

Memo



To: Board of Directors
From: Robert McLeod, Board Director Public Services
Date: February 16, 2022
Re: Motion – Approval for 1st Year of a 3-Year Renewable Agreement for Crack Sealing

Motion

I move to authorize the GM to execute a 3-year (2022 thru 2024) Renewable Agreement with **Mitchell’s Asphalt and Seal Coating** not to exceed Year 2022 budget of **\$75,000.00** at the unit price of \$0.65 per linear feet of crack seal. See Agreement attached.

Background

Mitchell’s Sealcoating has been performing the crack sealing work for many years here in Hot Springs Village and has met or exceeded our Specifications. Mitchell’s Sealcoating will be responsible for all labor and materials.

Bids were solicited from three vendors and received on October 4, 2021 as shown below:

Tri Lakes Hauling	\$0.65 LF
Mitchell’s Asphalt and Seal Coating	\$0.65 LF
Vance Brothers	No Bid

Tri Lakes Hauling was disqualified as they do not currently own a crack sealing machine. Staff has had a great experience and pricing working with Mitchell’s Asphalt and Seal Coating and recommends awarding them a three-year Renewable Agreement.

2022 BUDGET 18176-000-PW50 WIP-CRACKSEALING (GC): \$75,000.00



BOARD AGENDA FACT SHEET
AUTHORIZATION FOR MAJOR EXPENDITURES

PROJECT NAME: Road Crack Seal Coating

DEPARTMENT: Public Works (PW50) **REQUESTED BOARD DATE:** 2/16/2022

REQUESTED ACTION

Board Approval Discussion/Presentation Other (Specify)

PROJECT/CAPITAL SUMMARY

Complete crack sealing work budgeted in 2022 on priority roads.

JUSTIFICATION

The proposed one-year agreement for crack sealing includes budgeted work to be completed in 2022 to coat/seal roadways with cracks and other surfaced base issues. The crack sealing helps to increase the length of time between full road replacement and other major and expensive repairs.

BID INFORMATION

BID (recommended bid in bold)	Base Price	Freight	Sales Tax	Grand Total
Mitchell's Asphalt and Seal Coating	0.65 per linear ft			0.65 per linear ft
TriLakes Hauling	0.65 per linear ft			0.65 per linear ft
Vance Brothers	No bid			No bid

BUDGET DETAILS

ITEM	COST	BUDGETED	UNBUDGETED	NOTES
Cracksealing (18176-000-PW50)	\$ 75,000	\$ 75,000	\$ -	
	\$ 75,000	\$ 75,000	\$ -	

NOTES

Responsible Director Jason Temple, Public Services Director

Project Manager Chris Boutzale, Wastewater Superintendent

Crack Sealing #2		BID DATE	BID DUE	TAX	FREIGHT	TOTAL		LEAD TIME	SELECTION
MITCHELLS ASPHALT AND SEALCOATING	SEE BID SHEET	10/4/2021	10/8/2021						X
TRI LAKES HAULING	SEE BID SHEET	10/4/2021	10/8/2021						
VANCE BROTHERS	NO BID	10/4/2021	10/8/2021						
BUDGET AMOUNT									
	\$50,000								
APPROVED CAPITAL ACCT:									
JOB # (IF APPLICABLE)									
WIP # (IF APPLICABLE)									

ORIGINATOR	Ron Sievwright	Comments: Mitchell Asphalt is currently working for HSV Crack Sealing Project #1 and with the lowest unit price. Tri Lakes matched Mitchell Asphalt's price but currently does not own a crack seal machine and is working for HSV as our Asphalt Paving placement contractor.
DIRECTOR	Jason Temple	
GENERAL MANAGER	_____	
CONTROLLER	_____	
RELEASE FOR PO	_____	
DATE:	_____	
PO #	_____	

