requirements		County Manager's Office Aaron Van Kleeck Proxy for Ryan Ossowski Chief Financial Officer 	
Council Action:					
Modification:					
Fund Number(s):		Description:		Amount:	
103 County Transportation Trust		103-750-4330 (Expenditure: FY23 Resurfacing)		\$5,950,000.00	
Total Item Budget: \$5,950,000.00					
Staff Contact(s):		Phone:		Ext.	
Benjamin Bartlett		386 736 5341		12712	
Lori Koontz		386 822 6422		20455	
Summary/Highlights:					
The County received three (3) responses to statement of qualification, detailed on the attached tabulation sheet, for Professional Contractors for Road Resurfacing Services.					

An evaluation committee comprised of Lori Koontz, Director, Road & Bridge; James Corbett, Director, Facilities Management; Jessica Fentress, Director, Coastal; Tadd Kasbeer, Director, County Engineer, Engineering & Construction; and Regina Montgomery, Director, Solid Waste, reviewed the responses and selected the following contractors for award:

1. Halifax Paving, Inc., Ormond Beach;
2. Masci General Contractor, Inc., Port Orange; and
3. P & S Paving, Inc., Daytona Beach.

Award will be for three (3) years with two (2) one-year renewals permissible upon county council approval.

One of the substantively identical contracts is attached for consideration. A copy of all the awarded contracts and exhibits are available for review in the purchasing and contracts division. Authorization of services shall be via work orders. Each project will be bid amongst the three contractors and awarded to lowest responsive and responsible bidder in accordance with the county council approved annual budget for countywide resurfacing projects. The County Manager will approve all work orders.

Recommended Motion: Approval.

**COUNTY OF VOLUSIA, FL
RECOMMENDATION OF AWARD
SOLICITATION TABULATION SHEET**

ALL SUBMITTALS ACCEPTED BY THE COUNTY OF VOLUSIA ARE SUBJECT TO THE COUNTY'S TERMS AND CONDITIONS. ANY AND ALL ADDITIONAL TERMS AND CONDITIONS SUBMITTED BY THE RESPONDENT ARE REJECTED AND SHALL HAVE NO FORCE AND EFFECT. SOLICITATION DOCUMENTS FROM THE RESPONDENT LISTED HEREIN ARE THE ONLY SUBMITTALS RECEIVED TIMELY AS OF THE CLOSING DATE AND TIME. ALL OTHER SOLICITATION DOCUMENTS SUBMITTED IN RESPONSE TO THIS SOLICITATION, IF ANY, ARE HEREBY REJECTED AS LATE.

SOLICITATION NO.: 22-SQ-151SR

SOLICITATION TITLE: Professional Contractors for Road Resurfacing Services

CLOSING DATE/TIME: Thursday, September 8, 2022 **TIME:** 3:00 P.M.

Response No. 1	Response No. 2	Response No. 3	
<p>HALIFAX PAVING, INC. 814 Hull Road Ormond Beach, Florida 32174</p> <p>Thomas A. Durrance, President Tel. 386-676-0803</p> <p>E-mail: halifaxpaving@cfl.rr.com</p>	<p>MASCI GENERAL CONTRACTOR, INC. 5752 South Ridgewood Avenue Port Orange, Florida 32127</p> <p>Leticia M. Ferreira, Vice President Tel. 386-322-4500</p> <p>E-mail: leticiamasci@mascigc.com</p>	<p>P & S PAVING, INC. 3701 Olson Drive Daytona Beach, Florida 3224</p> <p>Curtis Long, Chief Operating Officer Tel. 386-258-7911</p> <p>E-mail: clong@pandspavinginc.com</p>	

Tabulated/Opened by: Shaira D. Resto

Evaluation Committee meeting: Monday, October 17, 2022 at 02:00 PM, Purchasing Conference Room and Virtual

ROA: All Firms are being recommended for award.

County Council for ROA and Contract approval: TBD

Approved by: *Pamela Wilsky*

Pamela Wilsky, Director of Purchasing & Contracts

Road Resurfacing Services

22-SQ-151SR

Public Works Department
Road & Bridge Division

December 6, 2022

Benjamin Bartlett, Public Works Director



Countywide Road Resurfacing

2

- Funding within adopted budget - \$5,950,000 FY23
- Resurfacing considerations: traffic volume, pavement condition index (scale of 1-100), and maintenance records
- Staff will bid projects among awarded contractors and work orders issued.
 - Addresses market volatility, results in better pricing, considers contractor workload
- Recommend award to 3 qualified firms for 3 years (with two 1-year renewals upon council approval)





**CONSTRUCTION CONTRACT
FOR**

Between

THE COUNTY OF VOLUSIA

AND

HALIFAX PAVING, INC.

Contract no. 22-SQ-151SR

County of Volusia
Purchasing and Contracts Division
123 West Indiana Avenue, Room 302
Deland, Florida 32720-4608
www.volusia.org/purchasing

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CONSTRUCTION CONTRACT FOR ROAD RESURFACING PROJECTS FOR THE COUNTY OF VOLUSIA

THIS CONTRACT for Road Resurfacing Projects (herewith "Contract") by and between the COUNTY OF VOLUSIA, FLORIDA, a body corporate and politic and a political subdivision of the State of Florida (the "County"), and Halifax Paving, Inc., 814 Hull Road, Ormond Beach, Florida 32174, a corporation duly authorized to conduct business in the State of Florida (the "Contractor").

RECITALS

WHEREAS, the County desires to retain the Contractor for the County of Volusia on an as needed basis in accordance with the formal solicitation; and

WHEREAS, Contractor is competent and qualified to furnish the specified services to the County and desires to provide such services according to the terms and conditions set forth herein; and

NOW THEREFORE, in consideration of the foregoing recitals which are incorporated herein by reference, and other specific consideration set forth in this Contract, the receipt and sufficiency of which is acknowledged by the County and Contractor, the parties agree and stipulate as follows.

ARTICLE 1 - DEFINITIONS

The capitalized terms set forth in this Contract shall have the meanings set forth below or as otherwise set forth in the Contract. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number.

Acceptance: A signed document indicating that a Deliverable meets the Acceptance Criteria specified in the Contract, or deemed acceptance.

Acceptance Criteria: Measure by which a Deliverable or set of Deliverables will be approved.

Addendum: A written explanation, interpretation, change, correction, addition, deletion, or modification of equal dignity herewith affecting the Contract Documents including drawing and specifications approved by the County and issued by the County or Contractor and/or distributed to third parties.

Affidavit: The instrument which is to be signed by the Contractor and submitted to the County upon the County's request through the Project Manager, upon completion of that job, showing that all bills have been paid. It shall also mean such instrument that may be requested by the County incidental to partial payments.

Agency: The state, a state agency, a municipality, a political subdivision, a school district, or a school board. The term "agency" does not extend to a nongovernmental developer that contributes public facilities to a political subdivision under Sections 380.06 or 163.3220-163.3243 of the Florida Statutes.

Amendment: An amendment to this Contract in writing by the County, approved by the Director of Purchasing, and signed by the County of equal dignity herewith and authorizing an addition, deletion, or revision in the scope of work, or an adjustment in the Contract price or the time for completion that is issued after execution of this Contract.

Application for Progress Payment: The current estimate form furnished and certified by the Contractor, which is to be used by Contractor in requesting progress payments.

Architect: A person or firm that is authorized to practice architecture pursuant to Florida Statute 481.299 or a general contractor who provides architectural services under a design-build contract authorized by F.S. 481.299(3).

Architect/Engineer: The design professional identified in the Contract Documents and who is licensed and registered in the State of Florida. The terms "Architect" and "Architect/Engineer (A/E)" means the architect/engineer or its authorized representative.

Bid: The Contractor's written cost proposal based upon a County-provided form invitation to bid, which reflects Contractor's offer to provide the products and services set forth in the Bid. The Bid shall become a Work Order upon acceptance and execution by the County.

Bid Documents: The official forms on which the County requires formal bids to be prepared and submitted by the bidder.

Calendar day: Any day, including Saturdays, Sundays, and holidays, regardless of weather conditions.

Change Order: A written order (Work Order Amendment) to the contractor signed by the County authorizing an addition, deletion, or revision in the work, or an adjustment in the contract price or time.

Completion Date: The date that the County or its designated representative approves and accepts all Work or Services for a Project performed in accordance with this Contract.

Contract: An agreement between the County and Contractor, with binding legal and moral force, covering the work to be performed in exchange for money.

Contractor: The person or entity qualified to perform work in the Project and who is responsible for assisting the Project Manager or County Project Manager with the day-to-day administration and coordination of the Project for the County.

Contract Administrator: The Director of Purchasing and Contracts or his/her designee responsible for addressing any concerns within this Contract.

Contract Documents: Contract documents shall include but are not limited to the following: (1) This Contract, and its exhibits (2) Certificates of Insurance, (3) Notice of Award and/or Notice to Proceed, (4) the conditions of this Contract (general, special, supplementary, and other), (5) drawings, (6) project specifications, (7) written interpretations, (8) change orders, (9) project manuals, (10) addenda (including RSQs, RFPs and Contractor's responses to RFPs) issued before the execution of this Contract, and, (11) any modifications or amendments to this Contract issued after execution.

Contract Time: The number of calendar days stated in the Contract for the completion of the scope of work.

Contract Price: The total amount which may be due and payable to Contractor under a Work Order for an individual Project.

Contractor: The person or entity qualified to perform work pursuant to Florida 489.105, F.S. under the Project and who is registered and licensed under the Florida Department of Business and Professional Regulation and in compliance with local laws or ordinances, other than a materialman or laborer, who

enters into a contract with the County for improving real property in accordance with the Contract Documents.

Contractor's services: Those services within the scope of work of this Contract or any exhibit, attachment or addendum thereto which relates to the Scope of Services in connection with Contractor's employment or practice.

County: Shall mean the County of Volusia (a body corporate and politic and a subdivision of the State of Florida) including its districts, authorities, separate units of government established by law, ordinance or resolution, partners, elected and non-elected officials, employees, agents, volunteers, and any party with whom the County has agreed by contract to provide additional insured status.

County Representative: Also known as the person designated by the County to review, approve and make decisions regarding the Scope of Work in this Contract.

Deliverable: The result(s) or end products or services of a Project that meet the defined plans, specifications, requirements, warranties, and functional parameters articulated in the Scope of Work for this Contract including but not limited to: design drawings, specifications, studies, reports, written documentation, training, systems or processes.

Design Criteria Professional: A firm who holds a current certificate of registration under Chapter 481 F. S. to practice architecture or a firm who holds a current certificate as a registered engineer under chapter 471 to practice engineering and who is employed by or under contract to the agency for the providing of professional architect services, landscape architect services, or engineering services in connection with the preparation of designs for this project.

Drawings/Plans: The official approved drawings or plans or exact reproductions thereof, which have been prepared, signed, sealed and dated by the contractor, which shows the location, character, dimensions and details of the work to be done and which are considered part of the Construct Documents.

Effective Date: The date that this Contract, including any Addendum, Amendment, Modification or exhibits attached thereto is fully executed by Contractor and the County.

Engineer: The person, firm, or corporation named as such in the contract and/or authorized by the County to act as the County's representative or the County construction engineer authorized to practice engineering services pursuant to Florida Statute 471.03(2)(i) (2006) and who may serve as the County's engineers of construction, engineering and inspection. The term engineer shall be synonymous with design architect/engineer or architect/engineer or contractor.

