

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: December 21, 2010 ☒ Consent ☐ Regular
 ☐ Workshop ☐ Public Hearing

Department:

Submitted By: Engineering & Public Works

Submitted For: Engineering Services Division

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: An Amendment to the Annual Microsurfacing Contract, R2009-1839 (Contract), Project No. 2010051, dated November 3, 2009, with Florida Highway Products, Inc. (FHP), to relate back to the original Contract date and extend the Contract to November 3, 2011.

SUMMARY: Approval of this Amendment will relate back to November 3, 2009, and extend the expiration date of the existing Contract, without interruption or lapse, to November 3, 2011. There will be no increase in the maximum value of work orders issued under the existing \$50,000 Contract. In addition, the updated language for the Palm Beach County Office of the Inspector General Ordinance has been added to the Contract as has the requirements contained in the new Local Government Prompt Payment Act. The Small Business Enterprise (SBE) goal for the project is 15%. The SBE participation committed for the project by FHP is 8.67% overall. FHP is not a local business. To date, no work orders have been issued against this Contract.

Countywide (MRE)

Background and Justification: The original Contract was approved by the Board of County Commissioners on November 3, 2009. Since sufficient funds remain in the existing Contract amount, no increase is required. The Contract consists of overlaying existing pavement on various Palm Beach County roads. All tasks are initiated by Work Order on an as needed basis as required by the Road and Bridge Division, the sole user.

Attachments:

- ## 1. Amendment to the Annual Microsurfacing Contract (2)

Recommended by: _____

Division Director **Date**

Approved By: Sgt. J. Wahl 12/14/10
County Engineer Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2011	2012	2013	2014	2015
Capital Expenditures	\$ -0-	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	\$ -0-*	-0-	-0-	-0-	-0-

ADDITIONAL FTE

POSITIONS (Cumulative) _____

Is Item Included in Current Budget? Yes _____

No _____

Budget Acct No.: Fund _____ Dept. _____ Unit _____ Object _____
Program

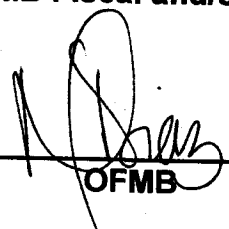
B. Recommended Sources of Funds/Summary of Fiscal Impact:


* This item has a no fiscal impact. These contractors are authorized to provide services on a task order basis. Funding will be established by project as necessary.

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:


OFMB 12/2/2010
SW 12/2/10 2/1/10


Contract Dev. and Control 12/3/10
E Jones 12/3/10

B. Approved as to Form
and Legal Sufficiency:

This amendment complies with
our review requirements.


Paul F. F. 12/20/10
Assistant County Attorney

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.

**AMENDMENT TO THE ANNUAL MICROSURFACING
CONTRACT NO. 2010051 DATED NOVEMBER 3, 2009 BY
AND BETWEEN FLORIDA HIGHWAY PRODUCTS, INC.,
AND PALM BEACH COUNTY**

THIS AMENDMENT to the Annual Microsurfacing Contract dated November 3, 2009, (R-2009-1839), hereinafter "CONTRACT" by and between Florida Highway Products, Inc., hereinafter "CONTRACTOR" and the BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, a political subdivision of the State of Florida, hereinafter, "COUNTY".

W I T N E S S E T H

WHEREAS, on November 3, 2009, the CONTRACTOR and COUNTY entered into a Contract for overlaying existing pavement on various roads on an as-needed basis throughout Palm Beach County; and

WHEREAS, Section 33 of the contract provides that the contract may be extended, at the COUNTY'S option for a defined period of time, not to exceed thirty-six months total contract time, upon approval of the Board of County Commissioners; and

WHEREAS, the CONTRACTOR and the COUNTY desire that this amendment shall relate back to November 3, 2009, and the CONTRACT continue without interruption or lapse and its term be extended until November 3, 2011, with all original terms, conditions and unit prices adhered to; and

WHEREAS, the CONTRACTOR and the COUNTY desire to amend the CONTRACT to add Section 40. PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL, which introduces the requirements of the Inspector General per Ordinance R2009-049 and amend Section 11. PAYMENTS, to add the requirements of the Local Government Prompt Payment Act (F.S. 218.70, *et seq*); and

NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements herein contained, the parties agree as follows:

1. The above recitations are true and correct and incorporated herein. The CONTRACT between the CONTRACTOR and the COUNTY shall relate back to November 3, 2009, and shall be continued, without interruption or lapse in its term or effect, commencing on November 3, 2010, and expiring on November 3, 2011.

