

CONSTRUCTION AGREEMENT
FY 2025-2026 COMMUNITY CENTER PARKING LOT RESURFACING PROJECT
RFP 26-02 - CDBG-FUNDED PUBLIC CONSTRUCTION PROJECT

THIS CONSTRUCTION AGREEMENT (the “Agreement”) is made and entered into as of the date of the last signature below (the “Effective Date”) by and between **H & S INVESTMENT GROUP OF CENTRAL FLORIDA, L.L.C., a Florida limited liability company doing business as AAA Top Quality Asphalt**, whose mailing address is P.O. Box 1564, Winter Haven, Florida 33882 (the “VENDOR”), and the **TOWN OF DUNDEE, FLORIDA**, a Florida municipal corporation, whose mailing address is 202 East Main Street, P.O. Box 1000, Dundee, Florida 33838 (the “TOWN”). The VENDOR and TOWN may each be referred to as a “Party” and collectively as the “Parties.”

FACTUAL RECITALS

WHEREAS, the TOWN issued a formal competitive solicitation identified as FY 2025-2026 Community Center Parking Lot Resurfacing Project, RFP 26-02, pursuant to Section 2-159(2) of the Code of Ordinances of the Town of Dundee, Florida, for the resurfacing and related improvement of the Community Center parking lot located at or near 603 Lake Marie Boulevard, Dundee, Florida 33838 (the “Project”); and

WHEREAS, the solicitation required sealed bids and contemplated award to the lowest responsive and responsible bidder whose bid was determined to be in the best interests of the TOWN; and

WHEREAS, the VENDOR submitted a bid dated May 27, 2026, proposing to perform the Project for the fixed lump-sum amount of Fifty-Five Thousand Nine Hundred Seventy-Five Dollars and Zero Cents (\$55,975.00); and

WHEREAS, on July 7, 2026, at a duly noticed public meeting, the Town Commission authorized the TOWN to enter into an agreement with the VENDOR for the Project in an amount not to exceed \$55,975.00, subject to execution of a written agreement and satisfaction of all applicable procurement, grant, bonding, insurance, technical, and legal requirements; and

WHEREAS, the Project is funded, in whole or in part, through Community Development Block Grant (“CDBG”) funds and is subject to applicable federal labor, procurement, reporting, audit, equal opportunity, and grant-compliance requirements, including the Davis-Bacon and Related Acts when applicable to the governing award; and

WHEREAS, the VENDOR represents that it is properly organized, authorized to transact business in Florida, licensed and qualified to perform the Work, and able to furnish all labor, supervision, materials, equipment, permits, bonds, insurance, documentation, and services required by the Contract Documents; and

WHEREAS, the VENDOR has reviewed the Project Site and Contract Documents and agrees that the Contract Sum includes all costs necessary to complete the Project, except only changes approved through a written Change Order; and

WHEREAS, VENDOR agrees and represents that it will furnish all labor, materials, and equipment necessary to perform the services which are the subject of the Project; and

WHEREAS, TOWN has found that the VENDOR possesses the qualifications necessary to satisfactorily perform the work and/or services contemplated in this Agreement; and

WHEREAS, TOWN desires to engage the VENDOR to perform certain services which include, but are not limited to, the services necessary to perform and complete the Project; and

WHEREAS, VENDOR and TOWN acknowledge and represent that the provisions set forth in this Agreement are reasonable; and

WHEREAS, VENDOR represents that, at the time this Agreement was negotiated and entered into by the VENDOR and TOWN, VENDOR had substantial industry experience in providing the service(s), which are the subject of this Agreement, and forecasting the cost(s) and expense(s) associated with performing said service(s); and

WHEREAS, VENDOR and TOWN acknowledge and represent that, to the extent that liquidated damages are applicable, such liquidated damages, if any, are not intended as a penalty; and

WHEREAS, VENDOR acknowledges and represents that any person(s) executing this Agreement on its behalf has read, examined and understands the scope of the construction services to be performed, conditions and requirements set forth by this Agreement and its exhibits which are incorporated herein by reference; and

WHEREAS, VENDOR acknowledges that this Agreement has been fairly negotiated by each party's respective legal counsel and at arm's length; and, as such, VENDOR has expressed its desire and willingness to perform the services in accordance with the terms and requirements set forth by this Agreement; and

WHEREAS, VENDOR has represented that it is able to satisfactorily provide the services necessary to perform and complete the Project; and

WHEREAS, as a result of the representation(s), qualification(s), and expressed desire of the VENDOR to perform the services, the TOWN desires to enter into this Agreement with the VENDOR; and

WHEREAS, VENDOR agrees to perform the services in strict accordance with the terms, conditions, and provisions set forth in this Agreement and its exhibits which are incorporated herein by reference; and

WHEREAS, VENDOR acknowledges, agrees and represents that it will perform the services and/or contract requirements in strict accordance with the pricing set forth by the Response (see **Exhibit "A"**); and

WHEREAS, VENDOR and TOWN acknowledge, represent and warrant that adequate and legal consideration exists for the entry into this Agreement; and

WHEREAS, VENDOR and TOWN acknowledge, represent, and agree that it is in the best interests and will promote the health, safety and welfare of the citizens and residents of the TOWN for the TOWN and VENDOR to enter into this Agreement.

WHEREAS, the TOWN does not accept any conflicting or additional term contained in the VENDOR's proposal, invoice, quotation, acknowledgment, website, or other document unless the TOWN expressly accepts that term in this Agreement or a later written amendment; and

WHEREAS, entry into this Agreement serves a valid municipal purpose and promotes the health, safety, accessibility, and welfare of the residents of the Town of Dundee.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual promises contained herein, the Contract Sum, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the TOWN and the VENDOR agree as follows:

I. INCORPORATION OF RECITALS

The foregoing recitals are incorporated into this Agreement as true and correct statements forming the factual and material basis for the Parties' entry into this Agreement. If a recital conflicts with an operative provision of this Agreement, the operative provision controls. The Contract Documents identified below are incorporated by reference and shall be read together as one integrated agreement.

II. DEFINITIONS

Words used in this Agreement have their ordinary meanings unless otherwise defined.

- a. *"Agreement"* means this Construction Agreement and its incorporated Contract Documents.
- b. *"Business Day"* means a day other than Saturday, Sunday, or a holiday observed by the TOWN.
- c. *"Change Order"* means a written instrument signed by the VENDOR and an authorized TOWN representative that changes the Work, Contract Sum, or Contract Time. "Contract Documents" means this Agreement; the applicable federal and CDBG provisions, HUD-4010, wage determination, and grant requirements; the TOWN's General Provisions, Work Scope, Work Summary, plans and drawings; all addenda; the VENDOR's signed bid form and only the technical, price, quantity, layout, and schedule portions of its proposal accepted by the TOWN; the bonds, insurance documents, approved submittals, Notice to Proceed, written amendments, and Change Orders. "Contract Sum" means \$55,975.00, as lawfully adjusted by Change Order.
- d. *"Contract Time"* means the period beginning on the date stated in the Notice to Proceed and ending at Final Completion, which shall occur within sixty (60) Business Days unless extended by Change Order.
- e. *"Final Completion"* means completion and acceptance of all Work, punch-list items, testing, closeout documents, federal labor documentation, permit closeout, restoration, and warranty submissions.
- f. *"Services"* or *"Work"* means everything required to provide the complete Project in accordance with the Contract Documents.
- g. *"Subcontractor"* includes every person or entity furnishing labor, materials, equipment, or services through the VENDOR at any tier.
- h. *"Day(s)"* means calendar day unless specifically stated otherwise.
- i. *"Business Days"* means each calendar day which is not a Saturday, Sunday or a recognized holiday by the Town of Dundee, Florida.
- j. *"Effective Date"* means the date on which this Agreement is executed by the Town of Dundee or its authorized designee.

III. SCOPE OF WORK AND BONDING

The VENDOR shall furnish all labor, supervision, materials, equipment, transportation, tools, permits, temporary measures, traffic and pedestrian control, testing and quality-control support, cleanup, documentation, warranties, and incidental work necessary to complete the Project in strict accordance with the Contract Documents. The Work includes demolition and removal of the existing concrete access aisle; milling approximately 2,715 square yards of existing asphalt to an average depth of one inch; preparing and widening designated parking areas; installing and compacting approved base material; applying tack coat; installing approximately 2,755 square yards of one-and-one-half-inch compacted SP-9.5 asphalt or an approved equivalent; restriping the approved parking configuration; protecting existing improvements; restoring disturbed areas; and completing all related accessibility, inspection, cleanup, and closeout requirements. Quantities are approximate, and the Contract Sum is for the complete depicted Project rather than payment by exact measured quantity, unless a written Change Order expressly provides otherwise.

