

**CONSTRUCTION  
AGREEMENT**

WAKULLA COUNTY, a political subdivision of the State of Florida, by and through its Board of County Commissioners, situated at 3093 Crawfordville Highway, Crawfordville, Florida 32327 (the "County"), hereby contracts with **C. W. Roberts Contracting, Incorporated** (the "Contractor") of **3372 Capital Circle NE, Tallahassee, FL 32308** (address) a **Road Paving** contractor licensed to perform all work in the State of Florida in connection with the County's Project No. **Wakulla County Road Paving** (the "Project"), as said work is set forth in the Plans and Specifications included in the Invitation To Bid No. 2009-020 and other Contract Documents hereafter specified (the "Work").

The County and the Contractor, for the consideration herein set forth, agree as follows:

Section 1. Contract Documents.

A. The Contract Documents consist of this Agreement, the Exhibits described in Section 6 hereof, the Legal Advertisement, the Contractor's Proposal and any duly executed and issued addenda, Change Orders, Work Directive Changes, Field Orders, Work Authorizations and amendments relating thereto. All of the foregoing Contract Documents are incorporated by reference and made a part of this Agreement (all of said documents including the Agreement sometimes being referred to herein as the "Contract Documents" and sometimes as the "Agreement"). A copy of the Contract Documents shall be maintained by Contractor at the Project site at all times during the performance of the Work.

B. The County shall furnish to the Contractor up to five (5) sets of the Contract Documents as are reasonably necessary for execution of the Work. Additional copies of the Contract Documents shall be furnished, upon request, at the cost of reproduction.

Section 2. Scope of Work.

The Contractor agrees to furnish and pay for all management, supervision, financing, labor, materials, tools, fuel, supplies, utilities, equipment and services of every kind and type necessary to diligently, timely, and fully perform and complete in a good and workmanlike manner the work required by this Agreement.

Please refer to Scope of Work in Invitation to Bid Document for details.

Section 3. Contract Amount.

In consideration of the faithful performance by the Contractor of the covenants in this Agreement to the full satisfaction and acceptance of the County, the County agrees to pay, or cause to be paid, to Contractor the following amount (herein "Contract Amount"), in accordance with the terms of this Agreement: \$ 643,000 or in WORDS Six hundred forty-three thousand and no/100s dollars .

#### Section 4. Bonds.

A. The Contractor shall provide Performance and Payment Bonds, in the form prescribed in the Contract Documents, in the amount of 100% of the Contract Amount, the costs of which are to be paid by Contractor. The Performance and Payment Bonds shall be underwritten by a surety authorized to do business in the State of Florida and otherwise acceptable to the County; provided, however, the surety shall be rated as "A-" or better as to general policy holders rating and Class V or higher rating as to financial size category and the amount required shall not exceed 5% of the reported policy holders surplus, all as reported in the most current Best Key Rating Guide, published by A.M. Best Company, Inc. of 75 Fulton Street, New York, New York 10038.

B. If the surety for any bond furnished by Contractor is declared bankrupt, becomes insolvent, its right to do business is terminated in the State of Florida, or it ceases to meet the requirements imposed by the Contract Documents, the Contractor shall, within five (5) calendar days thereafter, substitute another bond and surety, both of which shall be subject to the County's approval.

#### Section 5. Contract Time and Liquidated Damages

A. This Agreement shall be for a period of two years from the date of execution ("Contract Time"). This Agreement may be extended for an additional one (1) year period upon mutual agreement of the County and the Contractors.

B. Time is of the essence in the performance of the Work under this Agreement. The "Commencement Date" shall be established in the Notice to Proceed to be issued by the County. The Contractor shall commence the Work within five (5) calendar days from the Commencement Date. No Work shall be performed at the Project site prior to the Commencement Date. Any Work performed by the Contractor prior to the Commencement Date shall be at the sole risk of the Contractor. The Work shall be substantially completed within **14** calendar days from the Commencement Date. The date of substantial completion of the Work (or designated portions thereof) is the date certified by the Project Manager when construction is sufficiently complete, in accordance with the Contract Documents, so the County can occupy or utilize the Work (or designated portions thereof) for the use for which it is intended. The Work shall be fully completed and ready for final acceptance by the County within **60** calendar days from the Commencement Date.