Engineer of Record: The professional engineer or engineering firm contracted or employed by the County and registered in the State of Florida who develops criteria and concept for the work, performs the analysis and is responsible for the preparation of the plans and specifications. The engineer of record may be County in-house staff or a Contractor retained by the County.

Field Order: A written instrument issued by the Contractor to the County which clarifies or interprets the drawings and technical specifications, and/or orders minor variations in the work, as opposed to a change in the work, and which does not involve an adjustment in contract price or time.

Final Project Acceptance: Will take place after all Deliverables of the Statement of Work have been accepted.

Firm: Any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice architecture, engineering, or installation of security systems and burglar and fire alarms in the

state.

Inspector or Field Representative: County Employee or an authorized representative of the Contractor assigned to make inspections of the work performed and materials furnished pursuant to this Contract.

Milestone: A significant event, task, or deliverable that occurs during the project, not all of which are, nor will be, designated on the milestone payment schedule.

Modification: A written amendment to the Contract Documents approved by the County which includes but is not limited to the following:

Change Order: A written order (Work Order Amendment) to the contractor signed by the County authorizing an addition, deletion, revision in the Work, or an adjustment in the construction or Project contract price or time issued after execution of the contract.

Field Order: A written clarification, interpretation, minor change or alteration issued by the Contractor.

Addenda: A document written by the Contractor and approved by the County that is added to the original Contract Documents to clarify, revise, add to, or delete from the original Contract Documents or previous addenda. The document includes a written clarification or interpretation prepared by the County or Contractor.

Notice of Award: A written notice by County that the Contractor as been determined by a selection committee to be highly qualified and approved for an award of a contract.

Notice to Proceed: The official letter from the County to the Contractor establishing a date on which the Work in the Work Order shall commence.

Original Expiration Date: The date that this Contract was originally intended to expire excluding any extensions or renewals of this Contract for a time certain.

Owner: The owner is the County of Volusia for whom all Work or Services under this Contract are to be performed by the Contractor.

Payment Schedule: The schedule of payments set forth in the Work Order.

Pre-construction Conference: The meeting scheduled by the County Project Manager of all the parties involved with the planning and execution of the Scope of Work.

Professional services: Those services within the scope of the practice of architecture, professional engineering, systems engineering and design, systems integration design, alarm contractor I-(fire and burglar), or specialty electrical contractor registered and licensed to do business under the laws of the State of Florida that refer or relate to the performance of Work under this Contract.

Project: An individual construction/renovation project which is assigned to the Contractor for completion pursuant to the terms and conditions of this Contract, as set forth in the Work Order. A Project comprises of the completed construction/renovation required by the Work Order specifications and includes all plans, labor, supervision, materials, permits and equipment necessary and in accordance with specifications provided by the County, other construction documents prepared by Volusia County.

Project Manager or County Project Manager: The County employee who is assigned to the Project and is responsible for the day-to-day administration and coordination of the Project for the County. The County may change the Project Manager at any time by providing notice to the Contractor and/or

Contractor.

Proposal: The document submitted by the Contractor in response to a formal solicitation used to determine if the Contractor is highly qualified. Renovation

Renovation. One or more repair or replacement actions not involving demolition.

Request for Information (RFI): A prospective bidders or contractor's inquiries for information.

Request for Proposal (RFP): An invitation process initiated by the County soliciting proposals (offers) from contractors (bidders) to perform work or provide services in one or more projects on behalf of the County.

Request for Qualifications (RFQ): An invitation process initiated and used by the County to select contractor(s) to perform work or provide services in a prospective project or projects based upon their apparent qualifications as submitted by them (respondents) in response to the invitation.

Scope of Services/Work: The general services/work, herein defined in this Contract including responsibility for performing and complying with all incidental matters pertaining thereto pursuant to the Project Specifications and requirements.

Shop Drawings: All diagrams, illustrations, brochures, schedules, and/or other data which are prepared by contractor, a subcontractor, manufacturer, supplier, distributor, or other person on behalf of the contractor, and which illustrate the equipment, material, or some portion of the work.

State: State of Florida.

Subcontractor: A person other than a materialman or laborer who enters into a contract with a contractor for the performance of any part of the basic Contract.

Sub-subcontractor: A person other than a materialman or laborer who enters into a contract with a subcontractor for the performance of any part of such subcontractor's contract.

Substantial Completion: The date as certified by the County's Project Manager when this Contract or Project or a specified part as agreed to in writing by the parties is sufficiently completed to the satisfaction of County or its designated representative, in accordance with the Contract Documents, so that the project or specified part can be utilized for the purposes for which it was intended; or if there be no such certification, the date when final payment is due in accordance with this Contract.

Work: Any and all obligations, services, duties and responsibilities necessary to the successful completion of the project assigned to or undertaken by contractor under the Contract Documents, including the furnishing of all labor, materials, equipment and other incident.

Work Order: The written document provided by the County, as amended by any duly executed Change Orders, which is based upon Contractor's Bid and which provides the complete specifications for the Project, including the Completion Date, the Contract Price, and the Payment Schedule.

ARTICLE 2 - ORDER OF PRECEDENCE

2.01 **Exhibits:** The following attachments are attached hereto and incorporated herein:

2.01.1. Exhibit A, Scope of Work

2.01.2. Exhibit B, Insurance Requirements, 22-SQ-151SR

2.01.3. Exhibit C, Contractor Proposal dated September 8, 2022

2.02 **Order of Precedence:** Contractor agrees that, during the term of this Contract, the provisions of this Contract, as amended by Change Orders (Work Order Amendment), shall remain in full force and effect. Wherever ambiguities, discrepancies, or conflicting provisions appear the order of precedence shall be as follows.

2.02.1. Between this Contract and Work Order regarding the Scope of Work, the Work Order shall be controlling.

2.02.2. Between this Contract and Work Order for all other ambiguities, discrepancies, or conflicting provisions, this Contract shall be controlling.

ARTICLE 3 - SCOPE OF SERVICES

3.01 **Construction/Renovation Projects.** The Contractor agrees during the term of this Contract to timely complete projects as specified by the County ("Projects"). Projects may vary in scope and duration, and may include repair or complete demolition and reconstruction. Contractors shall provide all labor, materials, permits, supervision, and equipment necessary to provide for construction in accordance with specifications provided by the County, other contract documents prepared by Volusia County, and all applicable building codes. Contractor further agrees that County staff shall not perform or participate in activities related to the site preparation or implantation of Project construction, repair or rehabilitation, including but not limited to the movement or relocation of personal items in order to facilitate such construction, rehabilitation or repair. Contractor agrees that such activities are the sole responsibility of Contractor or its subcontractor/designee.

3.02 **Assignment of Projects.** During the term of this Contract, the County may award the Contractor (and other participating contractors) one or more Projects by issuing a Work Order. The award shall be made in the sole discretion of the County based upon the lowest responsive and responsible bid, availability, work volume, and other factors the County deems relevant to the successful completion of the Project. The County makes no covenant or promise of any kind as to the number of available Projects or that the Contractor shall perform any Project for the County during the term of this Contract. The County reserves the right to contract with other parties for the services contemplated by this Contract when it is determined by the County to be in the best interest of the County to do so.

3.03 **Work Orders.** Authorization for performance of construction/renovation services by the Contractor under this Contract shall be in the form of a Work Order issued by the County. Each Work Order shall describe the services required, state the dates for commencement and completion of the project, and establish the amount of payment. The Contractor agrees to perform all work and provide all materials required by the Work Order in order to successfully complete the Project in a timely, professional and workmanlike manner. The terms and conditions of this Contract shall govern all Projects, and except as set forth herein, no Work Order may modify or

amend the terms and conditions of this Contract. In the event of a conflict between this Contract and any Work Order, the terms and conditions of this Contract shall prevail.

3.04 Time of Commencement and Completion Date.

3.04.1 The work to be performed under Work Orders issued pursuant to this Contract shall commence as set forth in the Work Order. The Contractor shall thereafter diligently proceed with the completion of the project in accordance with the date expressly set forth in the Work Order (the "Completion Date").

3.04.2 If applicable, should the Contractor fail to timely meet the work requirements of the project by the Completion Date, the parties hereto agree that as liquidated damages, and not as penalty, the Contractor shall pay to the County a specified Dollar amount for each day after the Completion Date, until the Project is completed, as certified by the County Project Manager. The dollar amount for liquidated damages will be determined by the level of risk to the County and annotated on the back of each Work Order. Liquidated damages will only be assessed to recover actual cost incurred by the County.

3.04.3 In the event that the Contractor shall fall behind schedule at any time, for any reason, and such delay is adversely affecting the County's timely occupation of the Project for its intended purpose, the County shall be entitled to direct acceleration or re-sequencing of the work to bring the Project back on schedule. The Contractor shall reserve in each of its subcontracts entered into in connection with the Project, a right to accelerate consistent with the Contractor's obligations hereunder.

3.04.4 In the event the Contractor determines that the Completion Date cannot be met by re-sequencing the work, then the Contractor shall immediately provide the County, and in any event within three (3) days after the date of receipt of the County's instruction for re-sequencing or accelerating, a plan to complete the Project in the shortest possible time. No approval by the County of any plan for re-sequencing or accelerating of the work submitted by the Contractor pursuant to this clause shall constitute a waiver by the County of its rights of recovery of liquidated damages as a result of delayed Project completion.

3.04.5 Contractor agrees to provide the County along with each invoice for progress payment pursuant to 0hereof, the Contractor's best estimate of any anticipated revisions to the Completion Date for the purpose of the County's planning; provided, however, and notwithstanding the making of any progress payments, no anticipated revision to the Completion Date shall be effective and binding on the County and the Contractor without a written Change Order executed by the County in accordance with the procedure set forth in Section 3.12 hereof.

3.05 Acceptance of Work. Inspection of the finished work shall be performed by the County to determine the acceptability of the work for payment. As a result of said inspections, the County will provide the Contractor with a "punch list" of items considered by the County to be substandard. If within thirty (30) days of the date of substantial completion, Contractor has failed to remedy all punch list items to the satisfaction of the County, the County may, but shall not be obligated to cause all such remaining items to be remedied through the use of other contractors and deduct

the cost thereof. The County may recover said costs from the Contractor including without limitation all of the County's attorney's fees and costs incurred in pursuit thereof.