**THREE (3) YEAR RENEWABLE
SMALL PROJECT CONSTRUCTION AGREEMENT (UNIT PRICE)**
Between
HOT SPRINGS VILLAGE PROPERTY OWNER'S ASSOCIATION
And
Mitchell's Asphalt and Sealcoating
For The Crack Sealing Project Year's 2022 thru 2024
In Hot Springs Village, AR

This **SMALL PROJECT CONSTRUCTION AGREEMENT (UNIT PRICE)** (the "Agreement") is entered into this 2nd day of February, 2022 ("Effective Date") between Hot Springs Village Property Owners Association (HSVPOA), a non-profit Arkansas corporation ("Owner"), and Mitchell's Asphalt and Sealcoating, an Arkansas **Sole Proprietor** ("Contractor"), for the **Crack Sealing** in Hot Springs Village, Arkansas ("Project"). Owner and Contractor may be referred to as ("Party") or ("Parties").

ARTICLE I: THE CONTRACT DOCUMENTS

1.1 AGREEMENT AND EXHIBITS. The Contractor shall complete the Work described in the Contract Documents for the Project. The Contract Documents consist of the following documents: Agreement; **RFQ Document, Scope of Work, Bid Schedule, and Specifications.**

1.2 ORDER OF PRECEDENCE AND CONFLICTS. The Contract Documents are complimentary. If there is a conflict between the Agreement and Exhibits, the Agreement controls.

1.3 TERM OF AGREEMENT. The term of this Agreement shall be one (1) year commencing on the effective date, which is the date last signed by both Parties, and may be extended or renewed for consecutive additional one (1) year periods, not to exceed a total of three (3) years, subject to appropriations and mutual agreement of the Parties. The HSVPOA has no obligation to extend or renew this agreement, and any decision to do so is at the sole discretion of the HSVPOA.

ARTICLE 2: DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

This is the first year of a three-year Agreement. The number of Days available to the Contractor to achieve Substantial Completion of the Work is the Contract Time. The date of commencement of the Work shall be the date of Owner's notice to proceed to Contractor. Contractor shall achieve Substantial Completion no later than **December 31, 2022**, subject to adjustment in Articles 10 and 11.

ARTICLE 3: CONTRACT PRICE

3.1 Subject to additions and deductions in Article 10, the Contract Price is the aggregate sum of the Unit Prices the Owner approves in Applications for Payment, as set forth in the Unit Price Bid Schedule Exhibit to this Agreement, at the date of final completion. Payment of each Unit Price will be based on actual measured quantities in the Work, except where the unit is a lump sum, in which case payment will be based upon the lump sum Unit Price as stated. Each Unit Price shall include all items, services, labor, material, equipment, managing, and other costs necessary for the proper execution and completion of the Work.

3.2 The Contractor guarantees that the Contract Price shall be **as per Bid Schedule not to exceed \$75,000** ("Guaranteed Maximum Price" or "GMP"). To the extent the Contract Price exceeds the Guaranteed Maximum Price, the Contractor shall bear such costs in excess of the Guaranteed Maximum Price without reimbursement or additional compensation from the Owner.

ARTICLE 4: PAYMENT

4.1 The Owner shall pay the Contractor, in accordance with Article 12.

4.2 The Owner shall retain ten percent (10%) of each payment to Contractor ("Retainage") until final payment in Section 12.6.

ARTICLE 5: INSURANCE AND SURETY BONDS

5.1 Contractor shall procure and maintain insurance on all of its operations during the Work, using companies admitted to do business in Arkansas, on forms acceptable to the Owner, for the following minimum insurance coverages:

5.1.1 Workers' compensation insurance and occupational disease insurance as required by Arkansas law and employer's liability insurance with minimum limits of \$1,000,000 covering all workplaces involved in this Agreement.

5.1.2 Comprehensive general liability insurance and Contractor's contingent coverage, with limits of not less than: (a) Bodily Injury Liability or Property Damage: \$1,000,000 for each occurrence; (b) Automotive liability: \$1,000,000 for each occurrence.

