



CAROLINE COUNTY
DEPARTMENT OF PUBLIC WORKS

520 Wilmuth Street Denton, Maryland 21629
Telephone 410-479-0520 Facsimile 410-479-0409

Administration
Ryan B. White
Director

Bryan K. North
Roads Superintendent

Kevin M. Brown
Facilities Superintendent

County Commissioners
Larry C. Porter
President

Daniel J. Franklin
Vice President

Wilbur Levensgood Jr.
Commissioner

July 11, 2022

TO: The County Commissioners of Caroline County
Mr. Larry Porter, Mr. Daniel Franklin, Mr. Wilbur Levensgood, Jr.
Mr. Jeremy Goldman, County Administrator

FR: Ryan White, Director of Public Works
Bryan North, Roads Superintendent

RE: RFP# CCDPW2022-02 White's Lane Paving Project

We initiated an Invitation to Bid for the paving of White's Lane, an existing tar and chip County Road approximately 2.6 miles in length. The scope of the project includes milling, wedging, leveling and a 2" HMA overlay.

We respectfully request your approval and signature #CCDPW2022-02 White's Lane Paving in the amount of \$457,550.00.

Bill To

Caroline County Commissioners
ATTN: Finance
109 Market St., Room 132
DENTON, MD 21629

Ship To

Caroline County Public Works
520 Wilmuth St.
DENTON, MD 21629

Purchase Order

No. 2023-00000011

07/06/22

Vendor 3 DAVID A. BRAMBLE, INC.

Contact

DAVID A. BRAMBLE, INC.
ATTN: ACCTS RECEIVALBE
P.O. BOX 419
CHESTERTOWN, MD 21620

Deliver by

Ship Via

Freight Terms

Originator

Donna Judy

Resolution Number

Payment Terms

Status	Quantity U/M	Description	Unit Cost	Total Cost
Edit	1.0000 Each	Contracted Services	\$580,000.0000	\$580,000.00

Total Due \$580,000.00

Special Instructions

EXHIBIT A

PROPOSAL FORM

CAROLINE COUNTY DEPARTMENT OF PUBLIC WORKS

WHITES LANE PAVING CONTRACT


RFP# CCDPW2022-02

County Commissioners of Caroline County, Maryland:

We hereby submit, for your review, our proposal requested by the Invitation to Bid. This proposal includes and incorporates all information as described in this Proposal Form and in Information for Bidders, the same as if specifically written herein.

BIDDER David A. Bramble, Inc. Date 06/23/2022

Business Address P.O. Box 419, Chestertown, MD 21620

Signature  Phone 410-778-3023
Paul C. Bramble, President

The Unit Price proposal shall consist of Bid Items 1 – 3 as follows:

<u>Item No.</u>	<u>Description</u>		<u>Unit</u>	<u>Unit Price</u>	
1.	Milling	SY	30	\$ 5.00	\$ 150.00
2.	Wedge & Level	TON	1750	\$93.00	\$162,750.00
3.	2" HMA Overlay	TON	3550	\$83.00	\$294,650.00
Total for all items					\$457,550.00

I/We propose to furnish all labor, equipment, certain materials as stipulated herein and other items necessary and proper to complete work as directed for the **Whites Lane Paving Contract** at the unit prices as stipulated above.

The Bidder agrees that this Proposal shall be good and may not be withdrawn for a period of 30 calendar days after the opening of the Bid Proposals.

The bid items listed above are intended to include all work items associated with a complete project, including mobilization. Some work components of the project may not be specifically listed and as such, it is the contractor's responsibility to include all work required within an appropriate bid item listed above.

CAROLINE COUNTY, MARYLAND

**FIXED PRICE CONSTRUCTION
CONTRACT BETWEEN
OWNER AND CONTRACTOR**

This **FIXED PRICE CONSTRUCTION CONTRACT** (the "Contract") is made and entered into by and between **THE COUNTY COMMISSIONERS OF CAROLINE COUNTY, MARYLAND** a body politic and corporate and a political subdivision of the State of Maryland (the "County" or "Owner") and David A. Bramble Inc a **Maryland**/Foreign (*circle one*) entity licensed to do business in the State of Maryland and with principal residence located at 705 Morgnec Road, P.O. Box 419, Chestertown, Maryland 21620 (the "Contractor"). Owner and Contractor together are herein referred to as the "Parties".

