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**CONTRACT**  
**Between**  
**COUNTY OF GLOUCESTER**  
**AND**  
**R.E. PIERSON MATERIALS CORP.**

**THIS PURCHASE CONTRACT** is made effective the 20<sup>th</sup> day of **April, 2022**, by and between the **COUNTY OF GLOUCESTER**, a body politic and corporate, with administrative offices at 2 S. Broad Street, Woodbury, NJ 08096, hereinafter referred to as "**County**", and **R.E. PIERSON MATERIALS CORP.**, with an address of 860 Oak Grove Road, Bridgeton, NJ 08014, hereinafter referred to as "**Vendor**".

**RECITALS**

**WHEREAS**, the County seeks the supply of bituminous materials for use by the County Public Works Department as set forth in PD-22-016; and

**WHEREAS**, bid responses were publicly received and opened by the County on March 29, 2022 with Vendor representing that it is ready, willing and able to provide the item(s) for the Clayton Yard as set forth in the County specifications; and

**WHEREAS**, this Purchase Contract, hereinafter referred to as "Contract", is awarded pursuant to and consistent with Gloucester County's fair and open procurement process and all statutory terms and provisions required for public contracting; and

**NOW THEREFORE**, in consideration of the mutual promises, agreements and other considerations made by and between the parties, the County and the Vendor do hereby agree as follows:

**TERMS OF AGREEMENT**

1. **TERM.** This Contract shall be effective from April 20, 2022 to April 19, 2024.
2. **COMPENSATION.** Vendor shall be compensated for certain materials on an as-needed basis, as per unit prices set forth in Vendor's bid response, for a total amount not to exceed \$10,000.00 per year.

Vendor shall be paid in accordance with this Contract document upon receipt of an invoice and a properly executed voucher. After approval by County, the payment voucher shall be placed in line for prompt payment.

3. **DUTIES OF VENDOR.** The duties of Vendor shall be for the supply of bituminous materials for use by the County Department of Public Works on an as-needed basis at the Clayton Yard, as set forth in Vendor's bid response to specifications PD-22-016, which are incorporated herein and made a part hereof by reference. Should there occur a conflict between this form of contract and the bid documents, the bid documents shall prevail. The duties herein

shall be binding upon execution of this Contract and shall encompass each delivery made by the Vendor and the purchased item(s) received and accepted by the County.

4. **FURTHER OBLIGATIONS.** During the performance of this Contract, the Vendor agrees that it:

A. will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality, sex, veteran status or military service. Vendor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality, sex, veteran status or military service. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

B. will state in all solicitations or advertisements, where applicable, for employees placed by or on behalf of the Vendor, that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality, sex, veteran status or military service.

C. will send a notice to each labor union with which it has a collective bargaining agreement to be provided by the agency contracting officer, advising the labor union of the Vendor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

D. agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

E. agrees to make good faith efforts to meet targeted County employment goals established in accordance with N.J.A.C. 17:27-5.2.

5. **LICENSING AND PERMITTING.** If the Vendor or any of its agents is required to maintain a license, or to maintain in force and effect any permits issued by any governmental or quasi-governmental entity in order to supply the item(s) which are the subject of this Contract, then prior to the effective date of this Contract, and as a condition precedent to its taking effect, Vendor shall provide to County a copy of its current license and permits required to operate in the State of New Jersey, which license and permits shall be in good standing and shall not be subject to any current action to revoke or suspend, and shall remain so throughout the term of this Contract.

Vendor shall notify County immediately in the event of suspension, revocation or any change in status (or in the event of the initiation of any action to accomplish such suspension, revocation and/or change in status) of license or certification held by Vendor or its agents.

6. **TERMINATION**. This Contract may be terminated as follows:

A. Pursuant to the termination provisions set forth in the Bid Specifications or in the Request for Proposals, if any, as the case may be, which are specifically referred to and incorporated herein by reference.

