

Contract for Construction

Public Works Building – Solar Panel Project

This Contract, dated Tuesday, February 13, 2024, is between the City of Chipley, located at 1442 W Jackson Ave, Chipley, FL 32428 ("City"), and Alternative Energy Services, Inc., located at 1417 Chaffee Drive, Suite #2, Titusville, FL, 32780 ("Contractor").

1. Scope of Work

Work shall be performed in accordance with Exhibit 1 Scope of Work.

The Contractor hereby agrees to provide the following services to the City according to the Invitation to the (ITB) 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 2, to the extent they are not inconsistent with this Agreement.

The project may be reimbursed by grant funds from the Federal Department of Agriculture and Consumer Sciences (FDACS). It is imperative that Respondents examine and become familiar with the requirements outlined Exhibit K - 2 CFR 200 and Special Conditions.

2. Term

This Contract shall commence upon the date of receipt of the "Notice to Proceed" and work shall be completed by August 31, 2024. Should the Contractor fail to complete the work by the specified date, the Owner shall deduct from the Contract Sum the amount of \$250.00 per calendar day as liquidated damages for every day subsequent to the specified date until the work is fully completed and accepted 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 City 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 pay application and written approval of same by the City's Designated Representative indicating that services have been rendered in conformity with this Agreement. The Contractor shall submit payment application to the City Administrator on a monthly basis for those specific services, as described in this Agreement, ITB, and the Contractor's proposal cost, that were satisfactorily completed during that invoicing period.

CONTRACT PRICE: \$88,190.00

4. Payments

Notwithstanding anything to the contrary herein, the City 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 City on a monthly basis. Payment by the City to the Contractor of the statement amount shall be made within twenty (20) days after submittal to the City. Five percent (5%) retainage shall be held by the City until final completion and acceptance of all work under this Contract.

Final Payment - Final payment constituting the unpaid balance of the cost of the Project and the Contractor's fee, shall be due and payable within 45 days after the Project is delivered to the City, finished and ready for beneficial occupancy, or when the City 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 Contractor shall list those items prior to receiving final payment and the City may retain a sum equal to 150% of the estimated cost of

completing any unfinished work and the applicable portion of the Contractor's retainage, provided that said unfinished items are listed separately and estimated cost of completing any unfinished items are likewise listed separately. Thereafter, City shall pay to Contractor, monthly, the amount retained from each incomplete item after each of said items is completed.

Payments to Subcontractors – In accordance with requirements of Davis-Bacon Act, where applicable.

Delayed Payments by City - If the City shall fail to pay the Contractor within 20 days after the receipt of an approved payment request from the Contractor, then the Contractor may, upon fourteen (14) additional days advance written notice to the City, stop the Project until payment of the amount owing has been received, subject to the City's right to cure the default during the notice period, provided that the payment request has been submitted in sufficient detail to comply with the guidelines of the Office of the Clerk. 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 Contractor 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.

5. Independent Contractor

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

6. Contractor's Personnel

Contractor has the exclusive right to hire and terminate its employees and may transfer or reassign any of its employees to other work of the Contractor. The direction of the work of Contractor's employees shall be under the exclusive control of Contractor. If the City objects to the presence or performance of any employee of Contractor, Contractor shall remove such employee from City 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 City of Chipley City Administrator or their designee as requested and specifically to allow the City to inspect the performance of work of this Contract.

8. Materials, Supplies, Etc.

Contractor 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 City is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law. Specifically, the Contractor shall:

Keep and maintain public records required by the City in order to perform the service;

Upon request from the City's custodian of public records, provide the City 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 contractor does not transfer the records to the City.

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

The Contractor shall maintain books, records and documents directly pertinent to performance under this Contract in accordance with generally accepted accounting principles consistently applied. The City, 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 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 Patrice A. Tanner, Custodian of Public Records, at (850) 638-6350 or 1442 W Jackson Ave, Chipley, FL 32428.

11. City Representative

The City Administrator 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 City's representative on matters relating to the performance of the work. The City 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.

12. Laws, Rules and Regulations

General Laws: Contractor shall give all notices required of it by law and shall comply with all Federal, State and local laws, ordinances, rules and regulations governing Contractor's performance of this Contract and the preservation of public health and safety. Upon request by the City, Contractor shall provide proof of such compliance to the City.

Illegal Alien Labor: Contractor 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. Contractor 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 Contractor that the subcontractor is in compliance with such laws. Contractor 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. Contractor shall pay all cost incurred to initiate and sustain the verification programs.

13. Warranty

The Contractor 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 Contractor shall expeditiously repair and remedy any defects in the construction that are discovered within one (1) year, without cost or charge to the City. In the event the Contractor 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 City may have the work done at the Contractor's expense or may proceed against the Contractor's performance or labor and material bond.

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 contractor, 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. Contractor's doing business with a public entity, for which the compensation is wholly or partially provided by a federal awarding agency, must register at www.sam.gov.

15. E- Verify

Contractor shall 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:

1. All persons employed by the Contractor during the term of the Contract to perform employment duties within Florida; and
2. All persons, including subcontractors, assigned by the Contractor to perform work pursuant to the contract with the Department.