5.1.3 As applicable, the insurance shall cover all operations of Contractor, including but not limited to the following: (a) premises, operations, and mobile equipment liability; (b) completed operations & products liability; (c) contractual liability insuring the obligations assumed by Contractor in this Agreement; (d) Contingent coverage; (e) explosion, collapse, and underground property damage; (f) broad form property damage liability endorsement (including completed operations); and (g) personal injury liability endorsements. Contractor shall provide insurance coverage in the above limits for "Any Autos" used in the course of the Work.

5.1.4 All policies listed above, except workers' compensation, shall name Owner as additional insured during the Project and shall provide that such policies are primary insurance. Contractor shall provide endorsement copies to Owner prior to starting the Work.

5.1.5 Contractor waives all rights of subrogation against the Owner for damages covered by any applicable insurance.

5.2 If the Owner provides builder's risk insurance, the policy limit shall be equal to the Contract Price.

5.3 Contractor shall provide certificates of insurance showing the respective coverages prior to commencement of the Work.

5.5 The Owner and Contractor waive all rights against each other and any of their agents and employees for damages caused by fire or other causes of loss to the extent covered by insurance applicable to the Work.

5.6 The Contractor shall ___ or **shall not** **provide** a performance surety bond and a payment bond to ensure the Contractor's completion of the Project and Work and payment to subcontractors. Each bond shall be equal to the Contract Price.

ARTICLE 6: GENERAL PROVISIONS

6.1 THE AGREEMENT. The Agreement represents the entire, integrated agreement between the Parties and supersedes prior oral or written negotiations, representations or agreements. The Agreement may only be modified in a writing signed by the Parties.

6.2 THE WORK. The term "Work" means the construction and services required by the Contract Documents, and includes all other labor, materials, equipment and services provided, or to be provided, by the Contractor to fulfill the Contractor's obligations.

6.4 OWNERSHIP & USE OF ARCHITECT OR ENGINEER'S DRAWINGS, SPECIFICATIONS & DOCUMENTS. Documents prepared by the Architect or Engineer are solely for this Project. The Architect or Engineer retains all common law, statutory and other reserved rights, including the copyright. The Contractor, subcontractors, sub-subcontractors, and material or equipment suppliers are authorized to use and reproduce such documents to construct the Project.

ARTICLE 7: OWNER RIGHTS AND OBLIGATIONS

7.1 INFORMATION AND SERVICES REQUIRED OF THE OWNER. If requested by the Contractor, the Owner shall furnish a survey and a legal description of the site. Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, the Owner shall obtain and pay for other necessary approvals, easements, assessments and charges.

7.2 OWNER'S RIGHT TO STOP THE WORK. If the Contractor fails to correct Work which is not in accordance with the Contract Documents, the Owner may direct the Contractor in writing to stop the Work until the correction is made.

7.3 OWNER'S RIGHT TO CARRY OUT THE WORK. If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven (7) day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies, correct such deficiencies. In such case, the Contract Price shall be adjusted to deduct the cost of correction from payments due the Contractor.

7.4 RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project. The Contractor shall coordinate and cooperate with the Owner's own forces and separate contractors employed by the Owner. Costs caused by delays or improperly timed activities or defective construction shall be borne by the responsible party.

ARTICLE 8: CONTRACTOR RIGHTS AND OBLIGATIONS

8.1 REVIEW OF CONTRACT DOCUMENTS AND SITE CONDITIONS BY CONTRACTOR. The Contractor represents that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents. The Contractor shall carefully study and compare the Contract Documents with each other. Before commencing activities, the Contractor shall (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the Contractor with the Contract Documents; and (3) promptly report errors, inconsistencies or omissions discovered to the Owner.

8.2 CONTRACTOR'S CONSTRUCTION SCHEDULE. The Contractor, promptly after both parties sign the Agreement, shall prepare and submit for the Owner's information a Contractor's construction schedule for the Work.

8.3 SUPERVISION AND CONSTRUCTION PROCEDURES. The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work. The Contractor, as soon as practicable after both parties sign the Agreement, shall furnish in writing to the Owner the final list of the names of subcontractors or suppliers for each portion

of the Work. The Contractor shall not contract with any subcontractor or supplier to whom the Owner has made a timely and reasonable objection.

