

**AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)
FUNDING AGENCY EDITION**

THIS AGREEMENT is by and between _____ City of Chipley _____ (“Owner”) and
_____ Extreme Land Restoration, LLC _____ (“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:

DESCRIPTION OF WORK

THIS PROJECT PRIMARILY CONSISTS OF PAVING AND DRAINAGE IMPROVEMENTS ON PEACH STREET WITHIN THE CITY OF CHIPLEY. PAVING IMPROVEMENTS CONSIST OF MILLING, RESURFACING AND RECONSTRUCTION OF EXISTING PAVED ROADS, ALONG WITH EARTHWORK, BASE WORK AND SHOULDER WORK. CONCRETE CURB AND GUTTER WILL BE ADDED ALONG THE DITCH SIDE OF PEACH STREET FROM 4TH AVE TO ORANGE STREET. PROPOSED DRAINAGE IMPROVEMENTS CONSIST OF DITCH GRADING, DITCH PAVEMENT, RIP-RAP PLACEMENT, CULVERT REPLACEMENT AND CONCRETE DRAINAGE STRUCTURES. THIS PROJECT WILL ALSO CONTAIN UTILITY RELOCATIONS DUE TO DRAINAGE CONFLICTS. ALSO INCLUDED IN THIS PROJECT IS CLEARING/GRUBBING, SODDING, PAVEMENT MARKINGS AND ROADWAY SIGNING.

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:

Citywide Flooding Resiliency Improvements

ARTICLE 3 – ENGINEER

- 3.01 The Project has been designed by David H. Melvin, Inc. (Engineer), who is to act as Owner’s representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

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.

4.02 *Days to Achieve Substantial Completion and Final Payment*

The Work will be substantially completed within 120 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 150 days after the date when the Contract Times commence to run.

4.03 *Liquidated Damages*

Contractor and Owner recognize that time is of the essence of this Agreement and that Owner 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 a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner \$ 400.00 for each day that expires after the time specified in Paragraph 4.02 for Substantial Completion 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 Owner, Contractor shall pay Owner \$ 200.00 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 Owner 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 Paragraphs 5.01.A, 5.01.B, and 5.01.C below:

A. For all Work for the project listed in article 1.01, the contractor agrees to the total price of

<u>One Million, Four Hundred Fifty-Seven Thousand, Two Hundred Thirty-Six Dollars and Fifteen Cents</u>	\$ <u>1,457,236.15</u> (figure)
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All specific cash allowances are included in the above price and have been computed in accordance with paragraph 11.02 of the General Conditions.

B. The details of the unit prices for the individual items are summarized in Article 5 and Parts A, B, C, D and E of the Bid Proposal (00410-7 thru 23).

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 Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the First day of 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 may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Paragraph 14.02 of the General Conditions:

- a. 90 percent of Work completed (with the balance being retainage); and
 - b. 90 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
2. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 95 percent of the Work completed, less such amounts as Engineer shall determine in accordance with Paragraph 14.02.B.5 of the General Conditions.

6.03 *Final Payment*

- A. Upon receipt of the final Application for Payment accompanied by Engineer's recommendation of payment in accordance with Paragraph 14.07 of the General Conditions, Owner shall pay Contractor as provided in Paragraph 14.07 of the General Conditions the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 14.07, less any sum Owner is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages.

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 maximum legal rate.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

- 8.01 In order to induce Owner 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 obtained and carefully studied (or assumes responsibility for doing so) all 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 any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto.
 - E. Contractor does not consider that any further 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.
 - F. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
 - G. 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.

- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor will record Payment & Performance bonds (100% of contract) in the City of Chipley Clerk's office prior to execution of Notice to Proceed.
- K. Contractor will not employ illegal alien labor and will use the e-Verify system to maintain a legal work force.
- L. Contractor will maintain a drug-free workplace program.
- M. Contractor will follow proper change order procedures.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 *Contents*

- A. The Contract Documents consist of the following:
 - 1. This Agreement (pages 521-1 to 521-7, inclusive).
 - 2. Performance bond (pages 610-1 to 610-3, inclusive).
 - 3. Payment bond (pages 615-1 to 615-3, inclusive).
 - 4. Certificates of Insurance (pages 1 to 2, inclusive).
 - 5. General Conditions (pages 710-1 to 710-57, inclusive).
 - 6. Specifications as listed in the table of contents of the Project Manual.
 - 7. Construction Plans for FPID: CHI22MT consisting of Roadway Plans (63 Sheets)
 - 8. Addenda (numbers 1-3).
 - 9. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid (pages C410-1 to C410-9 inclusive).
 - 10. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Notice to Proceed (pages 550-1 to 550-1, inclusive).
 - b. Work Change Directives.
 - c. Change Order(s).
- 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 stated 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. Owner 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 Owner 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 *Public Entity Stipulations*

- A. *City of Chipley* is a public agency subject to Chapter 119, Florida Statutes and entitled to protection under Florida Statute 768.28.
- B. Effective July 1, 2013, the Florida Legislature enacted §119.0701. This statute requires that all contractors who provide governmental services shall comply with Florida's public record laws with respect to services performed on behalf of the *City of Chipley*. Specifically, the statute requires that contractors:
1. Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service.
 2. Provide the public with access to public records on the same terms and conditions that a public agency would provide the records and at a cost that does not exceed the cost provided by Chapter 119 of the Florida Statutes 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.
 4. Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure

requirements. All records stored electronically must be provided to the *City of Chipley* in a format that is compatible with the information technology systems of the *City of Chipley*.

- C. The failure of the Contractor to comply with the provisions set forth in this Article, if applicable, shall constitute a default and material breach of this Agreement, which may result in immediate termination, with no penalty to the *City of Chipley*.
- D. Any indemnification clause notwithstanding the *City of Chipley's* liability under this Contract shall not exceed the limits set forth in Florida Statute 768.28 and no provision of this agreement shall expand those limits or remove any protection found therein.

10.06 *Disputes*

- A. Any dispute between the parties shall be resolved without the aid of jury (by a non-jury trial) by a judge of the 14th Judicial Circuit sitting in *Washington* County Florida, applying Florida law without giving effect to any choice of law provisions.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement in four copies. One counterpart each has been delivered to Owner, Contractor, Engineer, and Agency. All portions of the Contract Documents have been signed, initialed, or identified by Owner and Contractor or identified by Engineer on their behalf.

This Agreement is dated April 10, 2025. This Agreement shall not be effective unless and until Agency's designated representative concurs.

OWNER: _____

City of Chipley

By: _____

Title: _____

[CORPORATE SEAL]

Attest: _____

Title: _____

Address for giving notices:

City of Chipley

1442 Jackson Avenue

Chipley, Fl. 32428

CONTRACTOR: _____

Company: Extreme Land Restoration, LLC

By: Rita Barber

Title: Owner

[CORPORATE SEAL]

Attest: Nisa A. McLeod

Title: Administrative Assistant

Address for giving notices:

Extreme Land Restoration

PO Box 476

Lynn Have, Fl. 32444

Agent for service of process:

Rita Barber

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

Agency Concurrence:

As lender or insurer of funds to defray the costs of this Contract, and without liability for any payments thereunder, the Agency hereby concurs in the form, content, and execution of this Agreement.

Agency: _____

By: _____

Date: _____

Title: _____