This Contract is effective on the date executed by the County Commissioners of Caroline County, Maryland.

PROJECT: This Contract is for the road paving of a project identified as the White's Lane Paving Project (the "Project" and/or "Work").

WHEREAS, the County has solicited proposals from qualified vendors for paving of County road White's Lane in Caroline County, Maryland.

WHEREAS, Contractor's proposal was selected for said construction services pursuant to RFP# CCDPW2022-02;

WHEREAS, the County desires to retain the services of Contractor and Contractor desires to be retained by the County to provide paving services for the County; and

WHEREAS, the parties have negotiated the terms of this undertaking and have taken all action required to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements stated herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree:

ARTICLE 1.

DOCUMENTS INCORPORATED BY REFERENCE

(A) This Contract consists of this Contract and any of the following attachments:

- (1) Paving Specification Sheet
- (2) Mandatory Insurance Requirements;
- (3) Contractor's Performance and Payment Bonds;
- (4) Notice to Proceed;

(B) All of these documents referenced in this Article 1 together are collectively referred to as the "Contract" or "Contract Documents". Documents not included or expressly referenced in this Article 1 do not form any part of this Contract.

ARTICLE 2.

REPRESENTATIONS AND WARRANTIES OF THE CONTRACTOR

The Contractor makes the following representations and warranties in order to induce the Owner to execute this Contract. The Contractor recognizes that, in making these representations and warranties, Owner is entitled to rely upon the Contractor's representations and warranties and is relying upon them in entering into this Contract. The Contractor, by executing this Contract, makes the following express representations and warranties to the Owner:

(A) The Contractor is fully qualified to act as the Contractor and perform the Work for the Project and has, and shall maintain, any and all licenses, permits or other authorizations necessary to act as the Contractor for, and to construct, the Work for the Project.

(B) The Contractor has become familiar with the Project Site and the local conditions under which the Project is to be constructed and operated.

(C) The Contractor has received, reviewed and carefully examined all of the documents which make up this Contract, including, but not limited to, the Drawings and Specifications, and has found them in all respects to be complete, accurate, adequate, consistent, coordinated and sufficient for construction of the Work for the Project. Contractor is responsible for performing Work shown on the Contract Documents, including reasonably implied or inferred Work from the Contract Documents, which a reasonably prudent Contractor of Contractor's reputation, expertise and experience would conclude were inferable from the Contract Documents. The Contractor is obligated to conduct a careful and thorough pre-construction review of all of the Drawings and Specifications and to inform the Owner prior to Contract execution of any errors, omissions, or conflicts in the Drawings or Specifications or other issues in the Contract Documents which will either increase the Contract Sum or extend the Contract Time. Contractor will not be compensated for the performance of any additional or change order work or for any delays or cumulative impact, lost efficiency, or lost productivity arising from any errors, omissions or conflicts or other issues in the Drawings and Specifications or Contract Documents which Contractor or a reasonably prudent Contractor of Contractor's reputation, expertise and experience should have discovered as a result of such review.

ARTICLE 3.

INTENT AND INTERPRETATION

With respect to the intent and interpretation of this Contract, the Owner and the Contractor agree as follows:

(A) This Contract (which includes all Contract Documents) constitutes the entire and exclusive agreement between the parties with reference to the work and the Project. This Contract supersedes any and all prior discussions, communications, representations, understandings, negotiations, or agreements.

(B) Nothing contained in this Contract creates, nor is to be interpreted to create, privity or any other relationship whatsoever between the Owner and any person or entity except the Contractor or between the Contractor and any other person or entity except the Owner.

(C) The words "include", "includes", or "including", as used in this Contract, are deemed to be followed by the phrase, "without limitation".