8.4 LABOR AND MATERIALS. Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work. Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

8.5 WARRANTY. The Contractor warrants to the Owner that: (1) materials and equipment furnished under the Agreement will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; (3) the Work will conform to the requirements of the Contract Documents; and (4) the completed Project shall be fit for its intended purpose. Contractor shall provide a one (1) year warranty for the Project for the items in the previous sentence, and such one (1) year warranty shall commence at final completion in accordance with Section 12.6 of this Agreement. Contractor shall assign all warranties of subcontractors and suppliers to Owner at the end of the one (1) year warranty period.

8.6 TAXES. The Contractor shall pay sales, consumer, use and similar taxes that are legally required as of the Effective Date.

8.7 PERMITS, FEES AND NOTICES. The Contractor shall obtain and pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work. The Contractor shall comply with and give notices required by agencies having jurisdiction over the Work. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs. The Contractor shall promptly notify the Owner in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules and regulations.

8.8 SUBMITTALS. The Contractor shall promptly review, approve in writing, and submit to the Owner Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents or Owner. Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. Owner's approval of any Shop Drawings, Product Data, or Samples has no effect on the Contractor's obligation to perform the Work in accordance with the Contract Documents.

8.9 USE OF SITE. The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, the Contract Documents, and the Owner.

8.10 CUTTING AND PATCHING. The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

8.11 CLEANING UP. The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work, and Contractor shall take all necessary measures to prevent soil erosion at the Project Site. At the completion of the Work, the Contractor shall promptly remove its tools, construction equipment, machinery and surplus material, and shall properly dispose of waste materials.

8.12 INDEMNIFICATION. To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the Owner, Owner's contractors, agents, and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable.

ARTICLE 9: ARCHITECT AND ENGINEER

9.1 The Architect or Engineer, if the Owner has contracted for such services, will provide administration of the Agreement as described in the Contract Documents. The Architect or Engineer will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

9.2 The Architect or Engineer's duties, responsibilities and limits of authority as described in the Contract Documents shall not be changed without written consent of the Owner. Consent shall not be unreasonably withheld.

ARTICLE 10: CHANGES IN THE WORK

10.1 The Owner, without invalidating the Agreement, may order changes in the Work within the general scope of the Agreement consisting of additions, deletions or other revisions, the Contract Price and Contract Time being adjusted accordingly in writing. If the Owner and Contractor cannot agree to a change in the Contract Price, the Owner shall pay the Contractor its actual cost plus reasonable overhead and profit.

10.2 The Architect or Engineer, if the Owner has contracted such services, will have authority to order minor changes in the Work not involving changes in the Contract Price or the Contract Time and not inconsistent with the intent of the Contract Documents. Such orders shall be in writing and shall be binding on the Contractor. The Contractor shall carry out such orders promptly.

10.3 If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist in the area, the Contract Price and Contract Time shall be subject to equitable adjustment.

10.4 Any adjustments to the Contract Time or Contract Price require a Change Order as a condition precedent to such adjustments.

ARTICLE 11: TIME

11.1 Time limits stated in the Contract Documents are of the essence of the Agreement.

11.2 If the Contractor is delayed at any time in progress of the Work by changes ordered in the Work, fire, unavoidable casualties, or other causes beyond the Contractor's control, the Contract Time shall be subject to equitable adjustment.

ARTICLE 12: PAYMENTS AND COMPLETION

12.1 CONTRACT PRICE. The Contract Price is the total payable by the Owner to the Contractor for performance of the Work.

12.2 APPLICATIONS FOR PAYMENT. Owner shall have thirty (30) business days to approve the Application for Payment and to make payment to the Contractor. Payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, all Work contained in prior Applications for Payment shall be free and clear of liens, claims, security interests or other encumbrances adverse to the Owner's interests. With each Application for payment, Contractor shall provide a signed lien waiver, and Contractor shall provide lien waivers signed by all subcontractors.