C. The County and the Contractor recognize that, since time is of the essence for this Agreement, the County will suffer financial loss if the Work is not substantially completed within the time specified above, as said time may be adjusted as provided for herein. Should the Contractor fail to substantially complete the Work within the time period noted above, the County shall be entitled to assess, as liquidated damages, but not as a penalty, \$500.00 for each calendar day thereafter until substantial completion is achieved. The Project shall be deemed to be substantially completed on the date the Project Manager issues a Substantial Completion Certificate pursuant to the terms hereof. The Contractor hereby expressly waives and relinquishes any right which it may have to seek to characterize the above noted liquidated damages as a penalty, which the parties agree represents a fair and reasonable estimate of the

County's actual damages at the time of contracting if the Contractor fails to substantially complete the Work in a timely manner.

D. When any period of time is referenced by days herein, it shall be computed to exclude the first day and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day shall be omitted from the computation, and the last day shall become the next succeeding day which is not a Saturday, Sunday or legal holiday.

Section 6. Exhibits Incorporated.

The following documents are expressly agreed to be incorporated by reference and made a part of this Agreement:

- A. Legal Advertisement
- B. Invitation to Bid No. 2009-021, including the Specifications
- C. Bidder's Proposal, including all Attachments
- D. Performance Bond
- E. Public Payment Bond
- F. General Terms and Conditions
- G. Insurance Requirements
- H. Form of Release and Affidavit
- I. Change Order Form
- J. Addenda to ITB

Section 7. Notices.

A. All notices required or made pursuant to this Agreement by the Contractor to the County shall be in writing and delivered by hand or by United States Postal Service Department, first class mail, postage pre-paid, return receipt requested, addressed to the following:

Wakulla County Purchasing Office  
3093 Crawfordville Highway  
Crawfordville, Florida 32327

With a copy to the Project Manager:  
Brent Pell  
ESG, Inc.  
340 Trice Lane  
Crawfordville, Florida 32327

B. All notices required or made pursuant to this Agreement by the County to Contractor shall be made in writing and shall be delivered by hand or by United States Postal Service Department, first class mail, postage pre-paid, return receipt requested, or by Federal Express, addressed to the following:

Corporate Name of Contractor:

C. W. Roberts Contracting, Incorporated

Address (including city, state and zip):

3372 Capital Circle NE

Tallahassee, FL 32308

Name of person with their title to whose attention the notice should be sent:

Ben Lewis

Telephone and Fax numbers:

Tel (850) 385-5060 Fax (850) 385-5605

C. Either party may change its above noted address by giving written notice to the other party in accordance with the requirements of this Section.

Section 8. Modification.

No modification or change to the Agreement shall be valid or binding upon the parties unless in writing and executed by the party or parties intended to be bound by it.

Section 9. Successors and Assigns.

Subject to other provisions hereof, the Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties to the Agreement.

Section 10. Governing Law.

The Agreement shall be interpreted under and its performance governed by the laws of the State of Florida.

Section 11. No Waiver.

The failure of the County to enforce at any time or for any period of time any one or more of the provisions of the Agreement shall not be construed to be and shall not be a waiver of any such provision or provisions or of its right thereafter to enforce each and every such provision.

Section 12. Entire Agreement.

Each of the parties hereto agrees and represents that the Agreement comprises the full and entire agreement between the parties affecting the Work contemplated, and no other agreement or understanding of any nature concerning the same has been entered into or will be recognized, and that all negotiations, acts, work performed, or payments made prior to the execution hereof shall be deemed merged in, integrated and superseded by the Agreement.

Section 13. Severability.

Should any provision of the Agreement be determined by a court to be unenforceable, such a determination shall not affect the validity or enforceability of any other section or part thereof.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date(s) indicated below.

CONTRACTOR: C.W. Roberts Contracting, Incorporated  
(Company Name)

ATTEST:

By: \_\_\_\_\_ (Signature) Charles W. Roberts, III (Printed)  
Its: President (Title) Date: \_\_\_\_\_

Witness:

Its: \_\_\_\_\_  
President/Corporate Secretary/Witness Date: \_\_\_\_\_  
[Corporate Seal]

\_\_\_\_\_  
2nd Witness (if not incorporated)

OWNER: Board of County Commissioners of Wakulla County, Florida

(SEAL)

By: Howard Kessler  
Chairman

Clerk: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Approved as to Form and Content:

\_\_\_\_\_  
County Attorney