

**ATTACHMENT 2**  
**SAMPLE CONTRACT 24-50 REDWOOD AVENUE DRAINAGE**  
**IMPROVEMENT CDBG-DR PROJECT M0015**

This Contract, dated \_\_\_\_\_ is between the Bay County Board of County Commissioners, located at 840 West 11th Street, Panama City, FL 32401 ("County"), and Contractor Name, located at (Contractor Address, City, State, Zip) ("Contractor").

1. Scope of Work

The Bay County Board of County Commissioners (County) desires to hire Contractor for the construction of approximately 2710 LF of 48" Concrete Stormwater Pipe. Contractor to provide all necessary labor, supervision, equipment and materials to complete the project.

The Contractor will perform those services in accordance with **Exhibit 1** General Terms and Conditions; **Exhibit 2** FDOT Standard Specifications for Road and Bridge Construction FY2024-25 as implemented by the attached hereto and incorporated herein, titled "Specifications Package"; and **Exhibit 3** Bay County Engineering Division construction plans titled "Redwood Avenue Drainage Improvement. The Contractor hereby agrees to provide the following services to the County according to Invitation to Bid (ITB) 24-50 said documents being incorporated into this agreement as if fully set out herein, and the Contractor's response thereto, said documents being attached as **Exhibit 4**, to the extent they are not inconsistent with this Agreement.

This project may be reimbursed by the Florida Department of Environmental Protection (FDEP) and the Florida Department of Commerce (FDOC) as part of Disaster Recovery. Funding for the project may be made possible through the HUD Community Development Block Grant Disaster Recovery (CDBG-DR). Funding is contingent on strict conformance to the guidelines set forth by FDEP and FDOC Federal Procurement and Contract Standards. It is imperative that the Respondents examine and become familiar with the CDBG-DR grant program requirements. Respondents will comply with the Federal Regulations Contract Requirements shown at **Exhibit 5**.

The Contractor and all subcontractors shall comply with the Prevailing Minimum Wage obtained at <https://sam.gov/content/wage-determinations> and contained within **Exhibit 5**.

Neither the United States nor any of its departments, agencies or employees is or will be a party to this contract.

2. Term

This Contract shall commence upon the date of receipt of the "Notice to Proceed" and work shall be completed in 150 calendar days. Should the Contractor fail to complete the work by the specified date, the Owner shall deduct from the Contract Sum the amount of \$1,685.00 per calendar day as liquidated

damages for every day subsequent to the specified date until the work is fully completed and receipted by the Engineer as being completed. For purposes of time calculation, day one of the project is the calendar day after the date of the Notice to Proceed.

3. Contract Price

The County shall pay the Contractor for services provided in accordance with the Florida Prompt Payment Act of the Florida Statutes, Chapter 218.70, upon receipt of the Contractor's invoice and written approval of same by the County's Designated Representative indicating that services have been rendered in conformity with this Agreement. The Contractor shall submit an invoice for payment to the County Public Works Department on a monthly basis for those specific services, as described in this Agreement, ITB 24-50, and the Contractor's proposal cost of \$ \_\_\_\_\_, that were satisfactorily completed during that invoicing period.

The Contractor agrees that for the performance of the Services as outlined in Section 1 above, it shall be remunerated by the County according to the unit prices contained in the Contractor's price proposal contained in **Exhibit 4**.

4. Payments

Notwithstanding anything to the contrary herein, the County shall pay the Contractor for services performed under this Contract in accordance with the Local Government Prompt Payment Act (F.S. §218.70, et seq.) Pay requests/Invoices shall be sworn statements based upon the progress made and submitted to the County Capital Projects Division on a monthly basis. Payment by the County to the Contractor of the statement amount shall be made within twenty (20) days after the date on which the payment request or invoice is stamped as received. Five percent (5%) retainage shall be held at the discretion of the County.

Final Payment - Final payment constituting the unpaid balance of the cost of the Project and the Contractor's fee, shall be due and payable within 30 days after the Project is delivered to the County, finished and ready for beneficial occupancy, or when the County occupies the Project, whichever event first occurs provided that the Project be then substantially completed and this agreement substantially performed. However, if there should remain work to be completed, the Contractor and the County shall list those items prior to receiving final payment and the County may retain a sum equal to 150% of the estimated cost of completing any unfinished work and the applicable portion of the Contractor's retainage, provided that said unfinished items are listed separately and estimated cost of completing any unfinished items are likewise listed separately. Thereafter, County shall pay to Contractor, monthly, the amount retained from each incomplete item after each of said items is completed.