12.3 CERTIFICATES FOR PAYMENT. Owner shall not use certificates for payment on this Project.

12.4 PROGRESS PAYMENTS. After approving the Application for Payment, Owner shall make payment as provided in Section 12.2. The Contractor shall promptly pay each subcontractor and supplier, upon receipt of payment from the Owner, an amount determined in accordance with the terms of the applicable subcontracts and purchase orders. Owner shall not have responsibility for payments to a subcontractor or supplier. A progress payment or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the requirements of the Contract Documents.

12.5 SUBSTANTIAL COMPLETION. Substantial Completion is defined in Article 17 of this Agreement. When the Contractor provides notice to the Owner that the Work or designated portion thereof is substantially complete, the Owner will make an inspection to determine whether the Work is substantially complete. When the Owner determines that the Work is substantially complete the Owner shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, shall establish the responsibilities of the Contractor, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate of Substantial Completion. Warranties required by the Contract Documents shall commence on the date of final completion following Substantial Completion of the Work unless otherwise provided in the Certificate of Substantial Completion.

12.5.1 In the event Contractor fails to achieve Substantial Completion on or before the expiry of the Contract Time, Contractor shall on each calendar day pay to Owner, or Owner may set off from payments to Contractor, liquidated damages in the amount of Zero U.S. Dollars (\$0.00). Such liquidated damages are not a penalty but are a reasonable estimate of Owner's damages due to delay.

12.6 FINAL COMPLETION AND FINAL PAYMENT. Upon receipt of a final Application for Payment, Owner will inspect the Work. When the Owner finds the Work acceptable and the Agreement fully performed, the Owner will make final payment to the Contractor, which shall include Retainage owed to Contractor, if any. Final payment shall not become due until the Contractor submits to the Owner final waivers of liens pursuant to Section 12.2. Acceptance of final payment by the Contractor, a subcontractor or material supplier shall also constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment. The date of final payment is the date of final completion.

ARTICLE 13: PROTECTION OF PERSONS AND PROPERTY

13.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Agreement or Work. The Contractor shall take reasonable precautions to prevent damage, injury or loss to employees on the Work, the Work and materials and equipment to be incorporated therein, and other property at the site or adjacent thereto. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.

ARTICLE 14: CORRECTION OF WORK

14.1 The Contractor shall promptly correct Work rejected by the Owner as failing to conform to the requirements of the Contract Documents. The Contractor shall bear the cost of correcting such rejected Work, including the costs of uncovering, replacement and additional testing.

14.2 In addition to the Contractor's other obligations including warranties under the Agreement, the Contractor shall, for a period of one (1) year after final completion, correct work not conforming to the requirements of the Contract Documents.

14.3 If Contractor fails to correct nonconforming Work in a reasonable time, Owner may correct it in accordance with Section 7.3.

ARTICLE 15: MISCELLANEOUS PROVISIONS

15.1 ASSIGNMENT OF CONTRACT. Neither party to the Contract shall assign the Agreement as a whole without written consent of the other.

15.2 TESTS AND INSPECTIONS. As appropriate, Contractor shall arrange and bear cost of tests, inspections & approvals of portions of the Work required by the Contract Documents or by laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Owner requires additional testing, the Contractor shall perform those tests. The Owner shall bear cost of tests, inspections or approvals that do not become requirements until after the Agreement is executed.

15.3 GOVERNING LAW. The Agreement shall be governed by the law of the State of Arkansas.

15.4 DISPUTES. Any dispute, controversy, or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association under its Construction Industry Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. All hearings and procedures relating to the arbitration shall be conducted in Hot Springs, Arkansas.

15.4 NOTICE. Each Party shall provide notices via U.S. Mail to the appropriate person designated in the signature block.

ARTICLE 16: TERMINATION OF THE AGREEMENT

16.1 TERMINATION BY THE CONTRACTOR. If the Owner fails to make payment as provided in Section 12.4 for a period of thirty (30) days, the Contractor may, upon twenty (20) additional days' written notice to the Owner, terminate the Agreement and recover from the Owner payment for Work executed including reasonable overhead & profit and costs incurred due to termination.

