

CONTRACT FOR HENRY SMITH ROAD IMPROVEMENT PROJECT

THIS CONTRACT FOR HENRY SMITH ROAD IMPROVEMENT PROJECT (hereinafter “Contract”) is made by and between the **Nassau County Board of County Commissioners** (hereinafter “Owner” or “County”) and **CGC, Inc.** (hereinafter “Contractor”)(hereinafter collectively “Parties”) and in consideration of the mutual covenants hereinafter set forth, the Parties hereby agree as follows:

ARTICLE 1 - CONTRACT DOCUMENTS.

1.01 The Contract Documents which comprise the entire agreement between the Owner and the Contractor concerning the Project as described below shall consist of the following:

- A.** This Contract and any exhibits to this Contract;
- B.** The Invitation to Bid including, Addenda 1, 2 and 3, the Contractor’s Bid Response and the As-Built Requirement Checklist and Road Closure Policy, attached hereto and incorporated herein as Exhibit “A”;
- C.** Title VI- Appendices A and E, attached hereto and incorporated herein as Exhibit “B”; and
- D.** The following documents which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - 1.** Payment Bond
 - 2.** Performance Bond
 - 3.** Notice to Proceed
 - 4.** Work Change Directives
 - 5.** Change Orders
 - 6.** Certificate of Substantial Completion
 - 7.** Certificate of Final Inspection
 - 8.** Certificate of Engineer
 - 9.** Certificate of Final Completion
 - 10.** Contractor's release of Performance Bond
 - 11.** Construction Drawings and plans/As-Built Drawings
 - 12.** Contractor's Waiver of Lien (Partial)
 - 13.** Contractor's Waiver of Lien (Final and Complete)
 - 14.** Subcontractor/Contractor's Waiver of Lien (Final and Complete)
 - 15.** Consent of Surety to Final Payment
 - 16.** Contractor's Insurance Requirements, as set forth in the Bid Documents

1.02 The Contract Documents listed above are incorporated herein by this reference and made a part hereof.

1.03 There are no Contract Documents other than those listed in this Article 1.

1.04 The Contract Documents may only be amended, modified or supplemented in writing as provided in Article 3 of the Standard General Conditions as set forth in the Invitation to

Bid.

- 1.05 All the above-referenced Contract Documents are intended to be consistent with each other. Any ambiguity, conflict or inconsistency between the documents comprising the Contract Document shall be resolved according to the following order of precedence:
 1. This Contract.
 2. The Invitation to Bid.
 3. Any additional Contract Documents not already referenced.

ARTICLE 2 - THE PROJECT.

2.01 The Project for which the Work under the Contract Documents is generally described as follows:

Milling and resurfacing of Henry Smith Road from CR 108 to SR 15 New Kings Road. The work to be performed is generally described as milling and resurfacing and corridor improvements. All Work shall be in accordance with the construction drawings, specifications, and Contract Documents. Where FDOT and County requirements differ, the more stringent shall apply.

ARTICLE 3 - WORK.

3.01 Contractor shall complete all Work as specified in the Contract Documents for the Project in accordance with the construction drawings, specifications as contained in the Contract Documents.

ARTICLE 4 –ENGINEER OF RECORD.

4.01 The Project has been designed by Peters and Yaffee, Inc. who is to assume all duties and responsibilities and have the rights and authority assigned to Engineer of Record in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents. The Managing Authority for this Project shall be Nassau County Engineer Robert Companion, P.E., or his authorized designee.

ARTICLE 5 - CONTRACT TIMES.

5.01 Time of the Essence.

- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.
- B. The Contractor hereby agrees to commence work under this Contract on a date to be specified in the written Notice to Proceed issued by the Owner and to fully complete the Project as specified in Section 5.02 of this Contract.
- C. Under no condition shall a written Notice to Proceed be issued until Contractor has

provided the Payment and Performance Bonds required in Article 1 of this Contract.

5.02 Days to Achieve Substantial Completion and Final Payment.

The Work will be substantially completed within **120 calendar days** from the Commencement Date. The Work shall be fully completed and deemed ready by the County for final completion within **20 calendar days** from the Substantial Completion Date. The Total Contract Time shall be the time period from the Commencement Date to the date of the Final Completion totaling **140 calendar days** (herein "Contract Time").