Payments to Subcontractors - The Contractor shall promptly, but not later than 10 days after receipt of payment from the County, pay all the amount due subcontractors. If there should remain items to be completed, the Contractor and

County shall list those items required for completion and the Contractor shall require the retainage of a sum equal to 200% of the estimated cost of completing any unfinished items, provided that said unfinished items are listed separately and the estimated cost of completing any unfinished items likewise listed separately. Thereafter, The Contractor shall pay to the subcontractors, monthly; the amount retained for each incomplete item after each of said items is completed. Before issuance of final payment without any retainage, the subcontractor shall submit satisfactory evidence that all payrolls, material bills and other indebtedness connected with the Project have been paid or otherwise satisfied, warranty information is complete, as-built markups have been submitted and instruction for the County's operating and maintenance personnel is complete. Final payment may be made to certain select subcontractors who work is satisfactorily completed prior to the total completion of the Project but only upon approval of the County.

Delayed Payments by County - If the County shall fail to pay the Contractor within 20 days after the receipt of an approved payment request from the Contractor, then the Contractor may, upon fourteen (14) additional days advance written notice to the County and the Engineer stop the Project until payment of the amount owing has been received, provided that the payment request has been submitted in sufficient detail to comply with the guidelines of the Office of the Clerk of the Circuit Court for Bay County. In the event that there is a dispute in the amount of the pay request, then only the disputed amount shall be held until resolved and the undisputed amount shall be paid within the time limits as stated within this paragraph. If undisputed amounts are timely paid, then the Contractor shall not stop the Project in any fashion and the progress of the project shall not be interrupted. Both parties agree that best efforts be made to resolve the disputed amount.

**INVOICE REQUIREMENTS:** All invoices are required to have the following information included:

- Contractor's name
- Invoice number
- Invoice date
- CDBG-DR Project Number M0015
- Dates of service/activities were provided (mm/dd/yy-mm/dd/yy)
- Site of work
- Details of work provided
- Amount of the invoice

5. Independent Contractor

The Contractor shall at all times, relevant to this contract, be an independent contractor and in no event shall the Contractor, nor any employees or sub-contractors under it, be considered to be employees of Bay County.

6. Contractor's Personnel

Contractor has the exclusive right to hire and terminate its employees and may transfer or reassign any of its employees to other work of the Contractor. The direction of the work of Contractor's employees shall be under the exclusive control of Contractor. If the County objects to the presence or performance of any employee of Contractor, Contractor shall remove such employee from County premises.

7. Cooperation

Contractor agrees to perform each phase of the work at the scheduled time and in the scheduled sequence. Contractor will cooperate with the County Public Works Director or their designee as requested and specifically to allow the County to inspect the performance of work of this Contract.

8. Materials, Supplies, Etc.

Contractor shall furnish and supply all tools, materials, consumable supplies and equipment, safety devices and equipment, and any special clothing that are required to perform the work of this Contract and consistent with the requirements of the ITB.

9. Records / Audits

The County is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law. Specifically, the Contractor shall:

Keep and maintain public records required by the County in order to perform the service;

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, F.S. or as otherwise provided by law.

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.

Upon completion of the contract, transfer, at no cost to the County, all public records in 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.

The Contractor shall maintain books, records and documents directly pertinent to performance under this Contract in accordance with generally accepted accounting principles consistently applied. The County, the State of Florida, or their authorized representatives shall have access to such records for audit purposes during the term of this Contract and for five (5) years following Contract completion.

10. Public Records Custodian

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 Bob Majka, Custodian of Public Records, at (850) 248-8145, [publicrecords@baycountyfl.gov](mailto:publicrecords@baycountyfl.gov) or 840 W. 11th Street, Panama City, Florida 32401.

11. Inspector General

The parties agree to comply with s.20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with s. 20.055(5), Florida Statutes. "(5) It is the duty of every state officer, employee, agency, special district, board, commission, contractor, and subcontractor to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section."

12. County Representative

The County Public Works Director or a designee has authority to designate the work to be done by Contractor, to inspect such work, and to resolve questions which arise between the parties. The Contractor or the Contractor's designee will deal with the County's representative on matters relating to the performance of the work. The County shall have the authority to stop the work whenever it deems such action necessary to secure the safe and proper performance of the work assignment.

13. Laws, Rules and Regulations

General Laws: Contractor shall give all notices required of it by law and shall comply with all Federal, State and local laws, ordinances, rules and regulations governing Contractor's performance of this Contract and the preservation of public health and safety. Upon request by the County, Contractor shall provide proof of such compliance to the County.