B. If Vendor is required to be licensed in order to perform the services which are the subject of this Contract, then this Contract may be terminated by County in the event that the appropriate governmental entity with jurisdiction has instituted an action to have the Vendor's license suspended, or in the event that such entity has revoked or suspended said license. Notice of termination pursuant to this subparagraph shall be effective immediately upon the giving of said notice.

C. If, through any cause, the Vendor shall fail to fulfill in timely and proper manner his obligations under this Contract, or if the Vendor shall violate any of the covenants, agreements, or stipulations of this Contract, the County shall thereupon have the right to terminate this Contract by giving written notice to the Vendor of such termination and specifying the effective date thereof. In such event, all finished or unfinished documents, data, studies, and reports prepared by the Vendor under this Contract, shall be forthwith delivered to the County.

D. The County may terminate this Contract for public convenience at any time by a notice in writing from the County to the Vendor. If the Contract is terminated by the County as provided herein, the Vendor will be paid for the services rendered to the time of termination.

E. Notwithstanding the above, the Vendor shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Contract by the Vendor, and the County may withhold any payments to the Vendor for the purpose of set off until such time as the exact amount of damages due the County from the Vendor is determined.

F. Termination shall not operate to affect the validity of the indemnification provisions of this Contract, nor to prevent the County from pursuing any other relief or damages to which it may be entitled, either at law or in equity.

7. **NO ASSIGNMENT OR SUBCONTRACT**. This Contract may not be assigned nor subcontracted by the Vendor, except as otherwise agreed in writing by both parties. Any attempted assignment or subcontract without such written consent shall be void with respect to the County and no obligation on the County's part to the assignee shall arise, unless the County shall elect to accept and to consent to such assignment or subcontract.

8. **INDEMNIFICATION**. The Vendor where applicable, shall be responsible for, shall keep, save and hold the County of Gloucester harmless from, shall indemnify and shall defend

the County of Gloucester against any claim, loss, liability, expense (specifically including but not limited to costs, counsel fees and/or experts' fees), or damage resulting from all mental or physical injuries or disabilities, including death, to employees or recipients of the Vendor's services or to any other persons, or from any damage to any property sustained in connection with this contract which results from any acts or omissions, including negligence or malpractice, of any of its officers, directors, employees, agents, servants or independent contractors, or from the Vendor's failure to provide for the safety and protection of its employees, or from Vendor's performance or failure to perform pursuant to the terms and provisions of this Contract. The Vendor's liability under this agreement shall continue after the termination of this agreement with respect to any liability, loss, expense or damage resulting from acts occurring prior to termination.

9. **INSURANCE.** Vendor shall, if applicable, maintain general liability, automobile liability, business operations, builder's insurance, and Workers' Compensation insurance in amounts, for the coverages, and with companies deemed satisfactory by County, and which shall be in compliance with any applicable requirements of the State of New Jersey. Vendor shall, simultaneously with the execution of this Contract, deliver certifications of said insurance to County, naming County as an additional insured.

If Vendor is a member of a profession that is subject to suit for professional malpractice, then Vendor shall maintain and continue in full force and effect an insurance policy for professional liability/malpractice with limits of liability acceptable to the County. Vendor shall, simultaneously with the execution of this Contract, and as a condition precedent to its taking effect, provide to County a copy of a certificate of insurance, verifying that said insurance is and will be in effect during the term of this Contract. The County shall review the certificate for sufficiency and compliance with this paragraph, and approval of said certificate and policy shall be necessary prior to this Contract taking effect. Vendor also hereby agrees to continue said policy in force and effect for the period of the applicable statute of limitations following the termination of this Contract and shall provide the County with copies of certificates of insurance as the certificates may be renewed during that period of time.

10. **SET-OFF.** Should Vendor either refuse or neglect to perform as required in accordance with the terms of this Contract, and if expense is incurred by County by reason of Vendor's failure to perform, then and in that event, such expense shall be deducted from any payment due to Vendor. Exercise of such set-off shall not operate to prevent County from pursuing any other remedy to which it may be entitled.