16.2 TERMINATION BY THE OWNER FOR CAUSE

16.2.1 The Owner may terminate the Agreement if the Contractor: (1) repeatedly refuses or fails to supply enough properly skilled workers or proper materials; (2) fails to make payment to subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the subcontractors; (3) persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or (4) is otherwise guilty of material breach of a provision of the Contract Documents.

16.2.2 When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven (7) days' written notice, terminate employment of the Contractor and may: (1) take possession of the Project Site and of all materials thereon owned by the Contractor, and (2) finish the Work by whatever reasonable method the Owner may deem expedient.

16.2.3 When the Owner terminates the Agreement for one of the reasons stated in Section 16.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

16.2.4 If the unpaid balance of the Contract Price exceeds costs of finishing the Work, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. This obligation for payment shall survive termination of the Agreement.

16.3 TERMINATION BY THE OWNER FOR CONVENIENCE. The Owner may, at any time, terminate the Agreement for the Owner's convenience and without cause. The Contractor shall be entitled to receive payment for Work executed, costs incurred by reason of such termination, and reasonable overhead & profit on the Work not executed.

ARTICLE 17: DEFINITIONS

Capitalized terms in this Agreement are defined below, unless defined in the body of the Agreement:

"Application for Payment" means Contractor's payment application and is further described in Section 12.2 of this Agreement.

"Architect" means _____.

"Certificate of Substantial Completion" means a document issued by Architect or Engineer or Owner to Contractor to establish the date of Substantial Completion.

"Change Order" means a written instrument prepared by the Owner and signed by the Owner and Contractor, stating their agreement upon all of the following: (1) The change of the Work; (2) The amount of the adjustment, if any, in the Contract Price; and (3) The extent of the adjustment, if any, in the Contract Time.

"Days" means calendar days

"Engineer" means _____.

"Product Data" means illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

"Samples" mean physical examples that illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

"Shop Drawings" means drawing, schedules and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

“**Specifications**” means that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

“**Substantial Completion**” means the state in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

“**Unit Price**” means the fixed cost of labor, materials, equipment, and all other costs for each unit of work as set forth in the Unit Price Bid Schedule Exhibit to this Agreement.

This Agreement shall not become effective until all Parties have provided ink signatures in the designated signature blocks below.

HOT SPRINGS VILLAGE PROPERTY OWNERS ASSOCIATION

An Arkansas Non-profit Corporation

Signature: _____

Printed Name: Kelly Hale

Title: General Manger

Address: 895 Desoto Blvd. HSV. 71909

Date: _____

MITCHELL’S ASPHALT AND SEALCOATING

An Arkansas CONTRACTOR

By: _____

Name: Dale Schlidgen

Title: Owner

Address: P.O. Box 430, Hot Springs, AR 71902

Date: _____

Hot Springs Village POA

Mitchell's Sealcoating

Crack Fill Bid Sheet

Item	Description of material and/or services	Est. QTY	Unit	Unit Price	Extended Price
1.	Residential Streets - Crack fill per specifications including all material, equipment, labor, maintenance and inspections.	100,000	LF	\$2.65 \$65	\$65,000.00
2.	Arterial Streets - Crack fill per specifications including all material, (excluding crack fill material, Hot Springs Village POA to provide) equipment, labor, maintenance and inspections.	100,000	LF	\$1.65 \$65	\$65,000.00
3.	Routing and Cleaning of Cracks/Joints	10,000	LF	\$1.30 \$130	\$13,000.00
4.	Per Pound of Poly Patch Installation (Vendor to provide)	10,000	Per lb.	\$	\$0.00

Subtotal:

Tax Rate _____ %
Taxes:

Total:

\$ _____
\$ _____
\$ _____

Dale Scheldt

10-8-2021