- 3.06 **Release of Liens.** The Contractor shall deliver to the County, a complete release of liens arising out of each Work Order before the final request for payment is made. If any liens remain unsatisfied after all payments are made, the Contractor shall refund to the County such amount as the County may be compelled to pay in discharging such liens, including all costs and reasonable attorney's fee.
- 3.07 **Ownership of Documents.** All deliverable analysis, reference data, plans and reports or any other form of written instrument or document that may result from the Contractor's services or have been created during the source of the Contractor's performance under this contract shall become the property of the County after final payment is made to the Contractor.
- 3.08 **Warranty.** The Contractor shall guarantee all work performed for a period of one (1) year from the date of final acceptance by the County. The Contractor shall furnish the County all manufacturers' and suppliers' warranties covering materials and equipment furnished under the resulting Work Order.
- 3.09 **Responsibility of the Contractor.**
- 3.09.1 The Contractor shall be responsible for the professional and technical accuracy of all services furnished by the Contractor and its subcontractors under this Contract.
- 3.09.2 The Contractor shall provide the name, address and phone number of its designated Project Manager prior to the issuance of any Work Order, and may change the Project Manager by providing written notice to the County.
- 3.09.3 The Contractor shall, without additional cost to the County, correct or revise any errors or deficiencies in the Work on the Project.
- 3.09.4 The Contractor shall serve as an expert witness for the County in any legal proceedings arising in connection with this Contract, if the County so requests.
- 3.09.5 The Contractor shall maintain a valid contractor's license and insurance for all work specified in the Work Orders at all times during the term of this Contract.
- 3.10 **Representative of County.** All services authorized under this Contract shall be under the direction of the County Representative, who shall have final decision authority for all phases of the services, including general direction, review and approval of the services.
- 3.11 **Representative of Contractor.** Contractor shall, at all times during the normal work week, designate or appoint, one or more Project Managers who are authorized to act on behalf of Contractor regarding all matters involving the conduct of the performance pursuant to this

Contract and the Work Orders, and shall keep the County Project Manager continually advised of such designation.

- 3.12 **Change in Scope of Services.** The County may order changes in the service consisting of additions, deletions, or other revisions within the general scope of the Contract. No claims may be made by the Contractor to change the amount of compensation of the Contractor or other adjustments to the Work Order, unless such changes or adjustments have been made by written amendment to the Work Order ("Change Order") and duly executed by the County. If the Contractor believes that any particular service is not within the scope of services described in the Work Order, is a material change, or will otherwise require more compensation to the Contractor, the Contractor shall immediately notify the County Project Manager in writing, of this belief. If the County Project Manager determines that the particular work is within the scope of the Work Order, the Contractor shall continue with the work at the cost stated for the work within the scope. The Contractor shall assert a right to an adjustment under this clause within thirty (30) days from the date of receipt of the written order and the assertion shall be written and shall be sent in accordance with the notice requirements of Section 13.03 - Notice.
- 3.13 **Continuing the Work.** The Contractor shall carry on the work and adhere to the progress schedule during all disputes of this Contract with the County. No work shall be delayed or postponed pending resolution of any disputes of this Contract, except as specifically set forth herein, or as the County and Contractor may otherwise agree in writing.
- 3.14 **F.O.B. Point.** The F.O.B. point for this contract and for all purchases made under it shall be the location of the Project as specified in the specification or Work Order. Delivery shall not be complete until the County has accepted each item. Delivery to a common carrier shall not constitute delivery to the County.
- 3.15 **Use of Premises.** The Contractor shall assume responsibility for any physical damages that are a direct result of the performance of the Work. During the progress of the Work, the Contractor shall keep the Project site free from accumulations of waste materials resulting from the Project. At the completion of the Project, the Contractor shall remove, at its expense, all waste materials to receptacles provided by the Contractor or the County, if any, as well as tools, appliances, equipment, machinery and/or surplus materials. The Contractor shall leave the site clean, restoring to its original condition or the condition specified in the Work Order.
- 3.16 **Time is of the Essence.** Time is of the essence for each Work Order issued under this Contract and all Projects performed in accordance herewith.

ARTICLE 4 - COMPENSATION AND PAYMENTS

- 4.01 **Compensation.** As consideration of the Contractor satisfactorily completing the Project in accordance with the terms and conditions of this Contract and the Work Order, the County agrees to pay the Contractor as set forth in the Work Order.
- 4.02 **Payments.**
- 4.02.1 Based upon an invoice submitted to the County Project Manager by the Contractor and approved by the County, the County shall make progress payments to the Contractor as provided in the Work Order. If retainage is applicable, Work Orders shall provide that five (5%) of each payment shall be withheld as retainage and final retainage shall not be paid until the Project is accepted by the County, including the completion of any punch list items described in Section 3.05.
- 4.02.2 The invoice for progress payments shall be submitted in accordance with the draw schedule established in the Work Order. The Contractor shall submit an invoice for progress payment for the County Project Manager's approval in a form acceptable to the County. Each such invoice for payment shall set forth the value of all work completed.
- 4.02.3 In each invoice for progress payment, the Contractor shall certify as follows:
- 4.02.3.1 There are no known mechanic's or materialmen's liens outstanding at the date of this invoice; all due and payable bills with respect to the Project have been paid to date or shall be paid from the proceeds of this invoice for payment;
- 4.02.3.2 There is no known basis for the filing of any mechanic's or materialmen's liens on the Project; and waivers from all subcontractor's and materialmen employed by the Contractor have been or will be obtained in such form as to constitute an effective waiver of lien under the applicable laws of the State of Florida;
- 4.02.3.3 All improvements have been installed in accordance with the Work Order and related contract documents (except where noted or agreed upon in writing by the County pursuant to an approved Change Order); and
- 4.02.3.4 No encroachments into the designated set-back lines and right of way, as stipulated in the Work Order and any Change Order, exist.
- 4.02.4 Beginning with the second invoice for progress payment, the Contractor shall also deliver with each such invoice, as a condition precedent to payment thereof, waivers of lien for each of its subcontractors, current through the effective date of the previous invoice for payment. The Contractor may, if any subcontractor or supplier refuses to furnish a release in full, furnish a bond satisfactory to the County against any lien.
- 4.02.5 The County shall promptly review each invoice for progress payment and make such exceptions, as the County reasonably deems necessary or appropriate under the state of circumstances then prevailing.
- 4.02.6 Based upon the approved invoice of progress payment, the County shall make payment to Contractor in the amount approved, subject, however, to the provisions of paragraph 7, hereof. The payment of any invoice for progress payment by the County, including the

final invoice, does not constitute approval or acceptance of that part of the Project to which such payment relates or relieve the Contractor of any of its obligations hereunder with respect hereto.

- 4.02.7 Any provisions hereof to the contrary notwithstanding, the County shall not be obligated to make current payment to the Contractor hereunder if any one of the following conditions exists:
- 4.02.7.1 The Contractor fails to diligently prosecute the work in an efficient, timely, and workmanlike manner and in strict accordance with the provisions of the Contract Documents; or
 - 4.02.7.2 The Contractor fails to use an adequate number of qualified personnel and sufficient equipment to complete the Project without undue delay; or
 - 4.02.7.3 The Contractor fails to make prompt payments to its subcontractors, suppliers, materialmen, or laborers; or
 - 4.02.7.4 Any part of such payment to the Contractor is attributable to work which is defective or not performed in accordance with the drawings and specifications; provided, however, such payment shall be made as to the part thereof attributable to work which is performed in accordance with the drawings and specifications and is not defective; or
 - 4.02.7.5 The Contractor is otherwise in default of any of its obligations hereunder or otherwise is in default under any of its contractual requirements.
- 4.02.8 In the event that the County requires the Contractor to provide Performance and Payment Bonds, the County agrees to pay the Contractor, by County's check, the invoice or proposal cost of those Bonds (whichever is less), not to exceed the price quoted in the Bid.
- 4.02.9 For changes in the Work, ordered by the County, the Contract Price shall be adjusted accordingly as set forth in Section 3.12.
- 4.02.10 Any discrepancies between the County's records and the Contractor's submittals must be rectified, to County's satisfaction, by the Contractor before the County makes payment on those items. The Contractor shall only issue invoices for services rendered. Pursuant to Chapter 218, Florida Statutes, the County will pay interest not to exceed two percent (2%) per month on all undisputed invoices not paid within thirty (30) Days after receipt and acceptance of the service, and receipt by the County of a properly completed invoice, whichever is later. Invoices for payments hereunder shall be submitted to the address indicated in the work order.
- 4.02.11 To be deemed proper, all invoices shall comply with the requirements set forth in this Contract and shall be submitted on the form and pursuant to instructions prescribed by the County.

- 4.03 **Internal Revenue Service Form (1099MISC).** During the term of this Contract, the County shall file and provide the Contractor a copy of Internal Revenue Service (IRS) Form 1099-MISC after the close of each calendar year as required by law.

ARTICLE 5 - PERSONNEL OF CONTRACTOR

- 5.01 **Supervision.** The Contractor shall direct and supervise competent and qualified personnel and shall devote time and attention to the direction of the operation to insure performance of obligations and duties as set forth herein. The Contractor shall hire, compensate, supervise, and terminate members of its work force, and the Contractor shall direct and control the manner in which work is performed including conditions under which individuals will be assigned duties, how individuals will report, and the hours individuals will perform. The Contractor shall be responsible for all income tax, social security and Medicare taxes, federal unemployment taxes, and any other withholdings from the company's employees' and/or subcontractor's wages or salaries. Benefits, if any, for the Contractor's employees and/or subcontractors shall be the responsibility of the Contractor including, but not limited to, health and life insurance, retirement, liability/risk coverage, and worker's and unemployment compensation.
- 5.02 **Applicable Laws.** Contractor shall be responsible for ensuring that its employees, agents, and subcontractors comply with all applicable laws and regulations and meet all federal, state, and local requirements related to their employment and position.
- 5.03 **Right of Rejection.** During the term of this Contract, the County shall have the right of reasonable rejection and approval of the staff of the Contractor or other representatives assigned to the work by the Contractor. If the County reasonably rejects the staff or representative of the Contractor, Contractor shall provide replacement satisfactory to the County in a timely manner and at no additional cost to the County. The day-to-day supervision and control of the Contractor's employees or others working on behalf of the Contractor are the sole responsibility of the Contractor.
- 5.04 **Employment of Illegal Aliens.** The Contractor certifies that it does not and will not, during the performance of the Contract, employ illegal alien workers or otherwise violate the provisions of the Federal Immigration Reform and Control Act of 1986, as amended.
- 5.05 **Nondiscrimination and Americans with Disabilities Act.** Contractor shall not unlawfully discriminate against any person in the operations and activities in the use or expenditure of the funds or any portion of the funds provided by this Contract. Contractor agrees it shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any Services funded by County, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In performing under this Contract, Contractor agrees that it shall not commit an unfair employment practice in violation of any state or federal law and that it shall not discriminate against any member of the public, employee or applicant for employment for work under this Contract because of race, color, religion, gender, sexual orientation, age, national origin, political affiliation, or disability and will take affirmative steps to ensure that applicants are employed and

employees are treated during employment without regard to race, color, religion, gender, sexual orientation, age, national origin, political affiliation, or disability.

5.05.1 In accordance with the American Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing a special accommodation to participate in the proceedings, or an interpreter to participate in any proceedings, should contact the county's ADA Coordinator at 386-248-1760 for assistance, at least two business days before any meeting date. Assisted listening system receivers are available for the hearing impaired, and can be obtained from the Deputy Clerk by contacting the county's ADA Coordinator at 386-248-1760. Read the full [ADA Notice](#) under The American with Disabilities Act (Title II). Read the [County of Volusia Grievance Procedure](#) under The Americans with Disabilities Act (Title II).

5.06 **Fair Labor Standards Act.** The Contractor and any Subcontractor shall pay all employees working on this Contract, not less than the minimum wage specified in the Fair Labor Standards Act, as amended.

5.07 **Drug-Free and Smoke-Free Workplace.** The County of Volusia is a drug-free and smoke-free workplace. Contractor agrees that its personnel and the personnel of each of its subcontractors agree to adhere to the County's policies on drug-free and smoke-free work place during the term of this Contract.

