

AGREEMENT

THIS AGREEMENT is dated as of the _____ day of _____ in the year 2017, by and between the Nassau County Board of County Commissioners (Owner) and Pars Construction Services, LLC located at 7643 Gate Parkway, Suite 104-82, Jacksonville, FL 32256 (Contractor).

Owner and Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 - WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

This project consists of leveling and overlay of pavement on Thomas Creek Road from US301 to the Duval County line in Nassau County, Florida. The work to be performed is generally described as resurfacing of a two lane rural road and includes:

- Performing embankment work on shoulders to match pavement profile.
- Constructing an asphalt base.
- Milling pavement at joints with existing pavement.
- Leveling the existing asphalt.
- Overlay of existing asphalt pavement.
- Traffic maintenance and protection.
- Pavement markings.
- Placing performance turf (Sod and Hydroseed).

All work shall be in accordance with the construction drawings, specifications, and contract documents. **BIDDERS MUST BE FDOT PRE-QUALIFIED FOR ALL WORK REQUIRED FOR THIS PROJECT.**

ARTICLE 2 - THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

Thomas Creek Road Resurfacing Project (US301 to Duval County Line)
Bid Number NC17-002
Nassau County, Florida

ARTICLE 3 - ENGINEER OF RECORD

- 3.01** The managing authority for this project shall be the Nassau County Public Works Director, J. Scott Herring, P.E. or his authorized designee.

ARTICLE 4 - CONTRACT TIMES

4.01 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 written "Notice to Proceed" of the County and to fully complete the project as specified in Section 4.02 of this Agreement.

4.02 Days to Achieve Substantial Completion and Final Payment

The Work will be substantially completed within 45 days after the date when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within 45 calendar days from the date of substantial completion. Total contract time shall be 90 calendar days; for everyday the work goes beyond substantial completion, a day will be removed from final completion so the total days equal 90 calendar days.

4.03 Liquidated Damages

- A. Contractor and the County recognize that time is of the essence of this Agreement and that the County will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. 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 Paragraph 4.02 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 Paragraph 4.02 for

completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5 - CONTRACT PRICE

5.01 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 Paragraph 25 "Payments to Contractor" of the General Conditions and Paragraphs 5.01A and 5.01 B below:

- A. For all Work, at the prices stated in the Contractor's Bid, 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 (attached hereto as an exhibit) for a Total of All Unit Prices of:

Seven hundred ninety-one thousand eight hundred two dollars and ninety-six cents
(\$791,802.96)

As provided in Paragraph 11.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classification are to be made by Engineer of Record as provided in paragraph 9.07 of the General Conditions. 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 Paragraph 11.03 of the General Conditions.

ARTICLE 6 - PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

- A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by the County as provided in the General Conditions.

6.02 Progress Payments; Retainage

- A. 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 Paragraphs 6.02.A.1 and 6.02.A.2 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions (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 General Requirements:

1. Prior to Substantial Completion, progress payments will 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 Paragraph 14.02 of the General Conditions:
 - a. 90% percent of the Work completed (with the balance being retainage)
 - b. 90% percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
2. 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 Paragraph 14.02 of the General Conditions.

6.03 Final Payment

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions, the County shall pay the remainder of the Contract Price as recommended by Engineer of Record as provided in said Paragraph 14.07.
- B. Final Release of Retainage and acceptance of the project must be approved by the Board of County Commissioners.

ARTICLE 7 - INTEREST

- 7.01** All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of 0 percent per annum.

ARTICLE 8 - CONTRACTOR'S REPRESENTATIONS

- 8.01** In order to induce the County to enter into this Agreement Contractor makes the following representations:
- A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

- B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. 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.
- D. 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 Paragraph 4.02 of the General Conditions 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 Paragraph 4.06 of the General Conditions.
- E. 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.
- F. 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.
- G. 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.
- H. 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.
- I. 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.

- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance of the Work.