The VENDOR shall complete the Work in compliance with the Florida Building Code, applicable accessibility standards, approved plans, permit conditions, and written technical directions of the TOWN's engineer, building official, grant administrator, or other designated representative. Permanent parking signage shall be relocated or replaced by the TOWN only to the extent stated in the solicitation. The VENDOR remains responsible for layout, striping, access aisles, slopes, transitions, protection of existing signs, curbing, wheel stops, and repair of damage caused by its operations.

Before beginning Work, the VENDOR shall deliver a payment and performance bond in the amount required by the solicitation and Section 255.05, Florida Statutes. The bond shall equal one hundred percent (100%) of the Contract Sum, may be combined or issued as separate payment and performance bonds, shall be written by a surety authorized to do business in Florida, shall identify the Project and contract number, and shall be recorded in the public records of Polk County. A certified copy of the recorded bond and the surety's power of attorney must be provided before Work begins or any payment is made. The TOWN's solicitation requirement is not waived by the statutory discretion applicable to public contracts of \$200,000 or less unless the Town Commission expressly authorizes a waiver.

The VENDOR shall comply with the Davis-Bacon and Related Acts, the Copeland Anti-Kickback Act, applicable federal equal-employment requirements, HUD-4010, the applicable United States Department of Labor wage determination, and all CDBG labor and reporting requirements incorporated into the Contract Documents. Required wage notices and posters shall be displayed at the Project Site before Work begins. Certified payrolls and related compliance records shall be submitted weekly or as directed by the grant administrator. The VENDOR shall include all mandatory federal provisions in each applicable subcontract and is responsible for compliance at every tier.

IV. COMPENSATION

The TOWN shall pay the VENDOR the fixed lump-sum Contract Sum of Fifty-Five Thousand Nine Hundred Seventy-Five Dollars and Zero Cents (\$55,975.00) for complete and satisfactory performance of the Work. The Contract Sum includes all labor, prevailing wages and fringe benefits, materials, asphalt, base, tack coat, paint, equipment, hauling, disposal, mobilization, permits and fees, bonds, insurance, traffic control, supervision, overhead, profit, federal compliance, restoration, testing support, closeout, and warranty obligations. No increase is allowed because of changes in petroleum, asphalt, labor, material, transportation, supplier, or market costs, or because the VENDOR underestimated its costs. Any adjustment requires a written Change Order. The Contract Sum shall be full and final compensation for furnishing material, labor, and executing and/or performing the Services contemplated in this Agreement; and the VENDOR, for the consideration(s) set forth herein, shall be responsible for all claims, causes of action, loss or damages arising out of the nature of the Services or from any action related to and/or arising out of the Services until final completion and acceptance by the TOWN

The VENDOR may submit proper payment requests to the Town of Dundee Finance Department, Accounts Payable, 202 East Main Street, P.O. Box 1000, Dundee, Florida 33838, unless the TOWN designates another agent or office in writing. Each request must identify the Project and contract, describe completed Work, state the original and adjusted Contract Sum, prior payments, current amount requested, and remaining balance, and include current certified payrolls, required inspection or testing records, releases when requested, and other supporting documentation required by the Contract Documents. Proper requests shall be reviewed, rejected, or paid in accordance with the Florida Local Government Prompt Payment Act. The TOWN shall timely pay undisputed amounts and may withhold only amounts reasonably necessary for incomplete or defective Work, failed tests, unpaid labor or suppliers, missing payrolls, grant noncompliance, damage, unapproved changes, or another good-faith dispute.

The VENDOR shall pay each Subcontractor and supplier the undisputed amount attributable to its Work within ten (10) days after receiving payment from the TOWN, and shall require lower-tier subcontractors to pay within the time required by law. Final payment is conditioned upon Final Completion, final certified payrolls and grant closeout, permit closeout, completion of the statutory single completion list, delivery of warranties and releases, and consent of surety when required. Payment, inspection, use, or occupancy does not constitute acceptance of defective or incomplete Work.

The TOWN's obligations are subject to lawful appropriation and availability of grant funds. This provision does not permit the TOWN to avoid payment for properly authorized, completed, and accepted Work contrary to applicable prompt-payment law. If the TOWN elects to make direct purchases for lawful sales-tax savings, the VENDOR shall cooperate, the Contract Sum shall be reduced by the amount included for the purchased materials and related tax or markup, and the VENDOR shall remain responsible for delivery coordination, storage, installation, protection, and warranty.

V. TERM OF AGREEMENT AND BINDING EFFECT

This Agreement begins on the Effective Date and continues until Final Completion and satisfaction of all obligations, unless earlier terminated in accordance with Article VIII. Execution of this Agreement does not authorize

commencement of Work. The VENDOR may begin only after receipt of the TOWN's written Notice to Proceed and satisfaction of all preconstruction conditions. The terms of this Agreement bind the Parties and their lawful successors and permitted assigns. Omission of an applicable legal, permit, code, grant, or regulatory requirement does not excuse compliance. For purposes of this Section, the term "applicable law" shall mean means the Town of Dundee Charter, Town of Dundee Code of Ordinances, Town of Dundee Land Development Code, and any and all applicable statutes, laws, rules, regulations, charter provisions, ordinances and resolutions of the United States of America, State of Florida, Polk County, Town of Dundee, and any and all other public authority which may be applicable.

VI. NOTICES

Formal notices shall be in writing and delivered by personal delivery, nationally recognized overnight courier, or United States certified mail, return receipt requested. Email may be used as a courtesy copy but does not alone constitute formal notice unless receipt is expressly acknowledged in writing. Notice is effective upon personal delivery, recorded courier delivery, delivery or refusal shown by the certified-mail record, or written acknowledgment of receipt.

A. If to the TOWN: Kenneth Cassel
Town Manager
Town of Dundee
202 E. Main Street
Dundee, FL 33838

With copies to: (*shall not constitute notice*)
Markeishia L. Smith, P.A.
Town Attorney
408 S 10th Street
Haines City, FL 33844

B. VENDOR: Steve Kelton
Registered Agent
H & S Investment Group of Central Florida, L.L.C., d/b/a AAA Top Quality Asphalt
PO Box 1564
Winter Haven, Florida 33882

Notice shall be deemed received by the party for whom it is intended after the USPS certified mail process is completed.

VII. MODIFICATION OF AGREEMENT

This Agreement may be modified only by a written amendment or Change Order signed by the VENDOR and an authorized TOWN representative. A Change Order exceeding delegated authority is not effective unless approved by the Town Commission and, when required, the CDBG grant administrator or other funding agency. Oral statements, field conversations, meeting discussions, emails, invoices, shop drawings, submittals, payment, silence, or course of performance do not modify the Contract Sum, Contract Time, scope, warranty, or legal requirements.

The TOWN may issue written interpretations and minor clarifications that are consistent with the existing scope and do not materially change price or time. If the VENDOR believes a direction is a compensable change, it must provide written notice before performing the disputed work, identify the cost and schedule effect, and obtain a Change Order. Except for emergency work necessary to protect persons or property, the VENDOR waives additional compensation or time for work performed without the written notice and authorization required by this Article. Changes caused by defective work, improper methods, lack of coordination, or another act or omission of the VENDOR do not entitle it to additional time or compensation.

VIII. PERFORMANCE AND TERMINATION

Time is of the essence. The VENDOR shall diligently prosecute the Work and achieve Final Completion within sixty (60) Business Days after the date stated in the Notice to Proceed. At least five (5) Business Days before beginning field work, the VENDOR shall provide a construction schedule, temporary traffic and pedestrian-control plan, list of Subcontractors and suppliers, superintendent and payroll contacts, permits, material and asphalt-mix submittals, insurance documents, recorded bond, and all federal and CDBG preconstruction forms. The VENDOR shall coordinate with TOWN operations, protect public access and emergency routes, and promptly update the schedule when progress materially changes.

The VENDOR is solely responsible for construction means, methods, sequencing, supervision, safety, protection of persons and property, utility locates, staging, equipment, and the acts and omissions of all Subcontractors and suppliers. The VENDOR shall provide a qualified superintendent authorized to act on its behalf while Work is performed. The TOWN and its engineer, inspectors, grant administrator, Polk County, HUD, and other authorized representatives may inspect the Work and records at reasonable times. The VENDOR shall provide at least forty-eight (48) hours' notice before covering base or subgrade work, beginning asphalt placement, performing required testing, or completing work that cannot later be readily inspected. Work covered without required inspection may be uncovered or reconstructed at the VENDOR's expense.

The VENDOR shall perform routine quality control and shall provide delivery tickets, mix information, material certifications, compaction and thickness verification, and other records reasonably requested. The TOWN may obtain independent testing. The TOWN may pay for an initial independent test when the Contract Documents do not assign that test to the VENDOR, but the VENDOR shall pay for retesting, testing of corrective work, or testing that establishes nonconformance. The VENDOR shall promptly remove, repair, or replace defective work and restore affected property at no additional cost. Inspection, testing, approval, use, or payment does not relieve the VENDOR of responsibility.