ARTICLE 6 - CONTRACTOR AS INDEPENDENT CONTRACTOR

6.01 The Contractor shall provide the services required herein strictly in an independent Contractual relationship with the County and, except as expressly set forth herein, is not, nor shall be, construed to be an agent or employee of the County. The County shall not provide vehicles or equipment to the Contractor to perform the duties required by this Contract nor will the County pay for any business, travel, office, or training expense or any other contract performance expense not specifically set forth in the Scope of Services. The Contractor is not exclusively bound to the County and may provide service to other private and public entities as long as the service by the Contractor for such entities does not conflict with the Contractor's services to the County.

ARTICLE 7 - SUBCONTRACTORS

7.01 **Prior Approval.** In the event the Contractor, during the course of the work under this Contract, requires the services of any subcontractors, suppliers, other persons or organizations in connection with service covered by this Contract, the Contractor must secure the prior written approval of the County. The County's acceptance of any such subcontractors, suppliers, other persons or organization so identified, may be revoked on the basis of reasonable objection after due investigation, in which case the Contractor shall submit an acceptable substitute. No acceptance by the County of any such subcontractor, supplier, other person or organization shall

constitute a waiver of any right of the County to reject defective work. Contractor shall remain fully responsible for the services of said subcontractors, suppliers, other persons or organizations.

- 7.02 **License.** Subcontractor's license shall be valid at all times during the course of work for the County. Contractor shall be responsible for ensuring that the subcontractors' licenses are valid during the performance of work for the County.

ARTICLE 8 - INSURANCE

- 8.01 **Required Types of Insurance.** The Contractor shall purchase and maintain at its own expense, during the term of this Contract the types and amounts of insurance with limits no less than those shown on Exhibit B, in the form and from companies satisfactory to the County.

ARTICLE 9 - DELIVERABLES AND STANDARDS

- 9.01 **Deliverables.** The Contractor shall deliver to the County any and all reports and any other deliverable required under Work Order in a format approved by the County.
- 9.02 **Failure to Deliver.** In the event of failure of the Contractor to deliver services in accordance with the terms and conditions of this Contract, the County, after due written notice, may procure the services from other sources. This remedy shall be in addition to any other remedies that the County may have.
- 9.03 **Standards.** The Contractor shall be responsible for the professional quality and the accuracy of all deliverables and services provided under this Contract and shall, without additional compensation, correct any errors in the same. Deliverables prepared by the Contractor in response to the requirements of this Contract shall, unless otherwise provided for in this Contract, be thoroughly researched for accuracy of content, be grammatically correct and not contain errors, be numerically accurate, be submitted in the format approved in advance by the County Project Manager, and be submitted for advance review and comment by the County Project Manager. The cost of correcting errors, correcting report data, or making other revisions required to bring the deliverable into compliance with the requirements of this Contract shall be borne solely by the Contractor.

ARTICLE 10 - TERM AND TERMINATION

- 10.01 **Term.** Subject to the termination provisions contained in this Contract, the term of this Contract shall commence as of the Effective Date and continue for a period of one year. Two (2) additional one-year renewals are allowable upon County discretion and upon mutual approval of the County Council and awarded contractors. This Contract shall also be automatically extended to include the Completion Date of any Work Order issued during the term of the Contract.
- 10.02 **Termination.** The performance of Services under this Contract may be terminated by the County in accordance with this Article 10 - Term and Termination, in whole or in part from time to time,

for (1) a material breach; (2) nonappropriation of funds; or, (3) for convenience upon at least thirty (30) calendar days, prior written notice to Contractor whenever the County shall determine that such termination is in the best interest of the County. Any such termination shall be effected by delivery to the Contractor of a written Notice of Termination specifying the extent to which performance of Work under this Contract is terminated, and the subsequent date upon which such termination becomes effective subject to the provisions of this Article 10 – Terms and Termination.

10.03 After receipt of a Notice of Termination, and except as otherwise directed by the County, the Contractor shall:

10.03.1 Stop work under this Contract on the date and to the extent specified in the Notice of Termination.

10.03.2 Place no further orders or subcontracts for materials, Services or Work or facilities, except as may be necessary for completion of such portion of the Work under this Contract, as it is not terminated.

10.03.3 Terminate all orders and subcontracts to the extent that they relate to the performance of Services or Work terminated by the Notice of Termination.

10.03.4 Assign to the County, in the manner, at the times and to the extent directed by the County, all of the right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the County shall have the right, in its sole discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.

10.03.5 With the approval of the County and to the extent required by the County, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts. County's approval of such settlements shall be final for all the purposes of Article 10 - Term and Termination.

10.03.6 Transfer title and deliver to the County, in the manner, at the times, and to the extent, if any, directed by the County:

10.03.6.1 The designs, specifications, reports, studies, plans, bulletins, schedules, estimates, other documentation and/or other Work-in-process, completed Work or Services, supplies, and other materials produced as a part of, or acquired in connection with the performance of the Work or Services terminated by the Notice of Termination; and,

10.03.6.2 The completed or partially completed designs, specifications, reports, studies, plans, bulletins, schedules, estimates or other documentation which, if this Contract has been completed, would have been required to be furnished to the County.

10.03.7 Complete performance of such part of the Work or Services as shall not have been terminated by the Notice of Termination.

- 10.04 After receipt of such Notice of Termination, the Contractor shall submit to the County its termination claim, in the form and with a certification as prescribed by the County. Such claim shall be submitted promptly but in no event later than thirty (30) days from the effective date of termination, unless one or more extensions in writing are granted by the County, upon request of the Contractor made in writing within such thirty (30) day period or authorized extension thereof. Upon failure of the Contractor to submit its termination claim within the time allowed, the County may determine on the basis of information available to it, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.
- 10.05 Subject to the provisions of Article 10 – Term and Termination, the Contractor and the County may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to Article 10 – Term and Termination which amount or amounts may include a reasonable allowance for profit on work done; provided, that such agreed amount or amounts exclusive of settlement costs, shall not exceed the total Contract price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of work not terminated. As such, this Contract shall be amended accordingly and the Contractor shall be paid the agreed amount. Nothing herein, prescribing the amount to be paid to the Contractor in the event of failure of the Contractor and the County to agree upon the whole amount to be paid to the Contractor by reason of the termination of Work or Services, shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts which may be agreed upon to be paid to the Contractor.
- 10.06 In the event of the failure of the Contractor and the County to agree as provided herein upon the whole amount to be paid to the Contractor by reason of the termination of Work pursuant to Article 10 – Term and Termination, the County shall pay to the Contractor the amounts determined by the County as follows, but without duplication of any amounts already agreed upon by the parties or previously paid to the Contractor.
- 10.06.1 For completed Work or Services accepted by the County, the compensation specified in this Contract for such Work, less any payments previously made.
- 10.07 **Force Majeure.** Neither party shall be liable for any failure or delay in the performance of its obligations under the Contract to the extent such failure or delay necessarily results from the occurrence of a Force Majeure Event beyond the control or reasonable anticipation of either party, including, but not limited to, compliance with any unanticipated government law or regulation not otherwise in effect at the time of execution of this Contract, acts of God, acts of domestic or international terrorism, any virus, bacterium, or other microorganism capable of inducing physical distress, illness, or disease, whether due to a pandemic or otherwise, unforeseeable governmental acts or omissions, fires, strikes, natural disasters, wars, riots, transportation problems, and/or any other unforeseeable cause whatsoever beyond the reasonable control of the parties (and such cause being referred to as a “Force Majeure Event”). Accordingly, the parties further agree that:
- 10.07.1 Upon the occurrence of Force Majeure Event, the non-performing party shall be excused from any further performance of those obligations under this Contract that are affected by the Force Majeure Event for as long as (a) the Force Majeure Event continues; and (b) the non-performing party continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay.

- 10.07.2 Upon the occurrence of a Force Majeure Event, the non-performing party shall notify the other party of the occurrence of such event and describe in reasonable detail the effect(s) of such event upon the party's performance of its obligations and duties pursuant to this Contract. Such notice shall be delivered or otherwise communicated to the other party within three (3) business days following the failure or delay caused by the Force Majeure Event, or as soon as possible after such failure or delay if the Force Majeure Event precludes the non-performing party from providing notice within such time period.
- 10.07.3 In the event of a Force Majeure Event, the time for performance by the parties under the applicable statement of work shall be extended for a period of time equal to the time lost by reason of such cause through execution of a Change Order pursuant to the terms of the Contract.
- 10.08 If, after Notice of Termination of this Contract for default, it is determined for any reason that the Contractor was not in default or that the default was excusable under the provisions of paragraph above, the rights and obligations of the parties shall be the same as if the Notice of Termination had not been issued pursuant to this Article 10 – Term and Termination.
- 10.09 Any provision of this Contract that imposes or contemplates continuing obligations on a party, will survive the expiration or termination of this Contract.

ARTICLE 11 - LIMITATION OF LIABILITY

- 11.01 **Sovereign Immunity.** The County expressly retains all rights, benefits and immunities of sovereign immunity in accordance with section 768.28, Florida Statutes (as amended). Notwithstanding anything set forth in any section of this Contract to the contrary, nothing in this Contract shall be deemed as a waiver of immunity or limits of liability of the County beyond any statutory limited waiver of immunity or limits of liability which may have been or may be adopted by the Florida Legislature and the cap on the amount and liability of the County for damages, regardless of the number or nature of claims in tort, equity, or contract, shall not exceed the dollar amount set by the legislature for tort. Nothing in this Contract shall inure to the benefit of any third party for the purpose of allowing any claim against the County, which claim would otherwise be barred under the doctrine of sovereign immunity or by operation of law.
- 11.02 **No Third Party Beneficiaries.** Nothing in this Contract shall inure to the benefit of any third party for the purpose of allowing any claim against the County, which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.
- 11.03 **INDEMNIFICATION.**
- 11.03.1 **Indemnification.** The Contractor shall indemnify, defend, and hold harmless the County, including its districts, authorities, separate units of government established by law, ordinance or resolution, partners, elected and non-elected officials, employees, agents, and volunteers from and against all 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 the Contractor or its subcontractors, agents, employees, or any persons employed or utilized by the Contractor in the performance of the Contractor's obligations under this Contract.
- 11.03.2 In all claims against County, including its districts, authorities, separate units of government established by law, ordinance or resolution, partners, elected and non-

elected officials, employees, agents, volunteers, and any party with whom the County has agreed by contract to provide additional insured status, and any employee of Contractor or anyone directly or indirectly employed by Contractor or anyone for whose acts Contractor may be held legally liable, no indemnification obligation shall be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor, or any contractor, subcontractor or sub-subcontractor thereof under Florida's Workers' Compensation acts, disability benefit acts, or other employee benefit acts.

11.03.3 Contractor's obligations or services shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity or insurance defense of additional or named insureds which would otherwise exhaust or be unavailable as to a party or person described in this Contract.

11.03.4 The indemnification requirements stated in subsection 11.03.1 and 11.03.2 herein shall survive the termination of this Contract. 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.

11.04 In no event shall Contractor or County be liable for consequential, special, incidental, indirect, exemplary, or punitive damages.

11.05 **Claims Notice.** The CM/GC shall timely report in writing to the County's Director of Risk Management any incident which it believes might result in claims against the County under any of the coverage's mentioned herein.