2. The CONTRACT, dated November 3, 2009, between the CONTRACTOR and the COUNTY is hereby amended as follows:

3. Section 40. PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL is hereby added to read as follows:

Palm Beach County has established the Office of the Inspector General, Ordinance R2009-049, as may be amended. The Inspector General's authority includes, but is not limited to,

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EXTENSION AMENDMENT**

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the power to review past, present, and proposed County contracts, transactions, accounts, and records, to require the production of records, and audit, investigate, monitor, and inspect the activities of the contractor, its officers, agents, employees, and lobbyists in order to ensure compliance with contract specifications and detect corruption and fraud. All contractors and parties doing business with the County and receiving County funds shall fully cooperate with the Inspector General including allowing access to records relating to bid or any resulting contract.

4. Section 11. PAYMENTS is hereby amended to read as follows:

In accordance with the Local Government Prompt Payment Act (F.S. 218.70, *et seq*) the Contractor is hereby notified of the following:

- a. The Contractor will be notified at the Pre Construction Meeting the manner in which pay requests are to be prepared and directed to the County. For a pay request to be deemed acceptable, the Contractor must provide the following:

Pay Request No. 1

- SBE-M/WBE Activity Form/Schedule 4.
- Certification of Compliance with the Living Wage Ordinance.

Pay Request No. 2 and all others following, but not including the Final

- SBE-M/WBE Activity Form/Schedule 4.
- SBE-M/WBE Payment Certification/Schedule 5.
- Disbursement of Previous Periodic Payments to Subcontractors.
- Certification of Compliance with the Living Wage Ordinance.

Final Pay Request

- SBE-M/WBE Activity Form/Schedule 4.
- SBE-M/WBE Payment Certification/Schedule 5.
- Disbursement of Previous Periodic Payments to Subcontractors.
- Disbursement of Final Payment to Subcontractors.
- Form 1.
- Form 2 including Bonding Affidavit.
- Record of Construction Materials Affidavit.
- Certification of Compliance with the Living Wage Ordinance.

A single list of items (Punch List) required to render the work complete, satisfactory, and acceptable will be prepared by the County. The Punch List shall be developed via a joint inspection of the work (conducted within 30 calendar days after reaching substantial completion) by the prime contractor's superintendent, together with the

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Construction Coordinator and an engineer from Engineering & Public Works, with all unsatisfactory work listed on the Punch List. The Punch List shall be provided to the Contractor within 5 days of the inspection.

- b. In the event any dispute with respect to any payment or pay request cannot be resolved between the Contractor and County's project staff, Contractor may, in accordance with the alternative dispute resolution requirements of Florida Statute section 218.72, demand in writing a meeting with and review by the County Engineer. In the absence of the County Engineer, the Deputy County Engineer may conduct the meeting and review. Such meeting and review shall occur within ten (10) business days of receipt by County of Contractor's written demand. The County Engineer, or Deputy County Engineer, shall issue a written decision on the dispute within ten (10) business days of such meeting. This decision shall be deemed the County's final decision for the purposes of the Local Government Prompt Payment Act.

5. It is the intent of the parties hereto that this Agreement shall not become binding until the date executed by the COUNTY.

6. All other provisions of the Annual Microsurfacing Contract dated November 3, 2009, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Contract to be executed and sealed as of the day and year first written above.

ATTEST:
SHARON R. BOCK
Clerk and Comptroller

PALM BEACH COUNTY, a Political
Subdivision of the State of Florida
Board of County Commissioners

By: _____
Deputy Clerk

By: _____
Karen T. Marcus, Chair


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APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

COUNTY ATTORNEY

ATTEST:



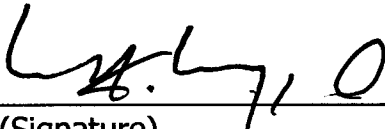
Secretary or Asst. Secretary

APPROVED AS TO TERMS
AND CONDITIONS



ENGINEERING

FLORIDA HIGHWAY PRODUCTS, INC.
Contractor

By: 

(Signature)

Robert H. Maggard, President

(Print Name & Title)

(Seal)