5.03 Liquidated Damages.

Contractor and the County recognize that time is of the essence of this Contract and that the County shall suffer financial loss if the Work is not completed within the times specified in Section 5.02 above, plus any extensions thereof allowed in accordance with Article 12 of the Standard General Conditions as set forth in the Invitation to Bid. The Parties also recognize the delays, expense, and difficulties involved in proving in legal or arbitration proceeding the actual loss suffered by the County if the Work is not completed on time. Accordingly, instead of requiring any such proof, the County and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay the County **\$1,000.00** for each day that expires after the time specified in Section 5.02 above for Substantial Completion and until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by the County, Contractor shall pay the County **\$500.00** for each day that expires after the time specified in Section 5.02 above for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 6 - CONTRACT PRICE.

6.01 The County shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Article 14 of the Standard General Conditions as set forth in the Invitation to Bid and the following:

- A.** For all Work, at the prices stated in the Contractor's Bid Response, attached hereto as an exhibit.
- B.** For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated in Contractor's Bid Response (attached hereto as an exhibit) for a Total of All Unit Prices of:

Two Million Three Hundred Thirty -Four Thousand, Eight Hundred Seventy-One Dollars and Thirty-Five Cents (\$2,334,871.35).

- C.** Estimated quantities are not guaranteed, and determinations of actual quantities

and classification are to be made by Engineer of Record as provided in Article 9 of the Standard General Conditions as set forth in the Invitation to Bid. The final payment for all Unit Price Work shall be an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the actual completed and accepted quantity of each item. Unit prices have been computed as provided in the Standard General Conditions as set forth in the Invitation to Bid.

ARTICLE 7 - PAYMENT PROCEDURES.

7.01 Submittal and Processing of Payments.

- A. Contractor shall submit Applications for Payment in accordance with Article 14 of the Standard General Conditions as set forth in the Invitation to Bid. Applications for Payment shall be processed by the County as provided in the Standard General Conditions as set forth in the Invitation to Bid and pursuant to provisions of Chapter 218, Florida Statutes, Florida Prompt Payment Act and Fla. Stat. Sect. 255.078.

7.02 Progress Payments; Retainage.

7.02.1 The County shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment once each month during performance of the Work as provided in Sections 7.02.2 and 7.02.3 below. All such payments shall be measured by the schedule of values established as provided in Article 14 of the Standard General Conditions as set forth in the Invitation to Bid (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the Standard General Conditions as set forth in the Invitation to Bid.

7.02.2 Prior to Substantial Completion progress payments shall be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as Engineer of Record may determine or the County may withhold, including but not limited to liquidated damages, in accordance with Article 14 of the Standard General Conditions as set forth in the Invitation to Bid.

95% percent of the Work completed (with the balance being retainage)

95% percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

7.02.3 Upon Substantial Completion the County shall pay an amount sufficient to increase total payments to Contractor to 95% percent of the Contract Price (with the balance being retainage), less such amounts as Engineer of Record shall determine or the County may withhold, for incomplete work and for other items in accordance with Article 14 of the Standard General Conditions as set forth in the Invitation to Bid.

7.03 Final Payment.

7.03.1 Upon final completion and acceptance of the Work in accordance with Article 14 of the Standard General Conditions as set forth in the Invitation to Bid, the County shall pay the remainder of the Contract Price as recommended by Engineer of Record as provided in said Article 14 of the Standard General Conditions as set forth in the Invitation to Bid.

7.03.2 Final Release of Retainage and acceptance of the project must be approved by the Board of County Commissioners.

ARTICLE 8 – INTEREST.

8.01 All moneys not paid when due as provided in Article 14 of the Standard General Conditions as set forth in the Invitation to Bid shall bear interest at the rate of 0 percent per annum.

ARTICLE 9 - CONTRACTOR'S REPRESENTATIONS.