Name: County of Volusia
Human Resources Division/Risk Management
Address: 125 West New York Avenue, Suite 141
DeLand, Florida 32720
Telephone: (386) 736-5963
Fax: (386) 822-5006

ARTICLE 12 - COUNTY GOVERNMENT POLICIES

12.01 **Modifications Due To Public Welfare or Change in Law.** The County shall have the power to make changes in this Contract as the result of changes in law and/or ordinances of Volusia County to impose new rules and regulations on Contractor under this Contract relative to the scope and methods of providing services as shall from time-to-time be necessary and desirable for the public welfare. The County shall give Contractor notice of any proposed change and an opportunity to be heard concerning those matters. In the event any future change in Federal, State or County law or the ordinances of Volusia County materially alters the obligations of Contractor, or the benefits to the County, then this Contract shall be amended consistent therewith. Nothing contained in this Contract shall require any party to perform any act or function contrary to law. The County and Contractor agree to enter into good faith negotiations regarding modifications to

this Contract, which may be required in order to implement changes in the interest of the public welfare or due to change in law.

12.02 Compliance with Laws.

12.02.1 The Contractor shall be responsible to know and to apply all applicable federal and state laws, all local laws, ordinances, rules, regulations, and all orders and decrees of bodies or tribunals having jurisdiction or authority which in any manner affect the work, or which in any way affect the conduct of the work. Contractor shall always observe and comply with all such laws, ordinances, rules, regulations, orders and decrees. The Contractor shall protect and indemnify County and all its officers, agents, servants and employees against any claim or liability arising from or based on the violation of any such law, ordinance, rule, regulation, order, or decree caused or committed by bidder, its representatives, sub-contractors, sub-Contractors, professional associates, agents, servants, or employees.

12.02.2 All licenses and permits required to perform Contractor's duties under this contract whether such license or permit is required by the federal government, State of Florida, Volusia County, or any municipality, shall be at Contractor's sole cost and expense, and shall not be a cost of the County. All required licenses and permits shall be maintained in full force and effect during the term of this contract. Contractor shall perform its obligations hereunder in accordance with all applicable federal, state and local laws, ordinances, rules, regulations, and all orders and decrees of bodies or tribunals having jurisdiction or authority which in any manner affect the performance of this Contract. Contractor shall protect and indemnify County and all its officers, agents, servants, or employees against any claim or liability arising from or based on the violation of any such law, ordinance, rule, regulation, order, or decree caused or committed by Contractor, its representatives, subcontractors, professional associates, agents, servants, or employees. Additionally, Contractor shall obtain and maintain at its own expense all applicable licenses and permits to conduct business pursuant to this Contract from the federal government, State of Florida, County of Volusia, or municipalities when legally required and maintain same in full force and effect during the term of this Contract.

12.03 **Truth-In-Negotiation Certificate.** The signature on this Contract by Contractor shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual Unit costs supporting the compensation of this Contract are accurate, complete, and current at the time of Contracting.

12.04 **Public Records Law.** Pursuant to section 119.0701(2)(a), Florida Statutes, the County is required to provide Contractor with this statement and establish the following requirements as contractual obligations pursuant to the Agreement:

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 AT 386-736-5935, purchasing@volusia.org, by mail, Purchasing

**and Contracts Division, Attn: Public Records Custodian, 123 W. Indiana Ave. RM 302
DeLand, FL 32720.**

By entering into this Contract, Contractor acknowledges and agrees that any records maintained, generated, received, or kept in connection with, or related to the performance of services provided under, this Contract are public records subject to the public records disclosure requirements of section 119.07(1), Florida Statutes, and Article I, section 24 of the Florida Constitution. Pursuant to section 119.0701, Florida Statutes, any Contractor entering into a contract for services with the County is required to:

- 12.04.1 Keep and maintain public records required by the County to perform the services and work provided pursuant to this Contract.
- 12.04.2 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, Florida Statutes, or as otherwise provided by law.
- 12.04.3 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 the Contract term and following completion of the Contract if the Contractor does not transfer the records to the County.
- 12.04.4 Upon completion of the Contract, transfer, at no cost, to the County all public records in the possession of the Contractor or keep and maintain public records required by the County to perform the service. If the Contractor transfers all public records to the County upon completion of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall 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.
- 12.04.5 Requests to inspect or copy public records relating to the County's Contract for services must be made directly to the County. If Consultant receives any such request, Contractor shall instruct the requestor to contact the County. If the County does not possess the records requested, the County shall immediately notify the Contractor of such request, and the Contractor must provide the records to the County or otherwise allow the records to be inspected or copied within a reasonable time.
- 12.04.6 Contractor acknowledges that failure to provide the public records to the County within a reasonable time may be subject to penalties under section 119.10, Florida Statutes.
- 12.04.7 Contractor further agrees not to release any records that are statutorily confidential or otherwise exempt from disclosure without first receiving prior written authorization from the County.

Contractor shall indemnify, defend, and hold the County harmless for and against any and all claims, damage awards, and causes of action arising from the Contractor's failure to comply with the public records disclosure requirements of section 119.07(1), Florida Statutes, or by

Contractor's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorney's fees and costs arising therefrom. Contractor authorizes County to seek declaratory, injunctive, or other appropriate relief against Contractor from a Circuit Court in Volusia County on an expedited basis to enforce the requirements of this section.

- 12.05 **Financial Records.** Contractor agrees to maintain such financial records and other records as may be prescribed by the County or by applicable federal and state laws, rules, and regulations. County shall have the right to audit the books, records, and accounts of Contractor that are directly related to the Contract. Contractor shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Contract. Contractor shall preserve and make available, at reasonable times for examination and audit by County, all financial records, supporting documents, statistical records, and any other documents pertinent to this Contract for a minimum period of three (3) years after termination of this Contract. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings; provided, however, that it shall be County's responsibility to notify Contractor of the pendency of such audit. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for County's disallowance and recovery of any payment upon such entry.
- 12.06 **Audit Right and Retention of Records.** Contractor agrees to maintain such financial records and other records as may be prescribed by the County or by applicable federal and state laws, rules, and regulations. County shall have the right to audit the books, records, and accounts of Contractor that are directly related to the Contract. Contractor shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Contract. Contractor shall preserve and make available, at reasonable times for examination and audit by County, all financial records, supporting documents, statistical records, and any other documents pertinent to this Contract for the required retention period of the Public Records Act (if applicable, or, if the Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Contract. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Public Records Act is determined by County to be applicable to Contractor's records, Contractor shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by Contractor. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for County's disallowance and recovery of any payment upon such entry.
- 12.07 **Payments Subject to Appropriation.** Notwithstanding any other term or provision of this Contract, the continuation of this Contract beyond a single fiscal year of County is subject to the appropriation and availability of funds in accordance with Chapter 129, Florida Statutes. If at any time funds are not appropriated for the Services and Deliverables provided or to be provided under this Contract, cancellation shall be accepted by Contractor with thirty (30) days prior written notice, but failure to give such notice shall be of no effect. Termination by the County due to non-appropriation shall be without a termination charge by Contractor. County shall not be obligated to pay Contractor under this Contract beyond the date of termination except as set forth in Article 10 – Terms and Termination. County's obligation to pay Contractor is limited to the budgeted

amount for a fiscal year approved by the Volusia County Council for the then current fiscal year of this Contract and is otherwise limited to legally available non-ad valorem tax revenues. Contractor shall have no right to compel the Volusia County Council to appropriate funds for any fiscal year to pay the compensation set forth in Article 4 – Compensation and Payments.

12.08 Prohibition Against Contingent Fees.

12.08.1 The Contractor warrants that he or she or it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this Contract and that he or she or it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Contractor any fee, commission, compensation, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Contract. For the breach or violation of this provision, the County shall have the right to terminate this Contract without liability and, at its sole discretion, to deduct from the contract price or compensation for a one or more Work Orders, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

12.08.2 Contractor understands any acknowledges that any individual, corporation, partnership, firm, or company, other than a bona fide employee working solely for the Contractor, who offers, agrees, or contracts to solicit or secure County contracts for services for any other individual, company, corporation, partnership, or firm and to be paid, or is paid, any fee, commission, percentage, gift, or other consideration contingent upon, or resulting from, the award or the making of a contract for services shall, upon conviction in a competent court of this State, be found guilty of a first degree misdemeanor, punishable as provided in Sections 775.082 or 775.083 of the Florida Statutes.

12.08.3 Any County official, agent or employee who offers to solicit or secure, or solicits or secures, a contract for services and to be paid, or is paid, any fee, commission, percentage, gift, or other consideration contingent upon the award or making of such a contract for professional services between the County and any individual person, company, firm, partnership, or corporation shall, upon conviction by a court of competent authority, be found guilty of a first degree misdemeanor, punishable as provided in Sections 775.082 or 775.083 of the Florida Statutes.

12.09 No Code Violation or Past Due Debt. Contractor warrants and represents that neither the business, nor any officer or significant stakeholder of the business is in violation of the Volusia County Code of Ordinances, and does not owe the County any past due debt. Any breach of the foregoing warranty and representation shall be a material breach of this Contract and the County shall have the right to terminate this Contract as set forth herein.

12.10 Changes Due to Public Welfare. The County and Contractor agree to enter into good faith negotiations regarding modifications to this Contract which may be required in order to implement changes in the interest of the public welfare or due to change in law or Ordinance.

12.11 **Background Checks.** Contractor and County understand that certain areas of the County's premises may not be available to Contractor's personnel without background checks and that such access is not required to perform the services contemplated by this Contract.

12.11.1 Nothing contained in this Contract shall relieve the Contractor or its subcontractors from conducting Level 1 background checks as defined in Chapter 435, Florida Statutes on any of their employees or agents who perform work on any job site under this Contract. Contractor acknowledges that by its execution of this Contract, it is certifying that Level 1 background checks of all its subcontractor's employees or agents hired have been verified prior to performance of any work under this Contracts.

12.12 **Disadvantaged Business Enterprises Participation.** The Contractor will appraise itself of and comply with all applicable laws concerning contracts with small business concerns owned and controlled by socially and economically disadvantaged individuals and all applicable labor wages rates and scales. In accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), 49 CFR, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, 49 CFR, Part 23, and Volusia County Ordinances (Municipal code section 2-269, County Ordinance No. 90-20, § 9,5-17-90), participation by Disadvantaged and Women Business Enterprises ("D&WBE") in the Project shall be affirmatively assured by the Contractor.. DBE shall be afforded full opportunity to submit proposals in response to invitations to bid and will not be discriminated against on the grounds of race, color or national origin in consideration for an award. It is the County's goal that the D&WBE participation for the Project is at least ten percent (10%).

12.13 **Assignment.** Contractor may not assign or otherwise convey Contractor's rights and/or obligations under this Contract without obtaining County's prior written consent, which consent County may withhold, limit and/or condition in County's sole discretion, including, but not limited to posting a performance bond. Any consent by the County under this Section shall be by written amendment to the Contract in a form and substance specified by the County in its sole discretion. If Contractor desires to assign or otherwise convey its rights and/or obligations under this Contract, Contractor no less than thirty (30) days prior to the assignment's proposed effective date, provide County with a written request for County's consent. Failure to provide such notice may result in the County assessing a processing fee of Five Hundred Dollars (US \$500.00).