A delay may justify an extension only when it is beyond the reasonable control of the VENDOR, was not caused or contributed to by the VENDOR or its Subcontractors or suppliers, materially affects the critical path, could not reasonably have been avoided or mitigated, and is supported by written notice within ten (10) calendar days after the VENDOR knew or should have known of the delay. Normal seasonal weather, price increases, financial difficulty, equipment breakdown, lack of personnel, untimely material orders, missing permits or documents, and correction of defective work are not excusable delays. An extension of time is the sole remedy for excusable delay unless the TOWN expressly approves compensation in a Change Order.

The TOWN may suspend all or part of the Work to protect safety or property, address defective work or legal noncompliance, obtain required inspection or grant approval, coordinate public operations, or protect the TOWN's interests. A suspension caused by the VENDOR does not entitle it to additional time or compensation. The TOWN may terminate this Agreement for cause if the VENDOR abandons or fails to prosecute the Work; fails to meet the Contract Time; performs defective or nonconforming work; fails to pay laborers, Subcontractors, or suppliers; fails to maintain required bonds, insurance, permits, licenses, or federal eligibility; submits materially false records; violates wage, public-records, E-Verify, safety, grant, or other legal requirements; assigns the Agreement without consent; or otherwise materially breaches the Contract Documents. Except when immediate action is required for safety, abandonment, fraud, loss of license or insurance, debarment, E-Verify, federal direction, or another urgent condition, the TOWN shall provide written notice and seven (7) calendar days to cure or begin a diligent cure acceptable to the TOWN.

Upon default, the TOWN may suspend the Work, withhold payment, reject or correct defective work, demand performance from the surety, terminate the VENDOR's right to proceed, complete the Work through another source, take possession of TOWN-owned or paid-for Project materials and records, recover excess completion, inspection, testing, grant, wage, administrative, and other legally recoverable costs, offset amounts due, and exercise any cumulative remedy under the Contract Documents or law. If a termination for cause is later determined improper, it shall be treated as a termination for convenience.

The TOWN may terminate all or part of this Agreement for convenience upon ten (10) calendar days' written notice. The VENDOR shall stop the terminated Work, protect the Project, terminate affected subcontracts as directed, deliver Project records and materials, and cooperate in an orderly transition. Compensation is limited to conforming Work completed and accepted before termination, approved materials the TOWN elects to accept, and reasonable documented demobilization and closeout costs. The VENDOR is not entitled to anticipated profit on unperformed Work, lost opportunity, consequential damages, or amounts exceeding the unpaid Contract Sum. The VENDOR may suspend or terminate only for the TOWN's failure to pay an undisputed amount after written notice and a thirty (30) calendar-day opportunity to cure, and may not suspend because of a good-faith dispute or unapproved change request.

All Work, materials, and workmanship are warranted for at least one (1) year from written final acceptance. The VENDOR shall correct warranty work within a reasonable period directed by the TOWN, and shall respond immediately to conditions threatening safety, accessibility, drainage, property, or continued deterioration. If the VENDOR fails to respond, the TOWN may correct the condition and recover the cost from the VENDOR, bond, insurance, or amounts otherwise due. The warranty does not limit responsibility for latent defects, fraud, longer manufacturer warranties, indemnification, bond obligations, or other rights surviving final payment.

IX. VENDOR INDEMNIFICATION AND INSURANCE

To the fullest extent permitted by law, the VENDOR shall indemnify, defend, and hold harmless the TOWN and its elected officials, officers, employees, agents, and authorized representatives from claims, liabilities, damages, losses, fines, penalties, assessments, judgments, and reasonable attorneys' fees and litigation costs to the extent caused by the negligent, reckless, grossly negligent, intentionally wrongful, or contractually noncompliant act or omission of the VENDOR or any person employed or utilized by it; defective work; bodily injury, death, or property damage arising from the VENDOR's operations; failure to comply with law or federal labor requirements; nonpayment of laborers, Subcontractors, or suppliers; damage to public or private property; hazardous substances introduced by the VENDOR; or infringement arising from materials or methods selected by the VENDOR. This obligation does not require indemnification for liability caused solely by the TOWN's negligence or intentional wrongdoing and shall be construed consistently with Section 725.06, Florida Statutes. Insurance does not limit indemnity, and this Article survives completion and termination.

VENDOR shall, at its own expense, procure and maintain *Public Liability Insurance, Property Damage Insurance, Commercial General Liability Insurance* and *Workers' Compensation/Employers' Liability Insurance* throughout the Term of this Agreement, with an insurer or insurers acceptable to the TOWN. All insurance policies shall be reviewed by the TOWN Attorney and must be acceptable to the TOWN. Any policy(ies) of insurance required herein shall apply to any covered loss on a primary basis; and, for purposes of public liability insurance and property damage insurance, the TOWN shall be named as an additional insured.

More specifically, at its expense, the VENDOR shall maintain workers' compensation as required by law; employers' liability of not less than \$1,000,000 per accident, \$1,000,000 policy limit for disease, and \$1,000,000 per employee for disease; commercial general liability on an occurrence basis of not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, and \$2,000,000 products-completed operations aggregate; and automobile liability covering owned, hired, and non-owned vehicles of not less than \$1,000,000 combined single limit. The TOWN, its elected officials, officers, employees, and agents shall be additional insureds for ongoing and completed operations on the general and automobile liability policies, with coverage primary and noncontributory. The VENDOR shall provide certificates and the applicable endorsements, including waivers of subrogation to the extent commercially available, before the Notice to Proceed. Coverage shall remain in force throughout the Work and completed-operations coverage through the warranty period. The VENDOR remains responsible for deductibles, self-insured retentions, and uninsured or underinsured acts of Subcontractors.

The VENDOR must provide a *Certificate of Insurance* in accordance with the required insurance requirements evidencing such coverage prior to issuance of a purchase order or commencement of any work under this Agreement. The *Certificate(s) of Insurance* shall be fully acceptable to the TOWN in both form and content, and shall provide and specify that the related insurance coverage shall not be cancelled without at least thirty (30) days prior written notice having been given to the TOWN. Failure of the VENDOR to obtain the TOWN'S approval, or to satisfy the TOWN in this matter, shall be grounds for termination of the Agreement. It is also understood and agreed that it is the VENDOR'S sole burden and responsibility to coordinate activities between itself, the TOWN, and the VENDOR'S insurer(s) so that the *Certificate(s) of Insurance* are acceptable to and accepted by the TOWN within the time limits described in this Agreement.

The VENDOR shall, upon ten (10) days written request from the TOWN, deliver copies to the TOWN of any or all insurance policies that are required in this Agreement.

It being the intent of the parties and material condition of this Agreement that the TOWN have up-to-date copies of all applicable insurance policies in order to determine appropriate and relevant coverage, limits, deductibles, insurance exclusions and other information related thereto.

X. STATE LAW COMPLIANCE

The VENDOR shall comply with all applicable Florida statutory requirements and shall execute or maintain the certifications and affidavits required by the solicitation and law. These include compliance with Section 448.095, Florida Statutes, requiring the VENDOR and every Subcontractor to register with and use E-Verify and requiring each Subcontractor to provide the statutory affidavit regarding unauthorized aliens; Section 787.06(14), Florida Statutes, requiring the attached human-trafficking affidavit; Section 287.133, Florida Statutes, concerning public entity crimes and the convicted vendor list; Section 287.135, Florida Statutes, concerning scrutinized companies or other entities and boycotts of Israel to the extent applicable to this Contract Sum; Section 287.138, Florida Statutes, if the scope permits access to personal identifying information; and all other certifications contained in the Contract Documents. The VENDOR shall promptly notify the TOWN if a representation becomes inaccurate. A false certification or statutory violation is a material breach and may require termination.

The VENDOR acknowledges that the TOWN did not request, consider, or grant a preference based on the VENDOR's social, political, or ideological interests. The VENDOR shall maintain a drug-free workplace consistent with its bid certification; shall not unlawfully collude in connection with the procurement; shall not offer gifts, gratuities, kickbacks, or things of value to influence award or administration; and shall disclose actual or apparent conflicts of interest.

XI. COMPLIANCE WITH LAWS

The VENDOR shall comply with the Town of Dundee Charter, Code of Ordinances, Land Development Code, Florida Building Code, accessibility requirements, permit conditions, occupational safety and environmental laws, Chapter 119 public-records requirements, the Florida Local Government Prompt Payment Act, Chapter 255 public-construction requirements, federal CDBG and HUD requirements, 2 C.F.R. Part 200 and applicable Appendix II contract provisions, 29 C.F.R. Parts 1, 3, and 5, and all other laws, regulations, executive orders, grant conditions, and lawful directives applicable to the Project. Mandatory federal and grant requirements control when more restrictive than another Contract Document. The VENDOR shall flow down all applicable requirements to Subcontractors.