9.01 In order to induce the County to enter into this Contract, Contractor makes the following representations:

- A. Contractor is or has been prequalified by FDOT for the Work required by this Contract.
- B. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Contract Documents.
- C. Contractor has visited the Site and has become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- D. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
- E. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in Article 4 of the Standard General Conditions as set forth in the Invitation to Bid and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been identified in the Supplementary Conditions as provided in Article 4 of the Standard General Conditions as set forth in the Invitation to Bid.
- F. Contractor has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost,

- progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including applying the specific means, methods, techniques, sequences, and procedures of construction, if any, expressly required by the Bidding Documents, and safety precautions and programs incident thereto.
- G. Contractor does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
 - H. Contractor is aware of the general nature of work to be performed by the County and others at the Site that relates to the Work as indicated in the Contract Documents.
 - I. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
 - J. Contractor has given /Engineer of Record written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer of Record is acceptable to Contractor.
 - K. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance of the Work for the Project.
 - L. Pursuant to Section 255.099, Florida Statutes, Contractor agrees to give preference to the employment of Florida State residents in the performance of the Work on this Project if the Florida State residents have substantially equal qualifications to those of nonresidents. As used in this section, the term “substantially equal qualifications” means the qualifications of two or more persons among whom the employer cannot make a reasonable determination that the qualifications held by one person are better suited for the position than the qualifications held by the other person or persons. A Contractor required to employ Florida State residents must contact the Agency for Workforce Innovation to post the Contractor’s employment needs in the Florida State job bank system.

ARTICLE 10 – MISCELLANEOUS.

10.01 Terms. The terms in this Contract shall have the meanings indicated in the Standard General Conditions and the Supplementary Conditions as set forth in the Invitation to Bid.

10.02 Assignment of Contract. No assignment by a party hereto of any rights under or interests in the Contract shall be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and

moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment shall release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 Successors and Assigns. The County and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, in respect to all covenants, agreements and obligations in the Contract Documents.

10.04 Severability. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the County and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 Effective Date. This Contract shall be effective on the date on which the Contract is signed and delivered by the last of the two parties to sign and deliver (which is the Effective Date of the Contract).

10.06 Governing Law and Venue. This Contract shall be interpreted and construed in accordance with the laws of the State of Florida with Venue for any action brought in Nassau County, Florida.

10.07 Public Records. The Owner is a public agency subject to Chapter 119, Florida Statutes. **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 (904) 530-6090, RECORDS@NASSAUCOUNTYFL.COM, 96135 NASSAU PLACE, SUITE 6, YULEE, FLORIDA 32097.** Under this Contract, to the extent that the Contractor is providing services to the Owner, and pursuant to Section 119.0701, Florida Statutes, the Contractor shall:

- A. Keep and maintain public records required by the Owner to perform the service.
- B. Upon request from the Owner's custodian of public records, provide the Owner 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 this chapter or as otherwise provided by law.
- C. 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 Owner.
- D. Upon completion of the Contract, transfer, at no cost, to the Owner all public records in possession of the Contractor or keep and maintain public records required by the Owner to perform the service. If the Contractor transfers all public records to the Owner 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 Owner, upon request from the Owner's custodian of public records, in a format that is compatible with the information technology systems of the Owner.

E. A request to inspect or copy public records relating to the Owner's Contract shall be made directly to the Owner's Custodian of Public Records. If the Owner does not possess the requested records, the Owner shall immediately notify the Contractor of the request for records and the Contractor shall provide the records to the Owner or allow the records to be inspected or copied within a reasonable time. If the Contractor does not comply with the Owner's request for records, the Owner shall enforce the Contract provisions in accordance with the Contract. If the Contractor which fails to provide public records to the Owner County within a reasonable time may also be subject to penalties as provided under Section 119.10, Florida Statutes.

F. If a civil action is filed against the Contractor to compel production of public records relating to the Contract, the Court shall assess and award against the Contractor the reasonable costs of enforcement, including reasonable attorney fees if:

- (1)** The Court determines that the Contractor unlawfully refused to comply with the public records request within a reasonable time; and
- (2)** At least eight (8) business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that the Contractor has not complied with the request, to the Owner and to the Contractor.
- (3)** A notice complies with this Section, if it is sent to the Owner's custodian of public records and to the Contractor at the Contractor's address listed on its Contract with the Owner or to the Contractor's registered agent.
- (4)** If the Contractor complies with a public records request within eight (8) business days after the notice is sent, the Contractor is not liable for the reasonable costs of enforcement.