Failure by the Contractor to obtain the County's consent in accordance with this Section prior to assignment or other conveyance shall: 1) constitute a material breach of the Contract; and 2) entitle the County to retain any and all legal rights, claims and defense to enforce this Section, including, but not limited to, injunctive, declaratory, damages and attorney's fees and costs. Payment of any sum by the County in accordance with the Contract to the Contractor or any person or entity prior to the Contractor obtaining the County's consent to the assignment shall not constitute a waiver of the rights of the County under this Section.

Nothing herein shall preclude the right of the County to waive its rights under this Section but no waiver shall be granted by the County without amendment to the Contract.

12.14 **E-verify.** The Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility and work authorization status of all new employees hired by the Contractor on or after the effective date of this Contract and thereafter during the

remaining term of the Contract, including Subcontractors. If and to the extent the Contract meets the criteria set forth at 48 C.F.R. § 52.222-54(e), the criteria of 48 C.F.R. § 52.222-54 are hereby incorporated by reference into this Contract as if fully set forth herein.

12.14.1 The Contractor covenants and agrees that if the County has a good faith belief that Contractor has knowingly violated or if Contractor is found to have violated this Section 3.1; Section 446.09(1), Florida Statutes; Section 446.095, Florida Statutes; or the presidential Executive order and subsequent Federal Acquisition Regulation (FAR) rule requiring federal contractors to use E-Verify, if applicable, then the following shall be true: (i) such shall be a material breach of this Contract by Contractor; (ii) Contractor shall indemnify, defend, and hold harmless the County from any fines or penalties levied by a government agency, including the loss or repayment of grant funds by the County; (iii) the County may terminate this Contract immediately and without penalty and such termination shall not be or be considered a breach of this Contract; and (iv) Contractor shall be liable for any additional costs incurred by the County as a result of the termination of the Contract. Contractor acknowledges and understands that if the County terminates this Contract in accordance with this Section 3.1, the Contractor shall be ineligible for award of a public contract for at least 1 year after the date on which the Contract was terminated.

12.14.2 Any subcontract entered into by Contractor with any Subcontractor performing work under this Contract shall include the following language: "The Subcontractor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Subcontractor on or after the effective date of this Contract and thereafter during the remaining term of the Contract." In accordance with Florida law, if Contractor enters into a subcontract to perform work under this Contract, Contractor shall require from said subcontractor an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, and Contractor shall maintain a copy of such affidavit for the duration of this Contract and/or the contract with the subcontractor, whichever is longer. Contractor acknowledges and agrees that if the County has a good faith belief that a subcontractor knowingly violated this Section 3.37 or Sections 446.09(1) or 446.095 of the Florida Statutes, but also has a good faith belief that Contractor otherwise complied with this Section 3.1 and applicable law, the County shall promptly notify the Contractor and order the Contractor to immediately terminate the contract with the subcontractor. Failure to comply with said order shall constitute a violation of this Section 3.1 and the terms of Section 3.1.2 shall apply.

ARTICLE 13 - MISCELLANEOUS PROVISIONS

13.01 **Entire Contract.** This Contract constitutes the entire contract between the parties. There are no understandings or Contracts related hereto other than those which are expressed herein, and all prior negotiations, Contracts, and understandings, whether oral or written, are superseded by this Contract, and it shall not be considered modified, altered, changed or amended in any respect unless in writing and signed by the parties hereto.

13.02 **Notice.** All notice required under this Contract shall be in writing and shall be sent by certified United States Mail or national parcel service, postage prepaid, return receipt requested, or by

hand-delivery with a written receipt of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

In the case of County:	with a copies of legal notices to:
County of Volusia Attn: Director of Purchasing and Contracts Address: 123 W. Indiana Ave., Room 302 DeLand, Florida 32720 Phone: (386) 736-5935 Fax: (386) 736-5972	County of Volusia Attn: County Attorney Address: 123 W. Indiana Ave., Room 301 DeLand, Florida 32720 Phone: (386) 736-5950 Fax: (386) 736-5990
In the case of Contractor:	with a copy of legal notices to:
HALIFAX PAVING, INC. Attn: Thomas A. Durrance, President Address: 814 Hull Road Ormond Beach, Florida 32174 Phone: 386-676-0803	HALIFAX PAVING, INC. Attn: Thomas A. Durrance, President Address: 814 Hull Road Ormond Beach, Florida 32174 Phone: 386-676-0803

- 13.03 **Governing Law.** The laws of the State of Florida and the Code of Ordinances of the County of Volusia, Florida, shall govern this Contract. All questions concerning the validity, operation, interpretation, construction and enforcement of any terms, covenants or conditions of this Contract shall in all respects be governed by and determined in accordance with the laws of the State of Florida and Code of Ordinances of County of Volusia, without giving effect to the choice of law principles thereof and unless otherwise preempted by federal law.
- 13.04 **Venue and Jurisdiction.** The venue for any litigation between the parties arising under this Contract shall be exclusively in the County of Volusia, Florida, unless the litigation is exclusively cognizable in federal court and venue shall then be exclusively in the United States District Court, Middle District of Florida in Orlando, Florida. Each party hereby agrees to submit to the personal jurisdiction of theses courts for any lawsuits filed there against such party arising under or in connection with this Contract.
- 13.05 **Waiver of Jury Trial.** Contractor and County hereby expressly waive any rights either may have to a trial by jury of any civil litigation related to the Contract for any litigation limited solely to the parties of the Contract.
- 13.06 **Attorneys Fees and Costs.** Each party shall pay its own costs and attorney's fees relating to any dispute, mediation or litigation arising out of this Contract.
- 13.07 **Severability.** If any provision of this Contract shall for any reason be held to be invalid, illegal, unenforceable, or in conflict with any law of a federal, state, or local government having jurisdiction

over this Contract, such provision shall be construed so as to make it enforceable to the greatest extent permitted, such provision shall remain in effect to the greatest extent permitted and the remaining provisions of this Contract shall remain in full force and effect unless County or Contractor elect to terminate this Contract. An election to terminate this Contract based upon this provision shall be made within seven (7) Days after the finding by the court becomes final. Prior to terminating this Contract, the parties may agree to substitute an enforceable provision that, to the maximum extent possible under applicable law, preserves the original intentions and economic positions of the parties.

- 13.08 **Waiver.** Failure by either party or both parties to enforce any provision of the Contract shall not be deemed a waiver of such provision or modification of the Contract. A waiver of any breach of a provision of this Contract shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of the Contract.
- 13.09 **Amendment.** No modification, amendment, change order, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same formality as this Contract and executed by a duly authorized official of each party.
- 13.10 **Headings.** Any paragraph and/or section headings used in this Contract are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content or intent of this Contract.
- 13.11 **Public Entity Crime and Discriminatory Vendor List.** Pursuant to Florida Statutory requirements, Contractor is hereby notified of the contents of the following statutory provision:
- 13.11.1 **Section 287.133(2)(a)(as amended):** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a Contractor, supplier, subcontractor, or Contractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.
- 13.11.2 **Section 287.133(2)(b)(as amended):** A public entity may not accept any bid, proposal, or reply from, award any contract to, or transact any business in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO with any person or affiliate on the convicted vendor list for a period of 36 months following the date that person or affiliate was placed on the convicted vendor list unless that person or affiliate has been removed from the list pursuant to paragraph (3)(f). A public entity that was transacting business with a person at the time of the commission of a public entity crime resulting in that person being placed on the convicted vendor list may not accept any bid, proposal, or reply from, award any contract to, or transact any business with any other person who is under the same, or substantially the same, control as the person whose name appears on the convicted vendor list so long as that person's name appears on the convicted vendor list.

- 13.11.3 **Section 287.134(2)(a)(as amended):** An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a Contractor, supplier, subcontractor, or Contractor under a contract with any public entity; and may not transact business with any public entity.
- 13.11.4 **Section 287.134(2)(b)(as amended):** A public entity may not accept any bid, proposals, or replies from, award any contract to, or transact any business with any entity or affiliate on the discriminatory vendor list for a period of 36 months following the date that entity or affiliate was placed on the discriminatory vendor list unless that entity or affiliate has been removed from the list pursuant to paragraph (3)(f). A public entity that was transacting business with an entity at the time of the discrimination resulting in that entity being placed on the discriminatory vendor list may not accept any bid, proposal, or reply from, award any contract to, or transact any business with any other entity who is under the same, or substantially the same, control as the entity whose name appears on the discriminatory vendor list so long as that entity's name appears on the discriminatory vendor list.
- 13.11.5 By signing this Contract, the Contractor represents and warrants that it is not violating Section 287.133, Florida Statutes, or Section 287.134, Florida Statutes.
- 13.11.6 In addition to the foregoing, the Contractor represents and warrants that Contractor is not under investigation for violation of such statutes and should Contractor prepare to use a subcontractor or professional associate, Contractor shall require such subcontractor or professional associate to sign an affidavit that the individual or entity is not under investigation nor in violation of these statutes.
- 13.11.7 The Contractor shall send to each labor organization or representative of workers with which the Contractor has a collective bargaining contract or other understanding, if any, a notice advising the labor organization or workers' representative of the Contractor commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- 13.11.8 The Contractor shall include this section 3 clause in every subcontract subject to compliance with regulations 24 CFR Part 135 and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The Contractor shall not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- 13.11.9 The Contractor shall certify that any vacant employment positions, including training positions, that are filled (1) after the lowest responsible/responsive quote is selected but before the contract is executed, and (2) with persons other than those to whom the

regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the Contractors obligations under 24 CFR Part 135.

- 13.12 **Lead Based Paint Prevention Act (34 CFR, Part 35).** The Contractor covenants and agrees that it shall comply with the Lead Based Paint Prevention Act (34 CFR, Part 35), which requires prohibition of the use of lead-based paint in renovation, modernization structures, or other improvement activities.
- 13.13 **Anti-Lobbying.** To the best of the County's knowledge and belief:
- 13.13.1 No Federal appropriated funds have been paid or shall be paid, by or on behalf of County, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative contract, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative contract.
- 13.13.2 If any funds other than Federal appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative contract, it shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 13.14 **Safety.** The Contractor shall take the necessary precautions and bear the sole responsibility for the safety of the methods employed in performing the work. The Contractor shall at all times comply with the regulations set forth by federal, state, and local laws, rules, and regulations concerning "OSHA" and all applicable state labor laws, regulations, and standards. The Contractor shall indemnify and hold harmless the County from and against all liabilities, suits, damages, costs, and expenses (including attorney's fees and court costs) which may be imposed on the County because of the bidder, subcontractor, or supplier's failure to comply with the regulations.
- 13.15 **Material Safety Data Sheet.** In accordance with Chapter 442 of the Florida Statutes, it is the Contractor's responsibility to identify and to provide to the County a Material Safety Data Sheet for any material as may apply to this contract.
- 13.16 **New Material.** The Contractor represents and warrants that the goods, materials, supplies, or components offered to the County under this contract are new, not used or reconditioned, and are not of such age or so deteriorated as to impair their usefulness or safety and that the goods, materials, supplies, or components offered are current production models of the respective manufacturer.
- 13.17 **Compliance with FEMA 2 CFR 200.317-326 and Appendix II Contract Provisions:**

This Agreement and the products/services provided may be utilized in the event of declared State/Federal Emergency, and Contractors shall comply with the applicable sections of Exhibit III, Federal Contract Provisions.

