

**ATTACHMENT 2**  
**SAMPLE CONTRACT 25-27**  
**FY25 ANNUAL RESURFACING PHASE 1 – LOCAL ROADS**

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

1. Scope of Work

The County desires to hire Contractor to provide all necessary labor, supervision, equipment, and supplies to resurface/rehabilitate approximately 1.63 miles of Bay County roads.

The project will consist of removal of existing pavement structure, replacement of base material, installation of pipe culverts and manhole structure, paving, curb and gutter, and stabilization of all disturbed areas.

The Contractor will perform those services in accordance with **Exhibit 1** General Terms and Conditions, **Exhibit 2** Pay Item Notes, **Exhibit 3** Specifications Package, and **Exhibit 4** Bay County construction plans titled "FY25 Annual Resurfacing Phase 1 (Local Roads)" dated November 1, 2024,". The Contractor hereby agrees to provide the following services to the County according to ITB 25-27 FY25 Annual Resurfacing Phase 1 – Local Roads, 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 5**, to the extent they are not inconsistent with this Agreement.

2. Term

This Contract shall commence upon the date of receipt of the "Notice to Proceed" and work shall be completed 120 calendar days. Should the Vendor fail to complete the work by the specified date, the Owner shall deduct from the Contract Sum the amount of \$2,667.00 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 County Public Works Department on a monthly basis for those specific services, as described in this Agreement, ITB 25-27 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 5**.

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 shall be sworn statements based upon the progress made and submitted to the County Public Works Department 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 Vendor'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 Vendor 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 Vendor'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 Vendor, monthly, the amount retained from each incomplete item after each of said items is completed.

Payments to Subcontractors - The Vendor 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 Vendor and County shall list those items required for completion and the Vendor 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 Vendor 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 Vendor within 20 days after the receipt of an approved payment request from the Vendor, then the Vendor 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 Vendor 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.

Payment for Materials and Equipment - Payments will be made for material and equipment not incorporated in the work but delivered and suitably stored at the site (or another location, subject to prior approval and acceptance by the County on each occasion).

5. Independent Contractor

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

6. Vendor's Personnel

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

Vendor 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 Vendor shall comply with Florida's Public Records Law. Specifically, the Vendor 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 Vendor 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 Vendor, or keep and maintain public records required by the County to perform the service. If the Vendor transfers all public records to the County upon completion of the contract, the Vendor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Vendor keeps and maintains public records upon completion of the contract, the Vendor 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 Vendor 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 Vendor has questions regarding the application of Chapter 119, Florida Statutes, to the Vendor'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:** Vendor shall give all notices required of it by law and shall comply with all Federal, State and local laws, ordinances, rules and regulations governing Vendor's performance of this Contract and the preservation of public health and safety. Upon request by the County, Vendor shall provide proof of such compliance to the County.

**Illegal Alien Labor:** Vendor 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. Vendor 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 Vendor that the subcontractor is in compliance with such laws. Vendor 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. Vendor 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 vendor 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 vendor, 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 vendor 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., Vendor and its subcontractors shall, register with and use the E-Verify system to verify work authorization status of all employees.

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

The County, Vendor, 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 Vendor otherwise complied, shall promptly notify Vendor and Vendor 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. Vendor acknowledges that upon termination of this agreement by the County for a violation of this section by Vendor, Vendor may not be awarded a public contract for at least one (1) year. Vendor further acknowledges that Vendor 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. Vendor 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. Vendor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

16. Scrutinized Companies

Vendor must certify that the company is not participating in a boycott of Israel.

Vendor must also certify that Vendor 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 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 any scrutinized company referred to above.

Vendor must submit the certification attached to this contract. Submitting a false certification shall be deemed a material breach of contract. The County shall provide notice, in writing, to the Vendor of the County's determination concerning the false certification. The Vendor shall have five (5) days from receipt of notice to

refute the false certification allegation. If such false certification is discovered during the active contract term, the Vendor 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 Vendor 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.

17. Warranty

The Vendor shall fully warrant all workmanship and material, in the performance of the obligations under this contract, for a period of one (1) year after completion of the work. The warranty period begins at the date of final payment for the project. The Vendor shall expeditiously repair and remedy any defects in the construction that are discovered within one (1) year, without cost or charge to the County. In the event the Vendor fails, within five days after notice, to begin correction of the defect, or fails within a reasonable time thereafter to complete the repair or remedy, the County may have the work done at the Vendor's expense or may proceed against the Vendor's Public Construction Bond.

18. Insurance

During the term of this Contract, Vendor 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.

19. Bonds

Vendor 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 Vendor to loss of time from the allowable construction period equal to the time of delay in furnishing the required bonds.

20. Hold Harmless and Indemnification

To the extent provided by law, the Vendor 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 Vendor 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 Vendor 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 Vendor 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 Vendor 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 Vendor'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.

21. Duty to Pay Defense Costs and Expenses

The Vendor 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 Vendor'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 Vendor 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.

22. 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: Scott Chandler  
840 W. 11th Street  
Panama City, FL 32401

For the Vendor:

The Vendor 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 Vendor's notification of address change is sufficient if sent by email or facsimile.

23. Assignment

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

24. Successors and Assigns.

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

25. 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.

26. No Waiver

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

27. 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 Vendor, 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.

28. 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 vendor at the time of termination may be adjusted to cover any additional costs to the local government because of the vendor'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 vendor 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 vendor 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 vendor 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 vendor in performing this contract, whether completed or in process.

Failure of the Vendor 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 Vendor to be non-responsible for bidding or proposing on future contracts for one year from the date the County notifies the Vendor of such non-compliance.

29. 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.

30. 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.

31. 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 \_\_\_\_\_, 2025.

Executed by:

**BOARD OF COUNTY COMMISSIONERS  
BAY COUNTY FLORIDA**

By: \_\_\_\_\_  
Douglas Moore, Chairman

Attest:

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

Approved as to form

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

**VENDOR**

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

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

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

This Contract was acknowledged and subscribed before me the undersigned notary this \_\_\_\_\_ day of \_\_\_\_\_, 2025, 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. Pay Item Notes
3. Specifications Package
4. Construction Plans
5. Contractor's Response to ITB 25-27
6. Insurance Requirements
7. Public Construction Bond