By submission of a bid in response to this document, the contractor certifies compliance with the above requirements.

16. Bonds

When Contractor delivers the signed counterparts of the Contract to Owner, Contractor shall also deliver the performance bond and payment bond to Owner. Each bond must be in an amount equal to the Contract Price, as security for the faithful performance and payment of all of Contractor's obligations under the Contract. These bonds must remain in effect no less than one year after the date when final payment becomes due.

17. Insurance

During the term of this Contract, Contractor will purchase and maintain insurance and comply with the City's Insurance Requirements.

18. Hold Harmless and Indemnification

The Contractor shall indemnify and hold harmless the City, and its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees to the extent caused by the negligence, recklessness, or intentional wrongful conduct of the indemnifying party and persons employed or utilized by the Contractor.

The parties understand and agree that such indemnification by the Contractor 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 Contractor'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.

19. Duty to Pay Defense Costs and Expenses

The Contractor agrees to reimburse and pay on behalf of the City the cost of the City'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 Contractor's performance of the Contract and in which the City has prevailed.

The City shall choose its legal defense team, experts, and consultants and invoice the Contractor accordingly for all fees, costs and expenses upon the conclusion of the claim. Such payment on the behalf of the City shall be in addition to any and all other legal remedies available to the City and shall not be considered to be the City's exclusive remedy.

20. 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 City:

Attn: Patrice A. Tanner

1442 W Jackson Ave

Chipley, FL 32428

For the Contractor:

Attn. AshLeigh Krutzsch

1417 Chaffee Drive, Suite #2

Titusville, FL, 32780

The Contractor shall notify the City 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 Contractor's notification of address change is sufficient if sent by email or facsimile.

21. Assignment

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

22. Successors and Assigns.

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

23. 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.

24. No Waiver

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

25. 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 contractor, arising out of or relating to this contract, or the breach of it, will be decided in a Florida court of competent jurisdiction.

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

Failure of the Contractor to comply with the provision of Section 12 Laws, Rules, and Regulations shall constitute grounds for the City to immediately terminate this Contract for cause and declare the Contractor to be non-responsible for bidding or proposing on future contracts for one year from the date the City notifies the Contractor of such non-compliance.

27. 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.

28. 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.

29. 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 Washington County, Florida.

[SIGNATURES ON FOLLOWING PAGE)

IN WITNESS WHEREOF, the Parties have executed this Contract as of this _____ day of _____, 2024.

Executed by:

City of Chipley, FL

By Tracy L. Andrews, Mayor

Attest:

Sherry Snell, City Clerk

CONTRACTOR

By: _____
(Authorized Representative)

Its: _____

ATTEST:

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of _____ physical presence _____ online notarization, this _____ (Date) by _____ (Name and Title of Position), who is personally known to me or who has produced _____ (Type of Identification) as identification.

Signature of Notary Public

Printed Name: _____
Commission No.: _____
Expiration Date: _____

Stamp:

Exhibit 1 Scope of Work

This is a turn-key PV Solar Panel project. The Contractor shall conduct a detailed site assessment to determine the optimal location for the 40-kW solar panel system. In addition, the Contractor shall develop design plans and obtain all required permits.

The Contractor shall install the solar panel system per the approved design plans, which involves mounting solar panels, connecting electrical wiring, and integrating the system into the existing infrastructure.

The Contractor shall acquire the components listed below from reputable suppliers and submit warranties from manufacturers, meeting or exceeding the minimum requirements specified in the following table:

Component	Warranty Period (Years)	Requirements
Photovoltaic Solar Panels	Minimum 25 years	Tier 1 modules only Full replacement in case of malfunction due to material or workmanship defects. Power warranty that meets the following requirements: No more than 2% degradation during the first year No more than 0.50% degradation during the following years
Microinverters	Minimum 25 years	Full replacement in case of malfunction due to material or workmanship defects.
Racking	Minimum 20 years	Structural integrity guarantee against defects or failure that may compromise the stability of the solar panel system.
Electrical Components	Minimum 1 year	Warranty covering defects in materials or workmanship, with replacement or repair as necessary.

The Contractor shall provide all personnel, services, plans, & documents necessary during the project and as required to bring the agreed upon project to a permitted status. The Contractor shall attend monthly pre-construction meetings with the City to inform the City of the project's status. Upon the Contractor's receipt of all permits, the contractor shall complete the Construction of the project. All work must be completed and accepted by August 31, 2024.

The Construction Phase shall be manned by a pre-selected team which prior to construction has attended some, if not all, of the later pre-construction meetings to familiarize themselves with not only the project but the owner's representatives they will be closely working with to bring the project to a successful conclusion.

The Construction Phase shall be properly manned to ensure that the schedule is maintained at all times and any potential delays shall be conveyed to the owner's representatives as soon as they are discovered.

During construction weekly (or as needed), on-site project meetings will be conducted by the Contractor. These meetings shall have representatives from all entities involved in the Construction Phase and may include the owner's representatives, when required. The meetings shall be mandatory.

The Contractor shall at the end of the Construction Phase bring to the project all the required resources to quickly & efficiently complete all punch list items, provide to the owner instruction as required for all supplied equipment & devices & submit all typical close out documents &/or those the owner may request.