- 13.18 **Scrutinized Companies, FL Statue Section 287.135 and 215.473.** Contractor must certify that the company is not participating in a boycott of Israel. For Contracts for goods or services of one million dollars or more, Contractor must also certify that Contractor is not on the Scrutinized Companies that Boycott Israel List, not on the Scrutinized Companies with Activities in Sudan List, and not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has not been engaged in business operations in Cuba or Syria. Subject to limited exceptions provided in state law. The County will not contract for the provision of goods or services with (i) any company participating in a boycott of Israel, and, (ii) for Contracts for goods or services of one million dollars or more, any other scrutinized company as described above. Contractor must have submitted the certification form with their response to County Solicitation No. 22-SQ-151SR. Submitting a false certification shall be deemed a material breach of contract. The County shall provide notice, in writing, to the Contractor of the County's determination concerning the false certification. The Contractor shall have five (5) Calendar days from receipt of notice to refute the false certification allegation. If such false certification is discovered during the active contract term, the Contractor shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination of false certification was made in error. If the Contractor does not demonstrate that the County's determination of false certification was made in error then the County shall have the right to terminate the Contract and seek civil remedies pursuant to Section 287.135, Florida Statutes, as amended from time to time.

IN WITNESS WHEREOF, the parties have made and executed this Contract, the day and year written below.

Vendor acknowledges that _____ (the "Authorized Signatory") is authorized to execute contracts/agreements with the County of Volusia and any affixed electronic or conformed signature of the Authorized Signatory shall be the act of and attributable to the Authorized Signatory. By signing this Agreement electronically, the Authorized Signatory does thereby adopt the electronic or conformed signature as his or her own and designates a copy of same for use as an official record by the County of Volusia.

Attest:

COUNTY OF VOLUSIA

George Recktenwald
County Manager

BY: _____
Jeffrey S. Brower
County Chair

Date: _____

Date: _____

County Council Approval Date: _____

Attest:

HALIFAX PAVING, INC.

Amanda L. Durrance
Signature

BY: [Signature]
Signature

Amanda L. Durrance, Sec/Treas.
Name and Title

Joseph Durrance, Vice President
Name and Title

Date: November 7, 2022

Date: November 7, 2022

Road Resurfacing Priority List

Three-Year Pavement Management Plan

FY 2023 - FY 2025



Road Name	Road Segment Priority Length (in feet)	PCI	Road Classification	Priority Year
Lake Helen Osteen Rd	6,320	35	Thoroughfare	1
N Kepler Rd	1,430	36	Thoroughfare	1
W Retta St	744	36	Thoroughfare	1
Mcgregor Rd	2,784	37	Thoroughfare	1
Lake Winona Rd	13,653	38	Thoroughfare	1
Ponce Deleon Blvd	2,658	38	Thoroughfare	1
S Tymber Creek Rd	86	38	Thoroughfare	1
Orange Camp Rd	3,817	41	Thoroughfare	1
Mission Dr	935	43	Thoroughfare	1
Old New York Av	11,112	45	Thoroughfare	1
Pioneer Tr	592	45	Thoroughfare	1
Josephine St	985	46	Thoroughfare	1
W Park Av	2,417	46	Thoroughfare	1
N Spring Garden Av	617	47	Thoroughfare	1
E Graves Av	1,725	48	Thoroughfare	1
Howland Blvd	2,514	48	Thoroughfare	1
Volco Rd	593	48	Thoroughfare	1
Emporia Rd	18,510	49	Thoroughfare	1
Spring Garden Ranch Rd	1,664	49	Thoroughfare	1
Veterans Memorial Pkwy	4,113	50	Thoroughfare	1
Dunn Av	5,095	51	Thoroughfare	1
Saxon Blvd	3,335	51	Thoroughfare	1
Arredondo Grant Rd	2,437	52	Thoroughfare	1
N Tymber Creek Rd	8,850	52	Thoroughfare	1
Maytown Rd	11,445	54	Thoroughfare	1
N Blue Lake Av	1,798	55	Thoroughfare	1
George W Engram Blvd	752	56	Thoroughfare	1
Highbridge Rd	1,115	56	Thoroughfare	1
Silver Beach Av	515	56	Thoroughfare	1
Turnbull Bay Rd	667	56	Thoroughfare	1
Sugar Mill Dr	4,854	57	Thoroughfare	1
Wallace Rd	1,128	58	Thoroughfare	1
Big Tree Rd	1,727	59	Thoroughfare	1
Enterprise Rd	811	59	Thoroughfare	1
Marsh Rd	511	59	Thoroughfare	1
Arroyo Pkwy	891	18	Local	1
Palm Dr	1120	21	Local	1
E Berlin St	1688	23	Local	1
Hyacinth Rd	2521	23	Local	1

Road Resurfacing Priority List

Three-Year Pavement Management Plan

FY 2023 - FY 2025



Road Name	Road Segment Priority Length (in feet)	PCI	Road Classification	Priority Year
S Montgomery Av	3378	23	Local	1
Stevens St	1461	23	Local	1
West Av	1456	23	Local	1
Belinda Dr	585	24	Local	1
Bond St	351	24	Local	1
Chauncey St	1079	24	Local	1
Upton Av	2133	24	Local	1
Jeanette Dr	716	25	Local	1
Cypress Rd	1488	26	Local	1
Gowers St	1504	26	Local	1
Lakeside Dr	3747	26	Local	1
Oak Rd	863	26	Local	1
Webster St	794	26	Local	1
Church St	4818	27	Local	1
Green St	1007	27	Local	1
Henson Av	312	27	Local	1
Lake St	388	27	Local	1
Flamingo Rd	360	28	Local	1
Myrtle Jo Dr	352	28	Local	1
Sunshine Blvd	2077	28	Local	1
W Winnemissett Av	2747	28	Local	2
Alhambra Av	1291	29	Local	2
Island Cay Dr	870	29	Local	2
Holly Ln	576	30	Local	2
Keyton Dr	466	30	Local	2
Palmer St	399	30	Local	2
S Boundary Av	2699	30	Local	2
Clark St	2937	31	Local	2
Della St	337	31	Local	2
Friendship Dr	453	31	Local	2
Oakridge Av	460	31	Local	2
Seneca St	424	31	Local	2
South St	2085	31	Local	2
Everett St	147	32	Local	2
N Leavitt Av	1710	32	Local	2
North Rd	3154	32	Local	2
S Dexter Av	3739	32	Local	2
Williamsburg Rd	802	32	Local	2
Jungle Rd	1606	33	Local	2

Road Resurfacing Priority List

Three-Year Pavement Management Plan

FY 2023 - FY 2025



Road Name	Road Segment Priority Length (in feet)	PCI	Road Classification	Priority Year
Nectarine Rd	207	33	Local	2
Williamsburg Pl	126	33	Local	2
Woodmont Rd	1011	33	Local	2
13Th St	306	34	Local	2
Bahama Cir	201	34	Local	2
E Roberts St	1472	34	Local	2
E South St	337	34	Local	2
E Spring St	227	34	Local	2
Florida Av	374	34	Local	2
Mckinley St	233	34	Local	2
N Clara Av	969	34	Local	2
Old Perkins Hwy	1357	34	Local	2
S Massachusetts Av	3566	34	Local	2
St Johns Rd	593	34	Local	2
Stetson Park Dr	1327	34	Local	2
W Church St	446	34	Local	2
W Elm Dr	1353	34	Local	2
Burts Park Rd	2006	35	Local	2
Central Av	2294	35	Local	2
Dundee Av	1035	35	Local	2
E Arizona Av	627	35	Local	2
Ingham Rd	925	35	Local	2
Lake Talmadge Dr	3353	35	Local	2
Lee St	327	35	Local	2
Mayfield Rd	681	35	Local	2
N Woodward Av	593	35	Local	2
North St	1649	35	Local	2
Pine St	1675	35	Local	2
Spruce Pl	254	35	Local	2
Village Ln	370	35	Local	2
W Lisbon Pkwy	1348	35	Local	2
Cypress St	675	36	Local	2
Hayden Rd	718	36	Local	2
Hibiscus Dr	431	36	Local	2
Hickory St	636	36	Local	2
Lake Ashby Rd	7039	36	Local	2
Maryland Ter	885	36	Local	2
Merwin Av	1297	36	Local	2
Mills Rd	2711	36	Local	2

Road Resurfacing Priority List

Three-Year Pavement Management Plan

FY 2023 - FY 2025



Road Name	Road Segment Priority Length (in feet)	PCI	Road Classification	Priority Year
Nassau Cir	199	36	Local	2
Saratoga Pl	179	36	Local	2
Smith Street Ct	112	36	Local	2
Webb St	635	36	Local	2
Azalea Dr	1330	37	Local	2
Beasley Dr	1306	37	Local	2
Brentwood Av	642	37	Local	2
E Retta St	554	37	Local	2
E Winnemissett Av	1338	37	Local	2
Golden Hills Blvd	572	37	Local	2
Iris Rd	1137	37	Local	2
Jacob Brock Av	1161	37	Local	2
Lake Ter	497	37	Local	2
Lawrence St	1149	37	Local	2
Lemmon Rd	1399	37	Local	2
Mcbride Rd	13597	37	Local	2
N Tomoka Dr	156	37	Local	2
Oak Dr	1410	37	Local	2
Oak St	1207	37	Local	2
Parkdale Av	1307	37	Local	2
Rylane St	1644	37	Local	2
S Brooks Av	2053	37	Local	2
Sea Dance Ter	207	37	Local	2
Violetwood Rd	3372	37	Local	2
15Th St	750	38	Local	2
Abel Av	311	38	Local	2
Arthur St	1645	38	Local	2
Atka Ct	166	38	Local	2
Camphor Ln	669	38	Local	2
Cottonwood St	657	38	Local	2
Cumberland Rd	645	38	Local	2
Eau Claire Av	340	38	Local	2
Eslinger Rd	1375	38	Local	2
Holland Rd	2600	38	Local	2
Lakeview Dr	1658	38	Local	2
Melaleuca Cir	186	38	Local	2
Ormands Jungle Den Rd	1282	38	Local	2
Roberta Rd	2603	38	Local	2
Seminole Av	325	38	Local	2

Road Resurfacing Priority List

Three-Year Pavement Management Plan

FY 2023 - FY 2025



Road Name	Road Segment Priority Length (in feet)	PCI	Road Classification	Priority Year
Sunny Palm Dr	659	38	Local	2
Tanglewood Dr	1017	38	Local	2
Vermont Av	348	38	Local	2
Vine St	468	38	Local	2
W Howry Av	800	38	Local	2
W Orange Rd	858	38	Local	2
W Palmetto Av	2432	38	Local	2
W Volusia Av	1319	38	Local	2
Woodcrest Dr	284	38	Local	2
Wright St	375	38	Local	2
Atlanta Dr	250	39	Local	2
Burgoyne Pl	107	39	Local	2
Cherokee Rd	956	39	Local	2
Deleon Oaks Ct	390	39	Local	2
E Broad St	1834	39	Local	2
E Kentucky Av	1649	39	Local	2
Emerald Isle Cir	126	39	Local	2
Evergreen Rd	85	39	Local	2
Fairport Av	1059	39	Local	2
Hano Ct	241	39	Local	2
Hickory St	1661	39	Local	2
June Ter	681	39	Local	2
La Valley Ln	639	39	Local	2
Magnolia Cir	181	39	Local	2
Mimosa Ln	530	39	Local	2
Newcomb St	97	39	Local	2
North Av	321	39	Local	2
Paradise Dr	1579	39	Local	2
Periwinkle Av	1126	39	Local	2
Raulerson Rd	4356	39	Local	2
River Ridge Rd	4777	39	Local	2
Riverdale Av	954	39	Local	2
Stone Island Rd	696	39	Local	2
Upper Cay Dr	203	39	Local	2
W Davis St	1321	39	Local	2
W Gardenia Dr	501	39	Local	3
W Retta St	1646	39	Local	3
W Taylor Rd	640	39	Local	3
Water Oak Cir	183	39	Local	3