Illegal Alien Labor: Contractor shall comply with all provisions state and federal law regarding the hiring and continued employment of aliens not authorized to work in the United States. Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a

contract with a subcontractor that fails to certify to the Contractor that the subcontractor is in compliance with such laws. Contractor agrees that it shall confirm the employment eligibility of all employees through participation in E-Verify or an employment eligibility program approved by the Social Security Administration and will require the same of any subcontractors. Contractor shall pay all cost incurred to initiate and sustain the verification programs.

14. Public Entity Crimes Statement

A person or affiliate who has been placed on the convicted Contractor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a Contractor, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list. By submission of a proposal in response to this document, the Contractor certifies compliance with the above requirements as stated in Section 287.133, Florida Statutes.

15. E-Verify.

As a condition precedent to entering into this agreement, and in compliance with Section 448.095, Fla. Stat., Contractor and its subcontractors shall, register with and use the E-Verify system to verify work authorization status of all employees.

Contractor shall require each of its subcontractors to provide Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Contractor shall maintain a copy of the subcontractor's affidavit as part of and pursuant to the records retention requirements of this agreement.

The County, Contractor, or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated Section 448.09(1), Fla. Stat. or the provisions of this section shall terminate the contract with the person or entity.

The County, upon good faith belief that a subcontractor knowingly violated the provisions of this section, but Contractor otherwise complied, shall promptly notify Contractor and Contractor shall immediately terminate the contract with the subcontractor.

A contract terminated under the provisions of this section is not a breach of contract and may not be considered such. Any contract termination under the provisions of this section may be challenged pursuant to Section 448.095(2)(d),

Fla. Stat. Contractor acknowledges that upon termination of this agreement by the County for a violation of this section by Contractor, Contractor may not be awarded a public contract for at least one (1) year. Contractor further acknowledges that Contractor is liable for any additional costs incurred by the County as a result of termination of any contract for a violation of this section.

Subcontracts. Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section, including this subsection, requiring the subcontractors to include these clauses in any lower tier subcontracts. Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

16. Insurance

During the term of this Contract, Contractor will purchase and maintain insurance and comply with the Bay County Insurance Requirements, which are attached as **Exhibit 6** to this Contract and incorporated by reference.

17. Bonds

Contractor will secure and post a Public Construction Bond **Exhibit 7** pursuant to Section 255.05 of Florida Statutes. All such bonds shall be issued by a Surety acceptable to the County. The County will designate to whom subject bonds shall be posted. Failure or refusal to furnish adequate bonds in a satisfactory form shall subject the Contractor to loss of time from the allowable construction period equal to the time of delay in furnishing the required bonds.

18. Hold Harmless and Indemnification

To the extent provided by law, the Contractor shall indemnify, defend, and hold harmless the County including the County's officers, agents, and employees, against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of the Contractor or any of its officers, agents, or employees, acting within the scope of their office or employment, in connection with the rights granted to or exercised by the Contractor hereunder, to the extent and within the limitations of Section 768.28, Florida Statutes.

The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28. Nor shall the same be construed to constitute agreement by the Contractor to indemnify the County for the negligent acts or omissions of the County, its officers, agents, or employees, or third parties.

The parties understand and agree that such indemnification by the Contractor relating to any matter which is the subject of this Agreement shall extend throughout the term of this Agreement and any statutes of limitations thereafter.

The Contractor's obligation shall not be limited by or in any way to any insurance coverage or by any provision in or exclusion or omission from any policy of insurance.

If the above indemnity or the defense provisions contained herein or any part of those provisions are limited by Florida Statutes Sec. 725.06(1), or any other applicable law, then with respect to the part so limited, the monetary limitation on the extent of the indemnification shall be the greater of (1) the monetary value of the Contract, (ii) coverage amount of Commercial General Liability Insurance required under the Contract; or (iii) \$1,000,000.00.

This Section survives termination or expiration of this Contract.

19. Duty to Pay Defense Costs and Expenses

The Contractor agrees to reimburse and pay on behalf of the County the cost of the County's legal defense, through and including all appeals, and to include all attorneys' fees, costs, and expenses of any kind for any and all 1) claims described in the Hold Harmless and Indemnification paragraph or 2) other claims arising out of the Contractor's performance of the Contract and in which the County has prevailed.

The County shall choose its legal defense team, experts, and consultants and invoice the Contractor accordingly for all fees, costs and expenses upon the conclusion of the claim.

Such payment on the behalf of the County shall be in addition to any and all other legal remedies available to the County and shall not be considered to be the County's exclusive remedy.

This Section survives termination or expiration of this Contract.

