

## **CASH DEPOSIT AND ESCROW AGREEMENT**

Re: U.S. Highway 1 – 16” Valve Replacement in the vicinity of 65<sup>th</sup> Street

THIS CASH DEPOSIT AND ESCROW AGREEMENT (Agreement) is entered into this \_\_\_\_ day of September, 2020, by and between **Blue Goose Construction LLC, a Florida limited liability company**, having a mailing address of 9901 Okeechobee Road, Fort Pierce, Florida 34945 (Contractor), and INDIAN RIVER COUNTY, a political subdivision of the State of Florida (County),

### WITNESSETH:

WHEREAS, Contractor, pursuant to a purchase order under “Continuing Contract Agreement between County and Contractor Construction of Water, Sewer and Reclaimed Water Line Replacements/Extensions and Miscellaneous Annual Requirements Labor Contract Indian River County Bid No. 2020039” dated July 7, 2020 (Contract) is to remove or replace existing 16-inch gate valves, including excavation, utility work, restoration (sod) and asphalt repaving along U.S. Highway 1 in the vicinity of 65<sup>th</sup> Street, with the expected completion being on or before September 30, 2020; and

WHEREAS, pursuant to Indian River County Code, Contractor is required to provide financial surety to guarantee completion of the work.

NOW, THEREFORE, in consideration of the agreements, promises, and covenants set forth herein, and other good and valuable considerations, the parties hereto agree as follows:

1. The Contractor has tendered to the County’s Office of Management and Budget (Escrow Agent) the sum of \$135,050.64 cash, the receipt whereof is hereby acknowledged, which sum shall be held in escrow by the Escrow Agent, subject to the terms, conditions and covenants of this Agreement as assurance that Contractor shall perform in all respects the obligations set forth in the Contract. Contractor may at any time substitute guarantees, subject to the approval as to form and amount by the County.

2. Upon completion of the specified work, the Contractor may obtain a disbursement from the escrow account by making a written request to Indian River County through the County’s Director of Utility Services (Director). The request shall specify the amount of disbursement, and that the work for which disbursement is requested has been completed, including restoration, to the satisfaction of Florida Department of Transportation and Indian River County Department of Utility Services’ Utilities Engineer.

3. Within seven (7) working days after receipt of a disbursement request, the Director shall cause an inspection of the work for which payment is sought. Disbursement shall occur only after completion of all utility work and restoration to the satisfaction of Florida Department of Transportation and Indian River County Department of Utility Services' Utilities Engineer. If the Director is satisfied in all respects with the work, the Director shall approve the disbursement. Approval of any disbursement shall be in writing delivered to the Escrow Agent. Upon receipt of the written approval of the disbursement, the Escrow Agent shall make the disbursement described therein directly to the party that posted the funds, or its legal representatives, successors or assigns, absent bankruptcy, court order, dissolution or an assignment.

4. Upon default by Contractor under the Contract, the County may elect to pursue any of the remedies made available therein. All funds remaining in the escrow account at the time default is declared by the County shall be available for use by the County in accordance with the Contract. Said funds shall be disbursed to the County upon receipt by the Office of Management and Budget of a certified copy of a resolution of the Board of County Commissioners stating that Contractor has defaulted under the Contract and that said funds are necessary to complete the improvements. All funds disbursed to County in excess of the final amount determined necessary by the County to complete the improvements shall be returned to the party that posted the funds, or its legal representatives, successors or assigns, absent bankruptcy, court order, dissolution or an assignment.

5. Any interest earned during the term of escrow, if more than six months, shall be disbursed at the end of escrow less administrative expenses to the party that posted the funds, or its legal representatives, successors or assigns, absent bankruptcy, court order, dissolution or an assignment.

6. Any cash deposit (or any County approved substituted guarantees) provided to the County by Contractor with respect to this Agreement, shall exist solely for the protection, use and benefit of the County and shall not be construed or intended in any way, expressly or impliedly, to benefit or secure payment to any subcontractor, laborer, materialman, architect, engineer, attorney or any other party providing labor, material, supplies, or services for the work, while such funds remain subject to this Agreement. The County shall not be liable to any of the aforementioned parties for claims against the Contractor relating to the improvements.

7. This Agreement is the full and complete understanding of the parties and shall not be construed or amplified by reference to any prior agreement, discussion, or understanding, except as specifically mentioned herein. This Agreement shall not be assigned without the express written approval of the County. Any amendment, deletion, modification, extension, or revision hereof or hereto shall be in writing, and executed by authorized representatives of each party.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals. The effective date of this Agreement shall be the date of execution by the County Administrator on behalf of the Board of County Commissioners of Indian River County, Florida.

**BLUE GOOSE CONSTRUCTION, LLC**  
Contractor

Date \_\_\_\_\_

By \_\_\_\_\_  
Richard M. Carnell, Jr., Manager

INDIAN RIVER COUNTY  
by its Board of County Commissioners  
County

Date \_\_\_\_\_

By \_\_\_\_\_  
Jason E. Brown, County Administrator

(under authority of Resolution No. 2020-055)

Approved as to form and legal  
sufficiency:

\_\_\_\_\_  
William K. DeBraal  
Deputy County Attorney