(D) The specification in this Contract of any act, failure, refusal, omission, event, occurrence, or condition as constituting a material breach of this Contract does not imply that any other, non-specified act, failure, refusal, omission, event, occurrence, or condition is to be deemed not to constitute a material breach of this Contract.

(E) In the event of any conflict, discrepancy, or inconsistency among any of the Contract Documents, the following shall control:

- (1) As between figures given on Drawings and scaled measurements, the figures govern;
- (2) As between large scale Drawings and small-scale Drawings, the most stringent will govern;
- (3) As between Drawings and Specifications, the most stringent will govern; and

ARTICLE 4.

CONTRACTOR'S PERFORMANCE

The Contractor must perform all of the Work required, implied or reasonably inferable from the Contract Documents including, but not limited to, the following:

- (A) Construction of the Work (including all warranty work) for the Project.
- (B) The furnishing and maintenance of all required surety bonds, insurance, warranties, and related documentation.
- (C) The provision or furnishing, and prompt payment, of labor, supervision, services, materials, supplies, equipment, fixtures, appliances, facilities, tools, transportation, storage, power, fuel, heat, light, cooling, or other utilities, required for construction of the Work for the Project, and all necessary permits and licenses required for the construction of the Work for the Project.

(D) Full, prompt, and complete compliance with all of the Contract Documents, without limitation.

ARTICLE 5.

TIME FOR CONTRACTOR'S PERFORMANCE

(A) The Contractor must commence the performance of this Contract upon Notice to Proceed and must diligently perform under the Contract and complete the Work without interruption through final completion of the Work for the Project. **THE CONTRACTOR MUST ACHIEVE SUBSTANTIAL COMPLETION OF THE WORK FOR THE PROJECT BY NOVEMBER 15, 2022.**

(B) The Contractor must promptly notify the Owner in writing when Substantial Completion has been achieved.

(C) The Contractor must notify the Owner in writing when the Project is finally complete, and the Contractor is ready for a final inspection.

(D) **The Contractor must pay the Owner the sum of Five Hundred Dollars (\$500.00) as Liquidated Damages for each day of unexcused delay beyond the date set forth above for Substantial Completion.** When the Owner reasonably believes that Substantial or Final Completion will be inexcusably delayed, the Owner is entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the Owner to be adequate to recover Liquidated Damages applicable to the Delays. If and when the Contractor overcomes any unexcused Delay in achieving Substantial or Final Completion, or any Delay, for which the Owner has withheld payment, the Owner will promptly release to the Contractor those funds withheld, but no longer applicable, as Liquidated Damages.

(E) The Contractor's payment of any Liquidated Damages to the Owner is in addition to and not exclusive of any other remedies available to the Owner under the terms of this Contract or the Contract Documents.

(F) All limitations of time applicable to the Contractor set forth in this Contract and the Contract Documents are material and are of the essence of this Contract.

ARTICLE 6.

FIXED SUM AND CONTRACT PAYMENTS

(A) The Owner will pay, and the Contractor accepts, as full and complete payment for the Contractor's timely performance of its obligations under this Contract (including performance of and compliance with all of the Contract Documents) **the cost-plus sum of Exhibit A.** The sum set forth in this Article 7(A) constitutes the Contract Sum, which cannot be modified except by written Amendment executed by the parties to this Contract.

(B) The Owner will pay the Contract Sum to the Contractor, less amounts established for retainage. All Applications for payment must be in the format, and include all supporting information, required by the Caroline County Office of Finance as well as any other information required by the Owner. As a condition precedent to payment, the Contractor must, if required by the Owner, furnish to the Owner properly executed waivers of lien, in a form acceptable to the Owner, from all Subcontractors, materialmen, laborers, Suppliers, or others having lien rights, in which the Subcontractors, materialmen, laborers, Suppliers, or others having lien rights, acknowledge receipt of all sums due pursuant to all prior Applications for Payment and waive and relinquish any liens, lien rights, or other claims relating to the Project Site or the Work. Furthermore, the Contractor warrants and represents that, upon payment of the Application for Payment submitted, title to all Work included in the payment is vested in the Owner. The Owner's right to require lien waivers as a precondition to payment is solely for the benefit of the Owner and shall not be construed to give any third party, including specifically any Subcontractors, materialmen laborers, suppliers, or others having lien rights, or surety on any payment or performance bonds any rights nor make the Owner liable to any of them as a consequence of the Owner's decision or failure to request or obtain such lien waivers as a precondition to payment.

