

APPENDIX A

PURCHASE OF SUPPLIES CONTRACT

In consideration of the covenants herein below set forth, **XXXXXXXXXXXX**, hereinafter referred to as "Contractor" and **MORROW COUNTY**, a political subdivision of the State of Oregon, acting by and through its Board of Commissioners, hereinafter referred to as "County," mutually contract as follows:

1. Effective Date and Duration. This contract shall become effective upon full execution of this contract through September 30th, 2024. Unless earlier terminated or extended, this Contract shall expire on September 30th, 2024. Expiration shall not extinguish or prejudice County's right to enforce this Contract with respect to any breach of a Contractor warranty; or any default or defect in Contractor performance that has not been cured.
2. Contractor agrees and covenants with County that it will deliver and apply approved hot mix asphalt, and shape roads as defined in the Invitation To Bid for safe and adequate travel as requested by County as set forth in Contractor's Bid, which is attached hereto (Attachment 1), and by this reference incorporated herein. Contractor agrees and covenants with County that Contractor shall perform this Contract in a faithful and workmanlike manner as may be required by the Board of Commissioners, or their designated agent, the County Public Works Director, in accordance with the terms set forth in the provisions of the Invitation to Bid, the "Instructions To Proposers," which are incorporated herein, and in accordance with the Invitation To Bid which is attached hereto (Attachment 2). **All the said Bid and this Contract** constitute the Contract documents.
3. Any conflict or difference between the Contract documents shall be called to the attention, first of the County Public Works Director and if a satisfactory solution is not reached, then to the Board of County Commissioners by Contractor before proceeding with work affected thereby. In case of any conflict or any discrepancy within the Contract documents, the specific provisions of this Contract shall have priority over all others.
4. Contractor hereby sells and agrees to deliver, and County buys and agrees to receive and pay for the products of the kind required by the Specifications in quantities specified from time to time by the County Assistant Road Master.
5. Termination of Contract
 - a. Parties Right to Terminate for Convenience. This Contract may be terminated at any time by mutual written consent of the parties.
 - b. County's rights to Terminate for Convenience. County may, at its sole discretion, terminate this Contract, in whole or in part upon 30 days' notice to Contractor.

- c. County's Right to Terminate for Cause. County may terminate this Contract, in whole or in part, immediately upon notice to Contractor, or at such later date as County may establish in such notice, upon the occurrence of any of the following conditions: (i) County fails to receive funding, or appropriations, limitations or other expenditures authority at levels sufficient to pay for contractor's work, (ii) federal or state laws, regulation or guidelines are modified, or interpreted in such a way that either the Work under this Contract is prohibited or County is prohibited from paying for such work for the planned funding source; (iii) contractor no longer holds any license or certificate that is required to perform the work; or (iv) contractor commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, fails to perform the work under this contract within the time specified herein or any extension thereof, or so fails to pursue the work as to endanger contractor's performance under this contract in accordance with its terms, and such breach, default or failure is not cured within 10 business days after delivery of County's notice, or such longer period as County may specify in such notice.
- d. Contractor's right to terminate for cause. Contractor may terminate this Contract upon 30 days' notice to County if County fails to pay contractor pursuant to the terms of this contract and County fails to cure within 30 business days after receipt of Contractor's notice, or such longer period of cure as Contractor may specify in such notice.

6. Extension of Contract

- a. Contract may be extended by mutual agreement between the parties up to 9 months after expiration of the current contract expiration date. Price increases or decreases may be allowed with mutual agreement of both parties.

- 7. Contractor agrees that County has the option to purchase more or less than the quantity specified in the bid; and that County shall not be liable or responsible for any payment for additional work or cost unless its Board of County Commissioners specifically assumes in writing such responsibility and liability on and by itself.
- 8. Contractor agrees to make all the provisions of this Contract applicable to any subcontractor performing hereunder.
- 9. Contractor agrees to not assign this Contract without the proposed assignee being fully, specifically approved and accepted in writing by County.
- 10. Additional Documents: The terms, conditions, definitions, and requirements of the 2024 Invitation to Bid – Paving Prep, Haul and place hot mix asphalt (Attachment 1), are incorporated into this contract.
- 11. Contractor agrees that its performance under this Contract is at its own sole risk and that it shall indemnify County, its agents and employees, against and hold them harmless from any and all liability for damages, costs, losses and expenses resulting from, arising out of or in any way connected with Contractor's failure to perform fully hereunder, and Contractor further agrees to defend, indemnify and hold harmless Morrow County, its agents and employees, against all suits, actions or proceedings brought by any third party against them for which Contractor would be liable.

12. The laws of the State of Oregon shall govern in any action, claim, or suit on this Contract. The place of venue for any claim, suit, or action shall be Morrow County. Each party shall be responsible for that party's attorney fees, costs and disbursements at all times, including appeals.

13. Contractor shall maintain all fiscal records relating to this Contract in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records pertinent to this Contract in such a manner as to clearly document Contractor's performance hereunder. Contractor acknowledges and agrees that County, the Oregon Secretary of State's Office, the Federal Government, and their duly authorized representatives shall have access to such fiscal records and all other documents that are pertinent to this Contract for the purpose of performing audits and examinations and making transcripts and excerpts. All such fiscal records and documents shall be retained by Contractor for a minimum of three (3) years (except as required longer by law) following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.

14. Insurance. The contractor shall provide insurance as stated in Attachment 3 of this Contract.

IN WITNESS WHEREOF, the parties hereto have executed this Contract.

(CONTRACTOR)

MORROW COUNTY BOARD OF COMMISSIONERS

David Sykes, Commissioner Chair

Jeff Wenzholz, Commissioner

representative

Roy Drago Jr., Commissioner

Date

Date