Before the Notice to Proceed, the TOWN or its grant administrator shall confirm and attach the applicable HUD-4010 Federal Labor Standards Provisions, current Department of Labor wage determination, required equal-opportunity provisions, certified-payroll instructions, federal posters, Section 3 requirements or written nonapplicability determination, Build America, Buy America applicability or waiver determination, debarment requirements, and other grant documents. The VENDOR shall not begin Work until these materials are incorporated and the grant administrator confirms that preconstruction labor and grant requirements are satisfied. Execution of this Agreement does not cure omission of a legally required federal term from the procurement; if the grant administrator determines that rebidding or other action is required, the TOWN may suspend or terminate the Agreement without authorizing Work.

The VENDOR shall verify that it and each covered Subcontractor or supplier are not suspended, debarred, or otherwise excluded through the System for Award Management or another authorized method. It shall comply with applicable domestic purchasing preferences, recovered-material requirements, telecommunications prohibitions under 2 C.F.R. § 200.216, and federal anti-lobbying requirements. The Contract Work Hours and Safety Standards Act applies only if required by the governing federal award and applicable threshold. Federal wage-classification, restitution, or debarment disputes shall be resolved under the applicable Department of Labor and HUD procedures.

- (a) VENDOR represents and warrants unto the TOWN that no officer, employee, or agent of the TOWN has any interest, either directly or indirectly, in the business of VENDOR to be conducted hereunder. VENDOR further represents and warrants unto the TOWN that it has not employed or retained any company or person, other than a bona fide employee working solely for VENDOR, to solicit or secure this Agreement, and that it has not paid, or agreed to pay, or given or offered any fee, commission, percentage, gift, loan, or anything of value to any person, company, corporation, individual, or firm, other than a bona fide employee working solely for VENDOR, in consideration for or contingent upon, or resulting from the award or making of this Agreement. Further, VENDOR also acknowledges that it has not agreed, as an expressed or implied condition for obtaining this Agreement, to employ or retain the services of any person, company, individual or firm in connection with carrying out this Agreement. It is absolutely understood and agreed by VENDOR that, for the breach or violation of this representation and warranty, the TOWN shall have the right to terminate this Agreement without liability and at its sole discretion, and to deduct from any amounts owed, or to otherwise recover, the full amount of any percentage, gift, loan, or anything of value paid by VENDOR. VENDOR shall also

require, by contract, that all of its subcontractors if authorized and/or applicable shall comply with the provisions of this representation and warranty.

(b) ***Scrutinized Companies.*** Section 287.135 of the Florida Statutes states that a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with the TOWN for goods or services in any amount if at the time of bidding on, submitting a proposal for, or entering into or renewing a contract if the company is on the *Scrutinized Companies that Boycott Israel List*, created pursuant to Section 215.4725 of the Florida Statutes or is engaged in a boycott of Israel; or for One Million Dollars (\$1,000,000.00) or more if, at the time of bidding on submitting a proposal for, or entering into or renewing a contract, the company is on the *Scrutinized Companies with Activities in Sudan List*, the *Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List*, created pursuant to Section 215.473 of the Florida Statutes, or is engaged in business operations in Cuba or Syria. By executing this Agreement, VENDOR certifies that it does not and did not at any time since the submission of a response to the initial solicitation participate in a boycott of Israel; that it is not on the *Scrutinized Companies that Boycott Israel List*, *Scrutinized Companies with Activities in Sudan List*, or the *Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List*; and that it does not engage in business operations in Cuba or Syria. VENDOR understands that a false certification may subject it to civil penalties, attorneys' fees and costs pursuant to Section 287.135 of the Florida Statutes and that the TOWN may terminate this Agreement at the TOWN's option if the VENDOR is found to have submitted a false certification.

(b) ***Public Entity Crimes; Convicted Vendor List.*** 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 construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a VENDOR, supplier, 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 of the Florida Statutes for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list. By executing this Agreement, VENDOR certifies that it is not on the convicted vendor list.

(c) ***Drug-Free Workplace.*** By executing this Agreement, VENDOR certifies that it has a drug-free workplace and has a substance abuse policy in accordance with and pursuant to Section 440.102 of the Florida Statutes.

(d) ***E-Verify.*** By entering into this Agreement, the VENDOR becomes obligated to comply with the provisions of Section 448.095(5)(a), Florida Statutes, to register with and use the E-Verify system to verify the work authorization status of all new employees of the VENDOR and any subcontractor hired by the VENDOR. If the VENDOR enters into a contract with a subcontractor, the subcontractor must provide the VENDOR with an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply will lead to termination of this Agreement, or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination. If this Agreement is terminated for a violation of the statute by the VENDOR, the VENDOR may not be awarded a public contract for a period of one (1) year after the date of termination.

(e) ***No Consideration of Social, Political, and Ideological Interests.*** VENDOR acknowledges receipt of notice from the TOWN of the provisions of Section 287.05701 of the Florida Statutes which prohibits local governments from giving preference to a prospective VENDOR based on the prospective VENDOR's social, political or ideological interests or requesting documentation from, or considering, a prospective VENDOR's social, political, or ideological interests when determining if the prospective VENDOR is a responsible vendor. VENDOR affirms and agrees that the TOWN did not request any documentation about, or give any consideration to, the VENDOR's social, political, or ideological interests in the award of this Agreement.

(f) ***Contracting with Foreign Entities.*** By executing this Agreement, VENDOR certifies that it is not owned by the government of the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic (collectively "Foreign Countries of Concern"), nor is it owned by any agency of or any other entity of

significant control of any such government. Further, VENDOR certifies that no government of a Foreign Country of Concern has a “controlling interest” in VENDOR as the term is defined in Section 287.138(1)(a) of the Florida Statutes, nor is the VENDOR organized under the laws of a Foreign Country of Concern, nor does the VENDOR have its principal place of business located in a Foreign Country of Concern. If this Agreement permits the VENDOR to access the personal identifying information of any individual, VENDOR agrees to notify the TOWN in advance of any contemplated transaction that would cause VENDOR to be disqualified from such access under Section 287.138 of the Florida Statutes. VENDOR agrees to furnish the TOWN with an affidavit signed by an officer or representative of the VENDOR under penalty of perjury at any time and upon request that the statements in this paragraph are true and correct.

(g) ***Human Trafficking Affidavit.*** VENDOR shall be required to execute the *Human Trafficking Affidavit* attached hereto as **Exhibit “D”** simultaneously with and prior to providing the Services hereunder.

XII. DATA TO BE FURNISHED TO VENDOR

The TOWN shall make available to the VENDOR the Project information, plans, drawings, grant documents, and existing records in the TOWN’s possession that the TOWN determines are reasonably necessary for performance. Unless expressly warranted in a Contract Document, information concerning existing conditions is furnished for convenience and does not relieve the VENDOR of its duty to examine the Project Site, verify dimensions and conditions, request clarification, locate utilities, and promptly report conflicts, omissions, or concealed conditions before proceeding. The VENDOR may rely on written interpretations issued by an authorized TOWN representative, but not on oral statements or information from persons lacking authority.

XIII. WORK PRODUCT

Project-specific schedules, reports, testing results, material certifications, photographs, traffic-control plans, closeout records, warranty documents, payroll and compliance records, and other deliverables prepared for this Project shall be provided to and may be used by the TOWN for administration, audit, maintenance, repair, public-records compliance, and governmental purposes. The VENDOR may retain copies subject to record-retention and confidentiality laws. Preexisting proprietary forms or methods remain the VENDOR’s property, but the VENDOR grants the TOWN a perpetual, nonexclusive, royalty-free license to use any such material incorporated into a required Project deliverable.

XIV. FORCE MAJEURE

Neither Party is liable for failure to perform an obligation, other than payment for accepted Work or protection of persons and property, to the extent performance is prevented by an event beyond the Party’s reasonable control that could not reasonably have been avoided or mitigated. The affected Party shall promptly notify the other, describe the event and anticipated duration, protect the Project, and resume performance as soon as practicable. Force majeure does not include normal seasonal weather, market or price changes, labor or material shortages that reasonably could have been anticipated, financial difficulty, equipment failure, or delay by a Subcontractor or supplier unless independently caused by a qualifying event. Any extension must be documented by Change Order.

XV. ASSIGNMENT

The VENDOR shall not assign, transfer, delegate, pledge, or otherwise dispose of this Agreement, a material obligation, a right to payment, or a claim against the TOWN without the TOWN’s prior written consent. The VENDOR shall promptly notify the TOWN of a merger, change in control, sale of substantially all assets, reorganization, dissolution, change of legal name, or other event materially affecting responsibility or performance. Approval of a Subcontractor does not constitute assignment and does not relieve the VENDOR of responsibility. The TOWN may require updated bonds, insurance, certifications, and federal eligibility review before consenting. In the event of a corporate acquisition and/or merger, the VENDOR shall provide written notice to the TOWN within thirty (30) Business Days of VENDOR’S notice of such action or upon the occurrence of said action, whichever occurs first. The right to terminate this Agreement, which shall not be unreasonably withheld by the TOWN, shall include, but not be limited to, instances in which a corporate acquisition and/or merger represent a conflict of interest or are contrary to any local, state, or federal laws.