(C) When payment is received from the Owner, the Contractor must pay within seven (7) days all Subcontractors, materialmen, laborers, and Suppliers the amounts they are due for the Work covered by such payment. The Owner will have the right, but not the duty, to issue future checks and payment to the Contractor of amounts otherwise due under the Contract naming the Contractor and any such Subcontractor, materialmen, laborer, or Supplier as joint payees. Such joint check procedure, if employed by the Owner, does not create any rights in favor of any person or entity beyond the right of the named payees to payment of the check and does not require the Owner to repeat the procedure in the future.

(D) Neither payment to the Contractor, utilization of the Work or the Project for any purpose by the Owner, nor any other act or omission by the Owner is to be interpreted or construed as an acceptance of any Work of the Contractor that is not strictly in compliance with construction industry standards and the requirements of this Contract.

(E) The Contractor has no right to stop Work as a consequence of non-payment. In the event of any dispute between the Contractor and Owner involving the Contractor's claim to entitlement to payment the Contractor's only remedy is to file a claim with the County Administrator. The Contractor must diligently proceed with the Work pending resolution of the dispute. Any payments on Certificates for Payment which are approved by the Owner as "proper invoices" within the meaning of applicable laws and regulations not made within thirty (30) days after the.

ARTICLE 7.

DUTIES, OBLIGATIONS AND RESPONSIBILITIES OF THE CONTRACTOR

In addition to any and all other duties, obligations, and responsibilities of the Contractor set forth in this Contract, the Contractor has and must perform the following duties, obligations, and responsibilities:

- (A) The Contractor must continually perform its duties set forth in this Contract. The Contractor must not perform Work without adequate Drawings and Specifications, or, as appropriate, approved Shop Drawings, or other Submittals. If the Contractor performs Work knowing or believing it involves an error, inconsistency, or omission in the Contract, without first providing written notice to the Owner, the Contractor is responsible for the Work and must pay all costs of correcting it.
- (B) All Work must conform strictly to the requirements of the Contract.
- (C) The Contractor must strictly supervise the performance and completion of the Work and must monitor the Work as it progresses. The Contractor is strictly liable for all acts and omissions of those engaged in the Work on behalf of the Contractor.
- (D) The Contractor warrants that all labor furnished under this Contract will be competent to perform the tasks undertaken; that the product of such labor will yield only first-class results; that all materials used in the Work and equipment provided will be new and of high quality; that the Work will be complete, of high quality, without defects, when completed; and that all of the Work will strictly comply with the requirements of the Contract. Any Work not strictly complying with the requirements of the Contract will be a breach of the Contractor's warranty.
- (E) The Contractor must obtain and pay for all required permits, fees, and licenses. The Contractor must comply with all Laws and Regulations applicable to the Project and to the Work.
- (F) The Contractor must maintain the Project Site in a reasonably clean condition during performance of the Work. Upon Final Completion, the Contractor must thoroughly clean the Project Site of all debris, trash and excess materials or equipment.
- (G) At all times relevant to this Contract, the Contractor must permit the Owner to enter upon the Project Site and to review or inspect the Work without formality or other procedure.

ARTICLE 8.

CONTRACT ADMINISTRATOR

The Contract Administrator for this Project is:

Jeremy Goldman, or Designee
Caroline County Administrator
109 Market Street, Room 123
Denton, MD 21629

ARTICLE 9.