20. Notices

Any notice to be given by the parties shall be in writing and deemed to have been duly given if and when deposited in the United States registered mail, return receipt requested, properly stamped and addressed to:

For the County:  
Bay County Public Works Department  
Attn: John Adair  
840 W. 11th Street  
Panama City, FL 32401

For the Contractor:

The Contractor shall notify the Bay County Purchasing Department of any change to its address. The Purchasing Department will disseminate the address change to all applicable departments and agencies including Finance. The Contractor's notification of address change is sufficient if sent by email or facsimile.

21. Assignment

Contractor shall not assign in whole or in part any part of the work of this Contract except with prior written consent of the County.

22. Successors and Assigns.

This Agreement shall be binding on all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

23. Entire Agreement

All proposals, negotiations and representations regarding the work of this Contract are merged in this instrument. Any amendment or modification of this Contract shall be in writing and signed by the duly authorized representatives of the parties.

24. No Waiver

The waiver by the County of, or the County's failure to demand strict performance of, any obligation of Contractor shall not be construed to waive or limit the full and faithful performance by the Contractor of another of its obligations or of the same obligation in the future.

25. Administrative, Contractual, or Legal Remedies

Unless otherwise provided in this contract, all claims, counter-claims, disputes and other matters in question between the local government and the Contractor, arising out of or relating to this contract, or the breach of it, will be decided by arbitration, if the parties mutually agree, or in a Florida court of competent jurisdiction.

26. Termination for Cause and for Convenience

This contract may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this contract through no fault of the terminating party, provided that no termination may be effected unless the other party is given: (a) Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate; and (b) An opportunity for consultation with the terminating party prior to termination.

This contract may be terminated in whole or in part in writing by the local government for its convenience, provided that the other party is afforded the same notice and consultation opportunity specified in I (a) above. If termination for default is effected by the local government, an equitable adjustment in the price for this contract shall be made, but no amount shall be allowed for anticipated profit on unperformed services or other work, and any payment due to the Contractor at the time of termination may be adjusted to cover any additional costs to the local government because of the Contractor's default.

If termination for convenience is effected by the local government, the equitable adjustment shall include a reasonable profit for services or other work

performed for which profit has not already been included in an invoice. For any termination, the equitable adjustment shall provide for payment to the Contractor for services rendered and expenses incurred prior to receipt of the notice of intent to terminate, in addition to termination settlement costs reasonably incurred by the Contractor relating to commitments (e.g., suppliers, subcontractors) which had become firm prior to receipt of the notice of intent to terminate.

Upon receipt of a termination action under paragraphs (a) or (b) above, the Contractor shall promptly discontinue all affected work (unless the notice directs otherwise) and deliver or otherwise make available to the local government all data, drawings, reports specifications, summaries and other such information, as may have been accumulated by the Contractor in performing this contract, whether completed or in process.

Failure of the Contractor to comply with the provision of Section 13 Laws, Rules, and Regulations shall constitute grounds for the County to immediately terminate this Contract for cause and declare the Contractor to be non-responsible for bidding or proposing on future contracts for one year from the date the County notifies the Contractor of such non-compliance.

27. Conflicts

In the case of any conflict between the provisions of this Contract and other contract documents, the following priority for interpretation of those document provisions shall be followed:

- a. The provisions of this contract prevail first.
- b. The bid form and attachments are next.
- c. The initial bid provisions are final priority.

28. Severability

The invalidity, in whole or in part, of any section or part of any section of this Contract shall not affect the validity of the remainder of such section or the Contract.

29. Governing Law & Venue

This Contract is governed by the laws of the State of Florida. The proper venue for any action regarding this contract is in the appropriate Court in Bay County, Florida.

[SIGNATURES ON FOLLOWING PAGE]

**IN WITNESS WHEREOF**, the Parties have executed this Contract as of this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Executed by:

**BOARD OF COUNTY COMMISSIONERS  
BAY COUNTY FLORIDA**

By: \_\_\_\_\_  
Chairman

Attest:

\_\_\_\_\_  
Bill Kinsaul, Clerk of Court

Approved as to form

\_\_\_\_\_  
Office of Bay County Attorney

**CONTRACTOR**

By: \_\_\_\_\_  
(Authorized Representative)

Its: \_\_\_\_\_

State of \_\_\_\_\_  
County of \_\_\_\_\_

This Contract was acknowledged and subscribed before me the undersigned notary this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_ and with proper authority, and who is personally known by me or produced identification of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

Exhibits:

- 1. General Terms and Conditions
- 2. Specifications Package
- 3. Construction Plans
- 4. Contractor's Response to ITB 24-50
- 5. Federal Contract Requirements
- 6. Insurance Requirements
- 7. Public Construction Bond Forms