For purposes of this Agreement, the TOWN awarding a (bid/proposal) to a vendor which has disclosed its intent to assign or subcontract in its response, without exception shall constitute approval for purposes of this Agreement

XVI. TERMS, CONDITIONS, CONFLICTS AND NO WAIVER

The Contract Documents are complementary. A requirement stated in one is binding as though stated in all. If an inconsistency exists, mandatory law and federal grant requirements control first, followed by written amendments and Change Orders, this Agreement, the applicable federal and CDBG exhibits, addenda, the TOWN's technical specifications and Work Summary, the TOWN's General Provisions, the signed bid form, and only the accepted technical, price, quantity, layout, and schedule portions of the VENDOR's proposal. An approved shop drawing, schedule, submittal, invoice, or field instruction does not change the Contract Sum, Contract Time, warranty, or legal requirements.

To the extent any term, condition, exclusion, qualification, disclaimer, or limitation in the VENDOR's proposal or other document conflicts with this Agreement or another TOWN Contract Document, the TOWN Contract Documents control and the conflicting VENDOR provision is expressly rejected and has no force or effect. Without limitation, the TOWN rejects any right to increase or review pricing because of market conditions; any thirty-day price limitation; any unilateral right to withdraw after award or execution; any automatic charge for mobilization, overages, labor, equipment, or quantities without a Change Order; any contractor-created payment, interest, collection, attorney-fee, notice-of-nonpayment, or lien provision; any exclusion of tack coat, paint, striping, permits, fees, bonds, insurance, testing, traffic control, cleanup, restoration, or other required Work; and any disclaimer or limitation concerning drainage, ponding, compaction, base, subgrade, pavement performance, defective work, warranty, or damages that conflicts with the Contract Documents. By signing this Agreement, the VENDOR accepts this order of precedence and agrees to perform without reliance on rejected terms.

Before proceeding with Work affected by an apparent conflict, ambiguity, error, or omission, the VENDOR shall promptly request a written interpretation. The VENDOR shall not take advantage of an error or proceed on its own interpretation when cost, time, safety, accessibility, quality, or compliance may be affected. Failure to timely request clarification waives a claim arising from a conflict the VENDOR knew or reasonably should have known. A Party's failure or delay in enforcing a provision does not waive that provision, a later breach, or another remedy. A waiver is effective only in a written instrument signed by an authorized representative.

XVII. NO WAIVER OF SOVEREIGN IMMUNITY

Nothing in this Agreement waives or enlarges the TOWN's sovereign immunity, liability limits, defenses, privileges, or procedural protections under Section 768.28, Florida Statutes, or other law. The TOWN does not indemnify, defend, or hold harmless the VENDOR. No elected official, officer, employee, attorney, engineer, inspector, or agent of the TOWN is personally liable under this Agreement. Any provision capable of being read as a TOWN indemnity or waiver shall be construed to impose no obligation beyond the TOWN's lawful liability. **This provision shall survive the termination of this Agreement.**

XVIII. ATTORNEYS' FEES AND REMEDIES

In the event either the TOWN or the VENDOR brings an action against the other to interpret and/or enforce this Agreement and/or any condition, covenant and/or provision herein, the prevailing party shall be entitled to recover its reasonable attorney's fees and court and professional costs, including, without limitation, any such fees or costs related to appellate or bankruptcy proceedings.

No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

XIX. CALCULATION OF TIME

The calculation of the number of days that have passed during any time period prescribed shall be based on calendar days (unless specified otherwise in this Agreement). Unless otherwise specified in this Agreement, the calculation of the number of days that have passed during any time period prescribed in or by

this Agreement shall commence on the day immediately following the event triggering such time period. If the tolling of such a time period is not contingent upon an action or event, the calculation of the number of days that have passed during such time period prescribed in or by this Agreement shall commence on the day immediately following the Effective Date. For purposes of this Agreement, unless otherwise specified herein, the tolling of any such time period(s) shall be in "calendar days" which means any and all days in a 365-day calendar year; and "business days" shall mean each calendar day which is not a Saturday, Sunday or a recognized holiday by the TOWN. In the event any time period or deadline identified in this Agreement expires and/or falls on a Saturday, Sunday or recognized holiday by the TOWN, said expiration and/or deadline shall be automatically tolled until 5:00 pm on the next available business day which the TOWN is open for business to the public.

XX. GOVERNING LAW

This Agreement shall be governed by the laws of the State of Florida and applicable federal law. The VENDOR shall comply with all mandatory laws and grant requirements in effect during performance. If a change in law after the Effective Date materially changes the Work, the VENDOR shall promptly provide written notice, and any adjustment shall be determined through the Change Order process.

XXI. VENUE

Exclusive venue for any civil action arising from this Agreement shall lie in a state court of competent jurisdiction in Polk County, Florida, unless exclusive federal jurisdiction applies. Each Party waives an objection based on venue or forum non conveniens to the extent permitted by law.

XXII. NO THIRD-PARTY BENEFICIARIES

This Agreement is for the sole benefit of the TOWN and VENDOR. No Subcontractor, supplier, employee, resident, user, or other person is an intended contractual third-party beneficiary. This Article does not limit a right independently provided by a payment bond, federal wage law, public-records law, or another statute.

XXIII. MANDATORY PRE-SUIT MEDIATION

Disputes between the TOWN and VENDOR arising under this Agreement, except for emergency injunctive relief, protection of public health or safety, public-records enforcement, federal wage or grant proceedings, bond claims, or an expiring statutory deadline, shall first be mediated by a Florida Supreme Court-Certified Civil Mediator (hereafter the "Mediator") in accordance with Ch. 44, Florida Statutes. The parties agree that the mediation shall occur within thirty (30) Days of the date on which mediation is requested in writing by either party. The Mediator shall be agreed upon but, if the parties are unwilling or unable to agree upon and/or select the Mediator, the parties agree that a Mediator from Central Florida Mediation Group, LLC, shall be selected by striking names from the list of mediators at Central Florida Mediation Group, LLC. The parties agree to mediate in good faith, be bound by the Mediator's agreement (if any), pay Mediator fees promptly and share them on an equal basis, unless otherwise agreed upon by the parties. Litigation shall not be commenced until after mediation has been (i) declared an impasse by the Mediator, or (ii) terminated in writing by one or both of the parties. The confidentiality provisions of the Mediation Confidentiality and Privilege Act (§44.403, Florida Statutes) shall apply to any such pre-suit mediation.

XXIV. INDEPENDENT VENDOR

The VENDOR is an independent contractor and not an employee, partner, joint venturer, or agent of the TOWN. The VENDOR is solely responsible for directing and compensating its employees, employment taxes and benefits, workers' compensation, construction means and methods, and supervision of Subcontractors. The VENDOR has no authority to bind the TOWN, pledge the TOWN's credit, incur an obligation in the TOWN's name, or represent that it is a TOWN official or employee.

XXV. ENTIRETY OF AGREEMENT

The Contract Documents constitute the entire agreement concerning the Project and supersede prior and contemporaneous negotiations, oral statements, correspondence, quotations, proposals, drafts, representations, and

understandings except to the extent expressly incorporated. The VENDOR's complete original bid remains in the public procurement file, but only the portions accepted under this Agreement form part of the Contract Documents, and conflicting VENDOR terms are governed by Article XVI.

XXVI. AUTHORIZATION

Each person signing this Agreement represents that he or she has full authority to bind the identified Party and that all required organizational or governmental approvals have been obtained. The VENDOR shall provide written evidence of the signatory's authority upon request. No employee or representative of the TOWN may authorize an expenditure beyond lawful appropriation, delegated purchasing authority, the approved Contract Sum, or a valid Change Order.

XXVII. REPRESENTATIONS AND WARRANTIES

The VENDOR represents and warrants that it is active and authorized to transact business in Florida; possesses or will obtain all required licenses and permits; has reviewed the Contract Documents and Project Site; has evaluated the labor, materials, equipment, supervision, federal compliance, and other costs required; has included those costs in the Contract Sum; is not relying on an oral statement or unauthorized representation; is financially and technically able to complete the Work; is not knowingly using an ineligible Subcontractor or supplier; and will maintain its legal status, licenses, bonds, insurance, and certifications throughout performance and the warranty period. These representations are material and continuing.

The VENDOR warrants clear title to all materials and equipment incorporated into the Work, free of liens, security interests, and claims, and shall not use material subject to a chattel mortgage, conditional sale, or retained interest unless the TOWN expressly approves in writing. Risk of loss remains with the VENDOR until incorporation into and acceptance of the Work, except for materials directly purchased by the TOWN, which remain subject to the VENDOR's duties of custody, protection, installation, and warranty.