H. In reference to any public records requested under this Contract, the Contractor shall identify and mark specifically any information which the Contractor considers confidential and/or proprietary, inclusive of trade secrets as defined in Section 812.081, Florida Statutes, and which the Contractor believes to be exempt from disclosure, citing specifically the applicable exempting law and including a brief written explanation as to why the cited Statute is applicable to the information claimed as confidential and/or proprietary information. All materials shall be segregated and clearly identified as "EXEMPT FROM PUBLIC DISCLOSURE."

I. In conjunction with the confidential and/or proprietary information designation, the Contractor acknowledges and agrees that after notice from County, the Contractor shall respond to a notice from the County immediately, but no later than 10 calendar days from the date of notification or the Contractor shall be deemed to have waived and consented to the release of the confidential and/or proprietary designated materials.

J. The Contractor further agrees that by designation of the confidential/proprietary material, the Contractor shall defend the County (and its employees, agents and elected and appointed officials) against all claims and actions (whether or not a lawsuit is commenced) related to the Contractor's designation of the material as exempt from public disclosure and to hold harmless the County (and its employees, agents and elected and appointed officials) from any award to a plaintiff for damages, costs and attorneys' fees, incurred by the County by reason of any claim or action related to the Contractor's designation of material as exempt from public disclosure.

ARTICLE 11 – INDEMNIFICATION.

11.01 To the extent allowed by Section 725.06, Florida Statutes, the Contractor shall indemnify and hold harmless the County and its officers and employees from liabilities, damages, losses, and costs, including but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Contractor and other persons employed or utilized by the Contractor, in the performance of the Contract. It is the specific intent of the Parties hereto that the foregoing indemnification complies with Section 725.06, Florida Statutes, as amended. Contractor expressly agrees that it will not claim, and waives any claim, that this indemnification violates Section 725.06, Florida Statutes, as amended. Nothing contained in the foregoing indemnification shall be construed as a waiver of any immunity or limitation of liability the County may have under the doctrine of sovereign immunity or Section 768.28, Florida Statutes. Nothing herein shall be construed as consent by County to be sued by third parties in any matter arising out of any contract. The obligations contained in this provision shall survive termination of this Contract and shall not be limited by the amount of any insurance required to be obtained or maintained under this Contract.

ARTICLE 12- EMPLOYMENT ELIGIBILITY.

12.01 Contractor must comply with Section 448.095, Florida Statutes, and use the United States Department of Homeland Security's E-Verify system ("E-Verify") to verify the employment eligibility of all persons hired by Contractor during the term of this Agreement to work in Florida. Additionally, if Contractor uses subcontractors to perform any portion of the Work (under this Agreement), Contractor must include a requirement in the subcontractor's contract that the subcontractor use E-Verify to verify the employment eligibility of all persons hired by subcontractor to perform any such portion of the Work. Contractor must include a requirement in the subcontractor's contract that the subcontractor use E-Verify to verify the employment eligibility of all persons hired by subcontractor to perform any such portion of the work. Answers to questions regarding E-Verify as well as instructions on enrollment may be found at the E-Verify website: www.uscis.gov/e-verify.

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IN WITNESS WHEREOF, the County and Contractor have signed this Contract in triplicate. One counterpart each has been delivered to the County, Contractor, and Engineer of Record. All portions of the Contract Documents have been signed or identified by the County and Contractor or identified by Engineer of Record on their behalf.

**BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA**

CGC, INC.

By: John F. Martin
Its: Chair (or designee)
Date: 7/22/2024

Richard C. Gaskin Jr.

By: Richard C. Gaskin Jr.
Its: President
Date: 6/28/2024
Address: 7036 12th Street W.
Jacksonville, FL, 32220

ATTEST TO CHAIR'S SIGNATURE

Approved as to form by County Attorney

John A. Crawford, Ex-Officio Clerk

Date: 7/22/2024

Denise C. May, County Attorney

Date: 7/22/2024