ARTICLE 9 - CONTRACT DOCUMENTS

9.01 Contents

- A. The Contract Documents consist of the following:

1. This Agreement
2. Project Manual (enumerated as follows):
 - a. Project Manual table of contents
 - b. General Conditions
 - c. Supplementary Conditions
 - d. Technical Specifications
 - e. Appendixes
 - f. Addenda, if any
3. Exhibits to this Agreement (enumerated as follows):
 - a. General Information and Minimum Insurance Requirements
 - b. Contractor's Bid
4. Documentation submitted by Contractor prior to Notice of Award
5. Drawing index, if any
6. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Payment Bond
 - b. Performance Bond
 - c. Certificate of Liability Insurance
 - c. Notice to Proceed
 - d. Work Change Directives
 - e. Change Orders
 - f. Certificate of Substantial Completion
 - g. Certificate of Final Inspection
 - h. Certificate of Engineer
 - i. Certificate of Final Completion
 - j. CONTRACTOR'S release of Performance Bond
 - k. Construction Drawings and plans/ As-Built Drawings
 - l. Supplemental Agreements
 - m. CONTRACTOR'S Waiver of Lien (Partial)
 - n. CONTRACTOR'S Waiver of Lien (Final and Complete)
 - o. Subcontractor/Vendor's Waiver of Lien (Final and Complete)

- p. Consent of Surety to Final Payment
 - q. Contractor's Insurance Requirements, as set forth in the Bid Documents
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- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
 - C. There are no Contract Documents other than those listed above in this Article 9.
 - D. The Contract Documents may only be amended, modified, or supplemented as provided in paragraph 3.04 of the General Conditions.

ARTICLE 10 - MISCELLANEOUS

10.01 Terms

- A. Terms used in this Agreement will have the meanings indicated in the General Conditions and the Supplementary Conditions.

10.02 Assignment of Contract

- A. No assignment by a party hereto of any rights under or interests in the Contract will 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 will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 Successors and Assigns

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

10.04 Severability

- A. 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 Other Provisions

- A. The County entered into a Small County Road Assistance Program (SCRAP) with the State of Florida, Department of Transportation (Department), Financial Project No. 432604-1-54-01, dated April 11, 2016 to provide funds for this project. Contractor, identified as a subcontractor under said agreement, agrees to be bound by the requirements of the FDOT-SCRAP agreement, incorporate by reference as if set forth herein.
- B. Pursuant to the requirements of the FDOT-SCRAP agreement, referenced above, Contractor agrees to utilize the U.S. Department of Homeland Security's E-Verify system, in accordance with the terms governing use of the system, to confirm the employment eligibility of all persons employed by the Contractor during the term of the contract to perform employment duties within Florida and all persons, including subcontractors, assigned by the Contractor to perform work pursuant to the Contract with the Department.
- C. **Florida Statute 255.099 (Preference to State residents)**
 - 1. Contractor agrees to give PREFERENCE to the employment of STATE residents in the performance of the work on the project if STATE residents have substantially equal qualifications to those of nonresidents.
 - a) 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.
 - b) A contractor required to employ STATE residents must contact the Agency for Workforce Innovation to post the contractor's employment needs in the STATE's job bank system
- D. **Public Records Requirement:**

The County 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) 530-6250, DMOODY@NASSAUCOUNTYFL.COM, 96161 NASSAU PLACE, YULEE, FLORIDA 32097. Under this agreement, to the extent that the contractor is

providing services to the County, and pursuant to Section 119.0701, Florida Statutes, the contractor shall;

1. Keep and maintain public records required by the public agency to perform the service.
2. Upon request from the public agency's custodian of public records, provide the public agency 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.
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 public agency.
4. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency 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 public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency

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IN WITNESS WHEREOF, the County and Contractor have signed this Agreement 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.

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

OWNER

Nassau County Board of County Commissioners

Signed: _____

Title: _____

Date: _____

[CORPORATE SEAL]

Attest: _____

Title: _____

Address for giving notices:

Phone: _____ FAX: _____

CONTRACTOR

Pars Construction Services, LLC

Signed: _____

Title: _____

Date: _____

[CORPORATE SEAL]

Attest: _____

Title: _____

Address for giving notices:

Phone: _____ FAX: _____

License _____

(Where applicable)

Approved as to form by County Attorney

Agent for service of process:

Signature

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Owner-Contractor Agreement.)

(If Contractor is a corporation or a partnership, attach evidence of authority to sign.)