XXVIII. CONSTRUCTION

This Agreement shall be construed as a whole to give effect to all provisions. Headings are for convenience and do not limit meaning. "Including" means "including without limitation"; "shall" is mandatory; the singular includes the plural; and references to statutes or regulations include lawful amendments and successor provisions. No presumption shall arise against either Party as drafter. If a provision is invalid or unenforceable, it shall be modified to the minimum extent necessary to make it lawful, and the remaining provisions remain effective.

XXIX. GENDER NEUTRAL

Words of any gender include every gender, and references to persons include individuals, firms, partnerships, corporations, limited liability companies, associations, governmental entities, and other legal entities, as the context requires.

XXX. RETAINAGE

Because the Contract Sum is \$200,000 or less, the TOWN does not intend to withhold routine percentage retainage unless required by the federal grant, the surety, or a written amendment. The TOWN may nevertheless withhold a good-faith disputed amount, an amount required for federal wage or grant compliance, or an amount reasonably necessary to address defective or incomplete Work. Within thirty (30) calendar days after Substantial Completion, the TOWN and VENDOR shall cooperate in developing the single list of items and estimated completion costs required by Section 218.735, Florida Statutes. The list shall be delivered within the statutory period, and the final completion date shall be at least thirty (30) days after delivery. The TOWN shall release the remaining undisputed balance in accordance with law, less up to one hundred fifty percent (150%) of the estimated cost to complete listed items and other lawful withholdings. Omission of an item from the list does not relieve the VENDOR of responsibility, and warranty items shall be handled without improperly delaying final payment.

XXXI. PROHIBITION AGAINST CONTINGENCY FEES

The VENDOR warrants that it has not employed or retained a person, other than a bona fide employee or established commercial or professional firm, to solicit or secure this Agreement on a contingent fee, commission, percentage, gift, or other improper consideration. A violation is a material breach, and the TOWN may terminate the Agreement, deduct or recover the full amount of the improper payment, and pursue other lawful remedies.

XXXII. LIQUIDATED DAMAGES

In addition to and without waiving any right and/or entitlement to remedies and/or damage(s), provided under this Agreement and/or applicable Florida law, the VENDOR and TOWN acknowledge, represent, and warrant that, in the event of the VENDOR'S partial or total breach of this Agreement, the TOWN may incur monetary damages that are, by their nature, uncertain and/or not readily ascertainable by any known rule or pecuniary standard. In that event, the VENDOR and TOWN agree and stipulate that, upon receipt of written notice from the TOWN, the TOWN shall, in addition to any other damages provided for in this Agreement and/or applicable Florida law, to which the TOWN may be entitled that the TOWN will also be entitled to claim against the Performance Bond of the VENDOR or deduct from the regularly scheduled payment(s) to the VENDOR amounts and/or sums, which are not intended as a penalty or to secure performance, as liquidated damages for the VENDOR'S breach of this Agreement, as follows:

The TOWN may require Services or purchases to be substantially completed and/or delivered by a date-certain. Liquidated damages shall be assessed per day in the amount specified by the TOWN, in writing, prior to the commencement of the Services and applied against retainage. Any liquidated damages in excess of retainage shall be billed to the VENDOR and paid within sixty (60) days of said invoice. Any amount outstanding beyond sixty (60) days of invoice may be recovered from the bond for the Services.

XXXIII. PUBLIC RECORDS

VENDOR agrees to:

1. Keep and maintain public records required by the TOWN to perform the Services contemplated herein.
2. Upon request from the TOWN's custodian of public records, provide the TOWN with a copy of the requested records or allow the records to be inspected or copies within a reasonable time at a cost that does not exceed the cost provided in 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 for the duration of the Agreement term and following completion of this Agreement and/or any amendment(s) issued hereunder if the VENDOR does not transfer the records to the TOWN.
4. Upon completion of the Agreement and/or any amendment(s) issued hereunder, transfer, at no cost, to the TOWN all public records in possession of the VENDOR or keep and maintain public records required by the TOWN to perform the service. If the VENDOR transfers all public records to the public agency upon completion of the Agreement and/or any amendment(s) issued hereunder, the VENDOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the VENDOR keeps and maintains public records upon completion of the Agreement and/or any Amendment(s) issued hereunder, the VENDOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the TOWN, upon request from the TOWN'S custodian of public records, in a format that is compatible with the information technology systems of the TOWN.

IF THE CONTRACTOR/VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE TOWN'S CUSTODIAN OF

**PUBLIC RECORDS, ERICA ANDERSON, TOWN CLERK, (863) 438-8330,
EANDERSON@TOWNOFDUNDEE.COM, 202 E. MAIN STREET, DUNDEE FLORIDA 33838.**

If the VENDOR does not comply with a public records request, the TOWN shall enforce the Agreement and/or any amendment(s) issued hereunder which may include immediate termination of Agreement and/or any amendment(s) issued hereunder. This Section shall survive the termination of this Agreement.

XXXIV. ACCESS TO RECORDS

The VENDOR shall create, maintain, and preserve complete Project records, including the Agreement and subcontracts, bids and quotations, change documents, invoices and job-cost records, payrolls and time records, wage and fringe-benefit records, employee and apprentice records, material certifications and delivery tickets, testing and inspection records, permits, bonds, insurance, federal eligibility checks, E-Verify documents, affidavits, correspondence, photographs, domestic-content records, and other documents necessary to establish performance and compliance. Records shall be retained for at least five (5) years after final payment or for the longer period required by 2 C.F.R. Part 200, HUD, the CDBG award, Polk County, the Florida records-retention schedule, the Department of Labor, or any unresolved audit, investigation, claim, litigation, or enforcement matter.

The TOWN, Polk County, HUD, the United States Department of Labor, the Comptroller General, applicable inspectors general, state or federal auditors, the grant administrator, and other authorized governmental representatives may inspect, copy, scan, and audit Project records and may interview workers during normal working hours. The VENDOR shall provide safe site access, electronic records in an accessible format, and timely responses without additional charge. The VENDOR is responsible for wage underpayments and costs disallowed because of its acts or omissions, false or unsupported documentation, use of an ineligible entity, or unapproved changes, and shall reimburse the TOWN within thirty (30) days after written demand or as otherwise agreed in writing.

XXXV. FURTHER ASSURANCES

Each Party shall execute reasonable additional documents and take reasonable action necessary to implement this Agreement, provided that no further assurance materially expands a Party's obligations, changes the Contract Sum or Contract Time, or waives a right unless approved through a written amendment or Change Order. The Parties shall coordinate their responsibilities and cooperate with lawful requests of the grant administrator, engineer, inspectors, surety, and funding agencies.

XXXVI. WAIVER OF JURY TRIAL

TO THE EXTENT PERMITTED BY LAW, THE TOWN AND VENDOR KNOWINGLY AND VOLUNTARILY WAIVE TRIAL BY JURY IN ANY CIVIL ACTION ARISING DIRECTLY FROM THIS AGREEMENT. **The right to a jury trial of such issues is hereby waived.**

XXXVII. COUNTERPARTS

This Agreement may be executed in counterparts, each deemed an original and all together one agreement. Electronic and scanned signatures may be accepted to the extent permitted by the TOWN and law, but the TOWN may require original bonds, powers of attorney, affidavits, notarizations, or other records.

XXXVIII. DUTY TO COOPERATE IN GOOD FAITH

The Parties acknowledge that proper performance serves the public interest. They shall cooperate and act in good faith in administering the Contract Documents, exchanging required information, coordinating inspections and operations, addressing federal and grant requirements, resolving disputes, and completing closeout. Good-faith cooperation does not require either Party to waive a contractual or legal right or approve an unauthorized expenditure or change.

[Rest of page intentionally left blank]

IN WITNESS WHEREOF, the Parties have executed this Agreement through their duly authorized representatives.

VENDOR:

**H & S INVESTMENT GROUP OF CENTRAL
FLORIDA, L.L.C., d/b/a AAA Top Quality Asphalt**

By: _____

Printed Name: _____

Title: _____

Date: _____

Witness: _____

Printed Name: _____

Witness: _____

Printed Name: _____

TOWN OF DUNDEE, FLORIDA:

By: _____

Joe Garrison, Mayor

Date: _____

ATTEST:

Erica Anderson, Town Clerk

**APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:**

Markeishia L. Smith, Town Attorney

COMMISSION AUTHORIZATION:

The Town Commission authorized entry into an agreement for RFP 26-02 on July 7, 2026, subject to satisfaction of all required federal, grant, bonding, insurance, technical, and legal requirements.

CONTRACTOR ACKNOWLEDGMENT

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of _____, 2026, by _____, as _____ of H & S Investment Group of Central Florida, L.L.C., d/b/a AAA Top Quality Asphalt, on behalf of the company. The individual is ☐ personally known to me or ☐ produced _____ as identification.