CHANGE ORDERS & NONCONFORMING WORK

- (A) A Change Order is a written directive by the Owner to the Contractor directing a change in the Work which is within the general scope of the contract and which may increase or decrease the Contract Time and/or the Contract Sum issued with or without the consent of the Contractor.
- (B) The Owner may order one or more changes to the Work within the general scope of this Contract. The Contractor must proceed with any such changes, and any Contractor claim regarding any such change.
- (C) A Change Order may provide for an adjustment in the amount payable to the Contractor based only on reasonable and fair cost estimate, properly itemized and supported by sufficient substantiating data to permit evaluation which will be limited to estimated costs of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead.
- (D) ANY CLAIM ABOUT AN ADJUSTMENT IN THE CONTRACT TIME OR CONTRACT SUM DUE TO A CHANGE MUST BE GIVEN IN WRITING TO THE OWNER OR THE CLAIM IS WAIVED. The Contractor must proceed with the prosecution of the Work as changed, even if there is an unresolved claim. No charge for any extra work, time or material will be allowed, except as provided in this Article.
- (E) The Owner may reject Work at any time that does not conform to the Contract Documents. Unless the Contractor is specifically instructed otherwise, any Work that fails a required test, inspection or approval will be considered as having been rejected, whether or not specific notice of rejection is given by the Owner.
- (F) The Contractor must promptly correct or, at the Owner's option, replace Work which is rejected by the Owner as defective or which otherwise fails to conform to the requirements of the Contract Documents, whether before or after Substantial Completion. The Contractor must bear the costs and any time impact related to correcting or replacing such rejected Work.
- (G) If the Owner determines that it is in its best interests to accept Work which is not in accordance with the requirements of the Contract Documents instead of requiring its correction or replacement, the Owner may accept such Work with an appropriate corresponding adjustment reducing the Contract Sum. Any such acceptance of defective or nonconforming Work will not extend to defects or deficiencies not expressly revealed to the Owner in writing at the time of acceptance. Any such acceptance to be effective must be in writing and signed by the Contract Administrator.

ARTICLE 10.

FINAL COMPLETION

Notice and Request for Final Inspection. When the Contractor has completed or corrected all items on the final Punch List and considers that the Work is complete and ready for final acceptance, the Contractor must give written notice to the and request a final inspection of the Work. The Contractor's notice and request for a final inspection must be accompanied by a final Application for Payment.

ARTICLE 11.

NO TERMINATION BY THE CONTRACTOR

The Contractor does not have a right to terminate the Contract. The Contractor has no right to stop Work on the Project. In the event of any dispute between Contractor and Owner involving the Contractor's claim to entitlement to any payment, the Contractor must diligently proceed with the Work pending resolution of the dispute.

ARTICLE 12.

OWNER'S RIGHT TO SUSPEND CONTRACTOR'S PERFORMANCE

The Owner has the right to suspend or stop Work.

ARTICLE 13.

TERMINATION BY THE OWNER

The Owner may terminate this Contract for any reason. If the County terminates this the Contractor shall not be entitled to any fees or reimbursable expenses other than for those services that have been timely and adequately performed by the Contractor considering the actual costs incurred by the Contractor in performing work to date of termination, the value of the work that is nonetheless usable to the County, the cost to the County of employing another Contractor to complete the work required and the time required to do so, and other factors that affect the value to the County of the work performed at time of termination. In the event of termination not the fault of the Contractor, the Contractor shall be compensated for all basic, special, and additional services actually performed prior to termination, together with any reimbursable expenses then due.

ARTICLE 14.

INSURANCE

The Contractor must comply with the insurance requirements set forth in the Bid or as required by the Caroline County Office of Finance.

ARTICLE 15.

SURETY BONDS

The Contractor must furnish separate Bid, performance and payment bonds to the Owner in the forms prescribed in the Bid or Proposal Documents. The performance and payment bonds must set forth a penal sum in an amount not less than 100% of the Contract Sum, or as otherwise provided by the County Purchasing Manual. Each bond furnished by the Contractor must incorporate by reference the terms of this Contract as fully as though they were set forth verbatim in the bonds. The penal sum of both the performance and payment bonds will be automatically increased in the amount of any increase to the Contract Sum. The Surety must be a corporate Surety authorized to do business in the State of Maryland and acceptable to the Owner. While determining Surety acceptability, the Owner may make such investigations as he deems necessary to determine the ability of the Contractor's Surety to perform its duties and obligations and the Contractor shall furnish to the Owner, within five (5) days of Owner request, all such data and information for this purpose as the Owner may request. The Owner reserves the right, in its absolute discretion and for any reason, to accept or reject any Surety proposed by the Contractor.