11. **PREVENTION OF PERFORMANCE BY COUNTY.** In the event that the County is prevented from performing this Contract by circumstances beyond its control, then any obligations owing by the County to the Vendor shall be suspended without liability for the period during which the County is so prevented.

12. **METHODS OF WORK.** Vendor agrees that if an installation of equipment is required, it shall employ such methods or means as will not cause any interruption or interference with the operations of County or infringe on the rights of the public.

13. **NON-WAIVER**. The failure by the County to enforce any particular provision of this Contract, or to act upon a breach of this Contract by Vendor, shall not operate as or be construed as a waiver of any subsequent breach, nor a bar to any subsequent enforcement.

14. **PARTIAL INVALIDITY**. In the event that any provision of this Contract shall be or become invalid under any law or applicable regulation, such invalidity shall not affect the validity or enforceability of any other provision of this Contract.

15. **NOTICES**. Notices required by this Contract shall be effective upon mailing of notice by regular and certified mail to the addresses set forth above, or by personal service, or if such notice cannot be delivered or personally served, then by any procedure for notice pursuant to the Rules of Court of the State of New Jersey.

16. **GOVERNING LAW, JURISDICTION AND VENUE**. This agreement and all questions relating to its validity, interpretation, performance or enforcement shall be governed by and construed in accordance with the laws of the State of New Jersey. The parties each irrevocably agree that any dispute arising under, relating to, or in connection with, directly or indirectly, this agreement or related to any matter which is the subject of or incidental to this agreement (whether or not such claim is based upon breach of contract or tort) shall be subject to the exclusive jurisdiction and venue of the state and/or federal courts located in Gloucester County, New Jersey or the United States District Court, District of New Jersey, Camden, New Jersey. This provision is intended to be a "mandatory" forum selection clause and governed by and interpreted consistent with New Jersey law and each waives any objection based on forum non conveniens.

17. **INDEPENDENT CONTRACTOR STATUS**. The parties acknowledge that Vendor is an independent contractor and is not an agent of the County.

18. **CONFLICT OF INTEREST**. Vendor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree the performance of services pursuant to this Contract and further covenants that in the performance of this Contract, no person having any such interest shall be employed.

19. **CONFIDENTIALITY**. Vendor agrees not to divulge or release any information, reports, or recommendations developed or obtained in connection with the performance of this Contract, during the term of this Contract, except to authorized County personnel or upon prior approval of the County.

20. **BINDING EFFECT**. This Contract shall be binding on the undersigned and their successors and assigns.

21. **CONTRACT PARTS**. This Contract consists of this contract document, the specifications identified as PD-22-016, and bidder's bid response package, all of which are referred to and incorporated herein by reference. Should there occur a conflict between this form of contract and the specifications, and the bid package, then this Contract and the specifications shall prevail.

**THIS PURCHASE CONTRACT** is made effective this **20<sup>th</sup>** day of **April, 2022**.

**IN WITNESS WHEREOF**, signatory authority is established:

- (i) for the County pursuant to N.J.S.A. 40A:11-3(a), with the requisite Resolution adopted by the Gloucester County Board of Chosen Freeholders on January 23, 2019 authorizing the Chief Financial Officer to execute and the Qualified Purchasing Agent attest to this instrument; and
- (ii) for the Contractor by having caused this instrument to be signed and witnessed by authorized representatives.

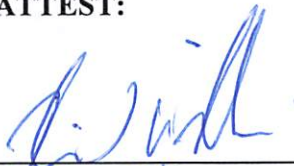
**ATTEST:**

  
\_\_\_\_\_  
**KIMBERLY LARTER,**  
**QUALIFIED PURCHASING AGENT**

**COUNTY OF GLOUCESTER**

  
\_\_\_\_\_  
**TRACEY N. GIORDANO, CFO**

**ATTEST:**

  
\_\_\_\_\_  
**Kevin Williams**  
**Sales man**

**RICHARD E. PIERSON MATERIALS  
CORP.**

  
\_\_\_\_\_  
**By: SLAVIC MOKIENDO**  
**Title: VICE PRESIDENT**

**ATTACHMENT A**