Notary Public, State of Florida

Printed Name: _____

Commission Number: _____

My Commission Expires: _____

EXHIBIT “A”
VENDOR BID FORM AND PROPOSAL

The attached bid form and proposal are incorporated only for the accepted Contract Sum, quantities, technical description, layout, and schedule. Article XVI controls, and conflicting VENDOR terms, exclusions, qualifications, disclaimers, withdrawal rights, price-escalation language, payment terms, and warranty limitations are rejected and have no force or effect.

Original



BID SUBMISSION FORM
FY 2025-2026 – Community Center Parking Lot Resurfacing Project RFP 26-02

RETURNDATE: 05/27/2026

RETURN TO: Office of the Town Clerk
Attn: RFP 26-02
Town of Dundee
P.O. Box 1000
202 East Main Street
Dundee, Florida 33838

ITEM	QTY	UNIT	UNIT COST (\$)	TOTAL COST (\$)
1. MILL/DEMO/BASE	1	1	\$14,465.00	\$14,465.00
2. PAVING/PERMIT/TACK COAT	1	1	\$39,480.00	\$39,480.00
3. STRIPING	1	1	\$2,030.00	\$2,030.00
4.				
5.				
6.				
7.				
8.				
			TOTAL (\$)	\$55,975

ALL BID FORMS SHOULD INCLUDE THE FOLLOWING INFORMATION:

Company Submitting Bid: AAA TOP QUALITY ASPHALT

Company Address: P.O. BOX 1564

Company City: WINTER HAVEN

State: FL Zip: 33882

Company Phone Number: 863-521-5454

Fax Number: 863-425-5048

Authorized Representative: STEVE KELTON - PROJECT MANAGER

Signature: [Signature]

Date: 05-27-2026

Phone Number: 863-604-1097

NOTE: THE FAILURE TO FOLLOW THE BID PROTEST PROCEDURE REQUIREMENTS WITHIN THE TIME FRAMES PRESCRIBED HEREIN AS ESTABLISHED BY THE TOWN OF DUNDEE, FLORIDA, SHALL CONSTITUTE A WAIVER OF BIDDERS PROTEST AND ANY RESULTING CLAIMS.



City of Dundee - Community Center - 1" Mill & 1.5" Pave/Re-stripe Proposal

Contact
Steve Kelton
(863) 604-1097
steven@aaatopqualityasphalt.com

Proposal Date 5/27/2026
Project ID 26-0787
Job Site 603 Lake Marie Blvd
Dundee, FL 33838

Submitted to
City of Dundee
Erica Anderson
(863) 438-8330 ext. 258
EAnderson@townofdundee.com

Services

City of Dundee - Community Center - 1" Mill & 1.5" Pave/Re-stripe

SCOPE OF WORK

- DEMO EXISTING CONCRETE ACCESS AISLE AND HAUL AWAY
- MILL THE EXISTING PARKING LOT TO A DEPTH OF 1"
- EXCAVATE AND BASE 2 AREAS TO WIDEN FRONT PARKING FOR PROPER ADA COMPLIANT PARKING STALLS - USING THE EXISTING MILLINGS AS BASE MATERIALS
- TACK COAT
- INSTALL 1.5" OF SP 9.5 ASPHALT TO THE PROJECT AREA (SEE MAP)
- RE-STRIPE NEW PARKING LOT CONFIGURATION (SEE MAP)

****ALL SIGNAGE, CURBING, AND/OR WHEEL STOPS TO BE COMPLETED BY THE CITY OF DUNDEE PER THE PRE-CON MEETING ON 05/12/2026****

"The Contract Work Hours and Safety Standards Act applies to this project."

PERMITTING

FEE FOR PULLING A PERMIT WITH THE CITY/COUNTY.

CONCRETE DEMO

- DEMO EXISTING CONCRETE ACCESS AISLE
- HAUL ALL MATERIALS OFF AND DISPOSE OF PROPERLY.

ASPHALT MILL & CLEAN

MILL APPROXIMATELY 2,715 sq yd OF EXISTING ASPHALT USING A RX-700 ROADTEC ASPHALT MILLING MACHINE TO AN AVERAGE DEPTH OF 1". USING A POWER BROOM, POWER SWEEP CLEAN THE DESIGNATED PROJECT AREA FREE OF ALL LOOSE DIRT, SAND AND DEBRIS FOR ASPHALT INSTALLATION. HAUL ALL MILLING DEBRIS FROM SITE AND DISPOSE OF.

BASE INSTALL

REMOVE ALL EXTRA DIRT, GRASS AND GROWTH FROM APPROX. 365 sq ft AND INSTALL 6" OF EXISTING ASPHALT MILLINGS. ROLL, LEVEL AND PACK TO PROPER DENSITY WITH STEEL WHEEL DOUBLE DRUM ROLLER, AND RUBBER TIRE TRAFFIC ROLLER.

5/27/2026

P.O. Box 1564, Winter Haven, FL 33882
www.aaatopqualityasphalt.com | (863) 521-5454

1 of 4



City of Dundee - Community Center - 1" Mill & 1.5" Pave/Re-stripe Proposal

TACK COAT

APPLY ERGON ASPHALT EMULSIONS SP-MS TACK COAT TO THE PROJECT AREA FOR ASPHALT INSTALLATION AS NEEDED.

ASPHALT PAVING

INSTALL APPROXIMATELY 2,755 sq yd OF 1.5" SP 9.5 TLC TYPE HOT MIX ASPHALT MATERIALS (MAX RAP 40%) (ONE LIFT) TO THE PROJECT AREA. ROLL, LEVEL AND PACK TO PROPER DENSITY USING A STEEL WHEEL DOUBLE DRUM ROLLER AND RUBBER TIRE TRAFFIC ROLLER.

NOTE: THIS ITEM YIELDS 228 TONS

STRIPING

LAYOUT & PAINT ALL LINE STRIPES AND SYMBOLS IN THE DESIGNATED PROJECT AREA. USING A F.D.O.T. CERTIFIED TRAFFIC PAINT. (NOT RAISED THERMOPLASTIC).

QUANTITIES INCLUDE:

- (6) HC PARKING STALLS W/ ACCESS AISLES
- (47) REG PARKING STALLS
- (9) DIRECTIONAL ARROWS
- (4) 24" STOP BAS

Total: \$55,975.00

Acceptance

PLEASE NOTE

DUE TO THE VOLATILITY OF THE CURRENT MARKET FOR OIL-BASED PRODUCTS, WE RESERVE THE RIGHT TO REVIEW PRICING AT THE TIME OF ASPHALT INSTALLATION.

EXCLUSIONS

THE FOLLOWING ARE NOT INCLUDED IN THE SCOPE OF WORK:

"ASPHALT OVERAGES DUE TO AN INCORRECT BASE

"TACK, PRIME, SAND, SILT FENCE, SURVEY, AS-BUILTS, SOIL TESTING, DENSITY TESTING, PAINT, BOND, PERMIT, PERMIT FEES, SOD, NIGHT WORK, LIGHT PLANT, HERBICIDE, OR ANY WORK NOT EXPLICITLY LISTED OR IMPLIED IN THE SCOPE OF WORK

"RESPONSIBILITY FOR REFLECTIVE CRACKING RESULTING FROM PAVING OVER OLD ASPHALT OR CONCRETE

"GUARANTEE OF POSITIVE DRAINAGE IN ALL AREAS, AS PONDING MAY OCCUR DUE TO EXISTING ELEVATIONS

"RESPONSIBILITY FOR TEAR MARKS THAT MAY APPEAR DUE TO SUMMER HEAT (THESE SHOULD SUBSIDE IN COOLER WEATHER; WE SAND THE ASPHALT AFTER INSTALLATION TO MITIGATE THIS ISSUE)

"RESPONSIBILITY FOR VEGETATION GROWTH THROUGH NEW ASPHALT PAVEMENT OR DAMAGE TO THE ASPHALT AFTER WE HAVE LEFT THE PROJECT SITE

ALL WORK QUOTED IS SPECIFIED ABOVE. ANY WORK NOT EXPLICITLY LISTED IS EXCLUDED.

WARRANTY EXCLUSIONS

"ASPHALT PAVEMENT OR BASE INSTALLATION WARRANTIES DO NOT COVER FAILURES CAUSED BY EXISTING SUBGRADE SOILS, INCLUDING CLAYEY SOILS, ORGANIC MATERIALS, OR OTHER UNSUITABLE MATERIALS.

"ASPHALT PAVEMENT WARRANTIES DO NOT COVER FAILURES CAUSED BY BASE OR SUBGRADE INSTALLED AND COMPACTED BY OTHERS.

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City of Dundee - Community Center - 1" Mill & 1.5" Pave/Re-stripe Proposal

RIGHT OF CONTRACTOR TO WITHDRAW

NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, THE CONTRACTOR RESERVES THE RIGHT TO WITHDRAW FROM ANY AWARDED CONTRACT OR ISSUED PURCHASE ORDER OF RECEIPT, WITHOUT PENALTY OR LIABILITY, IF AFTER INTERNAL REVIEW, THE CONTRACTOR DETERMINES THAT PROCEEDING WITH THE PROJECT IS NO LONGER FEASIBLE DUE TO OPERATIONAL, FINANCIAL, LOGISTICAL, OR STRATEGIC REASONS.