ARTICLE 16.

PROJECT RECORDS

The Contractor must make available to the Owner all or any part of any documents relating in any manner to the Project that are in the possession of the Contractor or any Subcontractor of the Contractor (the "Project Records") for inspection and copying at any reasonable time upon request by the Owner. The Contractor must make the Contract Documents, Record Documents, and any Project Records available for inspection and copying by any state, federal, or other regulatory authority at any time upon the request of either the Owner or the state, federal, or other regulatory authority requesting the right to inspect or copy the Contract Documents, Record Documents, or Project Records. The Project Records include, but are not limited to, all written records concerning the Project, all drawings, printouts, disks, plans, specifications, submittals, correspondence, minutes, memoranda, tape recordings, videos, or other writings or things that document the Project, its design, and its construction. The Project Records expressly include those documents reflecting the cost of construction to the Contractor, including the Contractor's Proposal and/or Bid calculation takeoffs and estimates. The Contractor shall maintain and protect these documents for no less than four (4) years after Final Completion of the Project, or for any longer period of time as may be required by law or good construction practice.

ARTICLE 17.

INDEMNIFICATION

The Contractor shall defend, indemnify and hold harmless the Owner, agents and employees from and against liability for all claims, damages, (including incidental and consequential), losses (including purely economic losses) and expenses, including but not limited to attorneys', expert witnesses' and consultants' fees, which arise out of or result from (a) the performance of the Work, or any act or omission by the Contractor. Such performance, operations, acts or omissions of the Contractor include the performance, operations, acts or omissions of the Contractor's Subcontractors, sub-subcontractors, Suppliers and their respective agents and employees and anyone for whose acts said parties may be liable. This indemnity obligation and the duty to defend applies, regardless of whether or not such claim, damage, loss or expense is also caused or is alleged to have been caused in part by the negligence or act or omission of a party indemnified hereunder, provided it is also caused or alleged to have been caused at least in part by the Contractor, a Subcontractor, Sub-subcontractor, Supplier or their agents or anyone directly or indirectly employed by them or anyone for whose acts said parties may be liable. The duty to defend accrues at the time a claim that potentially is within the scope of coverage of the indemnity herein is made against the indemnitee(s). For purposes of this Article, the term Owner includes its boards, agencies, agents, officials and employees.

The Contractor's obligations under this Article to indemnify (but not the duty to defend which shall apply nonetheless) do not apply to the extent that, but only to the extent that, any claim, damage, loss or expense as to bodily injury to any person or damage to property (but not as to purely economic claims, damages, losses or expenses as to which the Contractor's obligation shall nonetheless apply) is ultimately determined to result from the sole and exclusive negligence of the indemnitee(s).

ARTICLE 18.

APPLICABLE LAW

This Contract must be construed under the law of the State of Maryland, without regard to conflicts of law provisions, and in a Court of competent jurisdiction located within Caroline County.

ARTICLE 19.

SUCCESSORS AND ASSIGNS

This Contract is binding on the Parties and their respective successors, heirs, and assigns. The Contract must not be assigned without prior written consent of the Owner and except as otherwise provided in this Contract.

This Agreement has been approved by the County Commissioners pursuant to Chapter 51 of the Public Local Laws of Caroline County.

EXECUTED on the _____ day of _____ 2022.

ATTEST:

**COUNTY COMMISSIONERS OF
CAROLINE COUNTY, MARYLAND**



Jennifer M. Farina
Administrative Coordinator

Larry C. Porter, President

CONTRACTOR

Company David A. Bramble, Inc.

Name: *Paul C. Bramble*

Date: 07/05/2022

Title: Paul C. Bramble, President

Approved for legal sufficiency:

Stewart Barroll, County Attorney