Road Resurfacing Priority List

Three-Year Pavement Management Plan

FY 2023 - FY 2025



Road Name	Road Segment Priority Length (in feet)	PCI	Road Classification	Priority Year
Barberville Cemetery Rd	680	40	Local	3
Blue Lake Ter	830	40	Local	3
Buccaneer Cove	182	40	Local	3
Center St	3676	40	Local	3
Chipola Av	1342	40	Local	3
Citra St	1218	40	Local	3
Compton Ct	862	40	Local	3
E Carolina Av	645	40	Local	3
E Voorhis Av	184	40	Local	3
Golf Av	1073	40	Local	3
Jeanette Ln	123	40	Local	3
Kiowa Ln	382	40	Local	3
Lantern Ln	1281	40	Local	3
Little Cay Cir	121	40	Local	3
Live Oak Dr	851	40	Local	3
Margaret St	658	40	Local	3
N Cucumber Ln	984	40	Local	3
Palm St	1198	40	Local	3
Park Dr	358	40	Local	3
Pine Ridge Dr	240	40	Local	3
Poinsettia Ln	653	40	Local	3
Pratt St	658	40	Local	3
Robin Hood Dr	3414	40	Local	3
Scaup Pl	415	40	Local	3
Spring Garden Dr	1391	40	Local	3
Tano Dr	601	40	Local	3
Thomas St	467	40	Local	3
Washington St	312	40	Local	3
Wayne Av	297	40	Local	3
Wheeler St	373	40	Local	3
Wisteria Dr	431	40	Local	3
Alabama Av	424	41	Local	3
Albert Ln	1806	41	Local	3
Almond St	801	41	Local	3
Bimini Cir	197	41	Local	3
Cowart Rd	2847	41	Local	3
Crow Ct	210	41	Local	3
Dahlia Rd	742	41	Local	3
E Baxter St	1041	41	Local	3

Road Resurfacing Priority List

Three-Year Pavement Management Plan

FY 2023 - FY 2025



Road Name	Road Segment Priority Length (in feet)	PCI	Road Classification	Priority Year
E University Av	306	41	Local	3
Evergreen Cir	191	41	Local	3
Jefferson St	323	41	Local	3
John Thomas Av	152	41	Local	3
Lake Forest Dr	679	41	Local	3
N Alabama Av	656	41	Local	3
N Parkway St	400	41	Local	3
Pine Creek Tr	1205	41	Local	3
Pleasant View Dr	472	41	Local	3
S Westwood Av	327	41	Local	3
Santiago St	498	41	Local	3
Sea Grape Ter	256	41	Local	3
Theresa St	227	41	Local	3
Twin River Dr	2190	41	Local	3
West St	514	41	Local	3
Woodland Av	301	41	Local	3
1St Av	1681	42	Local	3
Anchor Dr	745	42	Local	3
Atlantic Rd	471	42	Local	3
Captain Butler Tr	141	42	Local	3
Cavedo St	573	42	Local	3
Cross St	478	42	Local	3
Eucalyptus Cir	184	42	Local	3
Flowing Well Rd	401	42	Local	3
Garden St	609	42	Local	3
Glenwood Hammock Rd	1738	42	Local	3
Highland Park Ter	232	42	Local	3
Hiles Blvd	801	42	Local	3
Holly Cir	184	42	Local	3
Lake George Rd	216	42	Local	3
Lowndes Av	230	42	Local	3
Lydia Way	345	42	Local	3
Mission Dr	1202	42	Local	3
N Pine St	671	42	Local	3
New Smyrna St	632	42	Local	3
Ocean Aire Ter	402	42	Local	3
Old Mission Rd	522	42	Local	3
Olen Dr	664	42	Local	3
Orange Oak Dr	169	42	Local	3

Road Resurfacing Priority List

Three-Year Pavement Management Plan

FY 2023 - FY 2025



Road Name	Road Segment Priority Length (in feet)	PCI	Road Classification	Priority Year
Ottowa Ln	376	42	Local	3
Pine Grove St	649	42	Local	3
S Dale Cir	577	42	Local	3
S Orange Av	317	42	Local	3
S Thompson St	670	42	Local	3
Salina Ln	1026	42	Local	3
Sea Turtle Ter	215	42	Local	3
Seabridge Dr	370	42	Local	3
Shell Harbor Rd	1728	42	Local	3
Stewart Av	332	42	Local	3
Sunny Shore Dr	246	42	Local	3
Trinidad St	228	42	Local	3
W Jasmine Rd	757	42	Local	3
W Rich Av	886	42	Local	3
Wildrose Ln	1322	42	Local	3
3Rd St	307	43	Local	3
8Th Av	658	43	Local	3
Cambridge St	343	43	Local	3
Colby Ln	269	43	Local	3
Coventry Estates Blvd	225	43	Local	3
E Florence Av	664	43	Local	3
E Wisconsin Av	592	43	Local	3
Ewing Ln	537	43	Local	3
Holly Blvd	858	43	Local	3
Kendra Av	387	43	Local	3
Lake Molly Av	1957	43	Local	3
Lightfoot Ln	956	43	Local	3
Linda Ln	1287	43	Local	3
Maria St	401	43	Local	3
Palmetto Av	2877	43	Local	3
Parkview Av	464	43	Local	3
Parsley Ln	2665	43	Local	3
Pinetree Cir	187	43	Local	3
Primrose Ln	1336	43	Local	3
S Parkview Av	626	43	Local	3
San Jose Dr	444	43	Local	3
Scenic Magnolia Dr	252	43	Local	3
Seafarers Dr	326	43	Local	3
Shell St	342	43	Local	3

Road Resurfacing Priority List

Three-Year Pavement Management Plan

FY 2023 - FY 2025



Road Name	Road Segment Priority Length (in feet)	PCI	Road Classification	Priority Year
Spencer St	530	43	Local	3
Swan Dr	630	43	Local	3
Turkey Oak Run	620	43	Local	3
W Talton Av	597	43	Local	3
W Wisconsin Av	908	43	Local	3
Wickersham Rd	677	43	Local	3
3Rd Av	723	44	Local	3
Benton St	675	44	Local	3
Boles Dr	264	44	Local	3
Brendale Dr	493	44	Local	3
Briggs Dr	599	44	Local	3
E Hagstrom Rd	714	44	Local	3
E Lake Dr	399	44	Local	3
Frances St	328	44	Local	3
Genmar St	421	44	Local	3
Greenbriar Av	1481	44	Local	3
Grove Pl	1016	44	Local	3
Halifax Av	492	44	Local	3
Lenox Ct	643	44	Local	3
Liskeard Av	663	44	Local	3
Martin St	658	44	Local	3
N Shell Rd	4448	44	Local	3
N Stone St	1326	44	Local	3
Parker Dr	645	44	Local	3
Patty Rd	50	44	Local	3
Pearl St	1324	44	Local	3
Pecan St	1326	44	Local	3
Penvan Av	452	44	Local	3
Pinto Ln	1043	44	Local	3
Poinsettia Dr	658	44	Local	3
S Atlantic Av	1998	44	Local	3
S Boston Av	2302	44	Local	3
S High St	2034	44	Local	3
Sanora Ln	834	44	Local	3
Sea Park Ter	210	44	Local	3
Sharon Dr	340	44	Local	3
Spruce St	1016	44	Local	3
St Charles Ter	113	44	Local	3
St Johns Pl	806	44	Local	3

Road Resurfacing Priority List

Three-Year Pavement Management Plan

FY 2023 - FY 2025



Road Name	Road Segment Priority Length (in feet)	PCI	Road Classification	Priority Year
St Lawrence Av	341	44	Local	3
Tanner St	712	44	Local	3
Tulip Tree Ln	873	44	Local	3
Valhalla Av	303	44	Local	3
W Euclid Av	470	44	Local	3
W Voorhis Av	848	44	Local	3
Walter St	672	44	Local	3
Wiley Av	1023	44	Local	3
Bayberry Dr	477	45	Local	3
Calusa Ln	999	45	Local	3
Campa Ln	819	45	Local	3
Carolina Av	1321	45	Local	3
Cass St	669	45	Local	3
Chester Av	331	45	Local	3
Court St	499	45	Local	3
Durfey Av	404	45	Local	3
E Broderick St	653	45	Local	3
E Paulding St	376	45	Local	3
Enterprise St	717	45	Local	3
Friendly Cir	193	45	Local	3
General Marshall Rd	296	45	Local	3
Jamaica Cir	189	45	Local	3
Johnson Lake Rd	346	45	Local	3
Ligustrum Cir	187	45	Local	3
Linda Rd	985	45	Local	3
Main St	419	45	Local	3
Manette Cir	604	45	Local	3
Marion St	256	45	Local	3
Midway Av	912	45	Local	3
Myra St	659	45	Local	3
N Chinook Ln	859	45	Local	3
N Ridgewood Av	379	45	Local	3
Osage Ln	746	45	Local	3
Palm Av	697	45	Local	3
Palm Cir	154	45	Local	3
Palm Ter	422	45	Local	3
Pierside Dr	215	45	Local	3
Plaza Dr	2558	45	Local	3
Ramano Av	941	45	Local	3

Road Resurfacing Priority List

Three-Year Pavement Management Plan

FY 2023 - FY 2025



Road Name	Road Segment Priority Length (in feet)	PCI	Road Classification	Priority Year
Reed Canal Rd	844	45	Local	3
Riverwalk Ct	574	45	Local	3
S Circle Dr	206	45	Local	3
S Winslow Av	630	45	Local	3
San Juan Cir	184	45	Local	3
Sea Chase Ter	240	45	Local	3
Shady Park Ter	397	45	Local	3
Spreading Oak Ln	88	45	Local	3
Springbank Av	1989	45	Local	3
Stone Rd	6485	45	Local	3
Stone St	332	45	Local	3
Violet Ter	564	45	Local	3
W Baxter St	384	45	Local	3
W Beresford Rd	536	45	Local	3
W Kicklighter Rd	1207	45	Local	3
W Minnesota Av	1077	45	Local	3
Whispering Pi+A32nes Dr	126	45	Local	3

Volusia County maintains approximately 309 miles of thoroughfare roadways and 640 miles of local roadways. The average Pavement Condition Index (PCI) of the county's road inventory is 65 with 11.5% of the roads categorized with a PCI < 40. As such, the priority rating of resurfacing projects will be primarily driven from the road segment's PCI rating. However, external factors such as traffic volume, maintenance issues, annexation agreements, infrastructure improvements, and material availability will be factored into the prioritization process at the time of each project's bidding. For planning purposes, this list provides for resurfacing approximately 30 miles of roads per year based on \$5,950,000 of funding per year.