TO EXERCISE THIS RIGHT, THE CONTRACTOR SHALL PROVIDE WRITTEN NOTICE TO THE CONTRACTING AUTHORITY STATING THE INTENTION TO WITHDRAW AND THE EFFECTIVE DATE OF SUCH WITHDRAWAL. UPON RECEIPT OF SUCH NOTICE, THE PARTIES SHALL HAVE NO FURTHER OBLIGATIONS TO ONE ANOTHER WITH RESPECT TO THE PROJECT, EXCEPT FOR PAYMENT FOR GOODS OR SERVICES ALREADY DELIVERED OR COMPLETED PRIOR TO THE DATE OF WITHDRAWAL.

SPORTS COURT INSTALLATION

WHEN INSTALLING A SPORTS COURT ON TOP OF NEW ASPHALT, TQA IS NOT RESPONSIBLE FOR SURFACE PATCHING OR LEVELING DUE TO THE ASPHALT BEING "ROUGH" OR "UNEVEN." ASPHALT IS NATURALLY ROUGH AND POROUS, AND THIS SHOULD BE ACCOUNTED FOR IN THE SPORTS COURT CONTRACTOR'S BID. NO BACK CHARGES WILL BE ACCEPTED.

NOTICE TO OWNER (NTO)

TQA SENDS OUT NTOs FOR EVERY PROJECT. EXPECT TO RECEIVE ONE FROM TQA, AS WELL AS FROM ANY SUPPLIERS OR SUBCONTRACTORS. THIS IS STANDARD PRACTICE.

PAYMENT TERMS

PAYMENT IS DUE WITHIN 30 DAYS FROM THE ORIGINAL INVOICE DATE. IF PAYMENT IS NOT RECEIVED WITHIN 60 DAYS, A NOTICE OF NON-PAYMENT WILL BE FILED/SENT WITH INTENT TO LIEN WITHIN 10 DAYS. IF AN ATTORNEY IS RETAINED TO COLLECT PAYMENT, ASSOCIATED FEES WILL BE INCLUDED.

BASE INSPECTION

PRIOR TO PAVING, THE BASE MUST BE INSPECTED. THE BASE MUST BE FIRM, ON GRADE, AND UNYIELDING. A STRING LINE TEST IS REQUIRED TO ENSURE THE CORRECT THICKNESS OF THE ASPHALT BEING INSTALLED.

OVERAGES AND MOBILIZATION

ANY OVERAGES WILL BE CHARGED BACK TO THE CONTRACTOR. ADDITIONAL MOBILIZATIONS WILL BE AT THE CONTRACTOR'S EXPENSE, AT A COST OF \$4,500.00 PER MOBILIZATION. WE AIM TO HOLD PRICES FOR AT LEAST 30 DAYS, BUT PRICES ARE SUBJECT TO CHANGE THEREAFTER DUE TO INCREASES IN MATERIAL COSTS, HAULING, OR OTHER FACTORS.

SPEED BUMPS & OR CAR STOPS

THE CLIENT ACKNOWLEDGES THAT SPEED BUMPS, WHEEL STOPS, AND SIMILAR TRAFFIC CONTROL DEVICES INSTALLED ON THE PROPERTY ARE VISIBLE PHYSICAL FEATURES INTENDED TO REGULATE VEHICLE MOVEMENT AND ENHANCE SAFETY. WHILE REASONABLE CARE IS TAKEN IN THEIR PLACEMENT AND INSTALLATION, SUCH FEATURES MAY PRESENT A TRIPPING OR OBSTRUCTION HAZARD TO PEDESTRIANS.

TO THE FULLEST EXTENT PERMITTED BY LAW, THE CONTRACTOR SHALL NOT BE HELD LIABLE FOR ANY INJURIES, DAMAGES, CLAIMS, OR LOSSES ARISING FROM OR RELATED TO INDIVIDUALS TRIPPING OVER, ENCOUNTERING, OR OTHERWISE INTERACTING WITH THESE INSTALLATIONS AFTER COMPLETION OF THE WORK. THE CLIENT AGREES TO ASSUME RESPONSIBILITY FOR MAINTAINING APPROPRIATE SIGNAGE, LIGHTING, AND ONGOING SAFETY MEASURES ONCE THE INSTALLATION IS COMPLETE.

THE CLIENT FURTHER AGREES TO INDEMNIFY AND HOLD HARMLESS THE CONTRACTOR FROM ANY CLAIMS OR LIABILITIES RESULTING FROM THE USE, CONDITION, OR PRESENCE OF THE INSTALLED SPEED BUMPS OR CAR STOPS FOLLOWING PROJECT COMPLETION.



City of Dundee - Community Center - 1" Mill & 1.5" Pave/Re-stripe Proposal

Erica Anderson
City of Dundee
EAnderson@townofdundee.com

Date

Steve Kelton
H&S Investment Group of Central Florida, LLC dba
AAA Top Quality Asphalt
steven@aaatopqualityasphalt.com

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EXHIBIT “B”

FEDERAL AND CDBG CONTRACT REQUIREMENTS

Before issuance of the Notice to Proceed, the TOWN or its CDBG grant administrator shall attach the Project-specific federal documents identified below. The attached documents are incorporated into and control this Agreement to the extent required by federal law or the governing award.

- HUD-4010 Federal Labor Standards Provisions;
- The applicable United States Department of Labor wage determination and any modification required before award or commencement;
- CDBG labor-compliance, certified-payroll, worker-interview, reporting, and posting requirements;
- The applicable federal equal-employment clause and required notices;
- Section 3 requirements or a written determination of nonapplicability;
- Build America, Buy America applicability or waiver documentation, when applicable;
- Debarment and suspension, domestic-preference, recovered-material, telecommunications, and anti-lobbying requirements applicable to this Project; and
- Polk County, HUD, State of Florida, or other pass-through-entity forms and grant conditions applicable to the VENDOR and its Subcontractors.

No Work may begin until the TOWN or grant administrator confirms in writing that the required federal documents have been incorporated and all preconstruction labor and grant conditions have been satisfied.

EXHIBIT “C”

TOWN SOLICITATION AND TECHNICAL DOCUMENTS

The following documents, as issued and maintained in the TOWN’s procurement file, are incorporated by reference subject to the order of precedence in Article XVI:

- Cover and Table of Contents, Community Center Parking Lot Resurfacing Project, RFP 26-02;
- Town of Dundee General Provisions, Terms and Conditions for RFP 26-02;
- Work Scope for RFP 26-02, limited to the provisions applicable to this paving Project and excluding unrelated template language;
- Work Summary and Attachments for RFP 26-02, including the one-year warranty, closeout, traffic-control, restoration, and cleaning requirements;
- Approved plans, drawings, parking layout, and written technical clarifications;
- All addenda issued before bid opening; and
- Any written technical exhibit approved by the TOWN that clarifies, but does not materially enlarge, the competitively solicited scope.

The original procurement documents and complete VENDOR bid shall remain unchanged in the procurement file. This Agreement resolves inconsistencies through its order-of-precedence and conflict provisions; it does not retroactively alter the documents issued or submitted.

EXHIBIT “D”
HUMAN TRAFFICKING AFFIDAVIT

Section 787.06(14), Florida Statutes, requires a nongovernmental entity that executes, renews, or extends a contract with a governmental entity to provide an affidavit signed by an officer or representative under penalty of perjury attesting that the nongovernmental entity does not use coercion for labor or services as defined in Section 787.06, Florida Statutes.

I, the undersigned officer or authorized representative of H & S INVESTMENT GROUP OF CENTRAL FLORIDA, L.L.C., d/b/a AAA Top Quality Asphalt, attest under penalty of perjury that the company does not use coercion for labor or services. The company does not use or threaten physical force; unlawfully restrain, isolate, or confine a person; use improper lending or credit methods to compel labor or services; destroy, conceal, confiscate, withhold, or possess a person’s passport, visa, immigration document, or government identification; cause or threaten financial harm; entice or lure a person by fraud or deceit; or provide a Schedule I or Schedule II controlled substance for the purpose of exploitation.

Executed this _____ day of _____, 2026.

H & S INVESTMENT GROUP OF CENTRAL FLORIDA, L.L.C., d/b/a AAA Top Quality Asphalt

By: _____

Printed Name: _____

Title: _____

Under penalty of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true.

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of _____, 2026, by _____, as _____ of H & S Investment Group of Central Florida, L.L.C., d/b/a AAA Top Quality Asphalt. The individual is ☐ personally known to me or ☐ produced _____ as identification.

Notary Public, State of Florida
Printed Name: _____
Commission Number: _____
My Commission Expires: _____