

**ORDINANCE NO. 2021- 24**

**CITY OF POMPANO BEACH  
Broward County, Florida**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A FIRST AMENDMENT TO THE CONSTRUCTION MANAGER-AT-RISK CONTRACT BETWEEN THE CITY OF POMPANO BEACH AND THE WHITING-TURNER CONTRACTING COMPANY, PROVIDING SERVICES FOR THE CONSTRUCTION OF THE DIXIE HIGHWAY STREETScape IMPROVEMENTS PROJECT; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the original Agreement between the parties was approved and authorized by City of Pompano Beach Ordinance 2019-94 on September 26, 2019; and

**WHEREAS**, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

**WHEREAS**, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

**BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1.** That a First Amendment to the Construction Manager-at-Risk Contract between the City of Pompano Beach and The Whiting-Turner Contracting Company, a copy of which First Amendment is attached hereto and incorporated herein by reference as if set forth in full, is hereby approved.

**SECTION 2.** That the proper City officials are hereby authorized to execute said First Amendment between the City of Pompano Beach and The Whiting-Turner Contracting Company.

**SECTION 3.** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**SECTION 4.** This Ordinance shall become effective upon passage.

**PASSED FIRST READING** this 8th day of December, 2020.

**PASSED SECOND READING** this 8th day of December, 2020.

DocuSigned by:  
*Rex Hardin*  
502CB780EB3F480...  
**REX HARDIN, MAYOR**

**ATTEST:**

DocuSigned by:  
*Asceleta Hammond*  
775D4290316A490...  
**ASCELETA HAMMOND, CITY CLERK**

MEB/jrm  
10/14/2020  
l:ord/2021-09



***FIRST AMENDMENT***

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**THIS IS A FIRST AMENDMENT TO THE CONSTRUCTION MANAGER-AT-RISK**

**CONTRACT** dated December 16, 2020, between:

**CITY OF POMPANO BEACH**, a municipal corporation of the State of Florida, whose address is 100 West Atlantic Boulevard, Pompano Beach, Florida 33060, hereinafter referred to as "CITY,"

and

**THE WHITING-TURNER CONTRACTING COMPANY**, a Maryland corporation authorized to do business in Florida, having its office and place of business at 300 East Joppa Road, Baltimore, Maryland 21286, hereinafter referred to as "CONTRACTOR."

**WHEREAS**, the parties entered into a Construction Manager- At-Risk (CMAR) Contract for the furnishing of services for the construction of the Dixie Highway Streetscape Improvements on September 26, 2019, ("Original Agreement"), and approved by Ordinance No. 2019-94; and

**WHEREAS**, the CITY is seeking additional funding for this project through the Broward County Surtax Program, and CONTRACTOR has agreed to comply with the requirements of said program; and

**WHEREAS**, the CITY and CONTRACTOR have agreed to amend the Original Agreement to substitute both Exhibit "C," Project Construction Budget/Schedule of Values (GMP) and Exhibit "E," Project Schedule; and to amend certain terms and conditions of the Original Agreement.

**WITNESSETH:**

**IN CONSIDERATION** of the mutual terms, conditions, promises, covenants and payments herein set forth CITY and CONTRACTOR agree as follows:

1. Each "WHEREAS" clause set forth above is true and correct and herein incorporated by this reference.

2. The terms and conditions contained within the Original Agreement between CITY and CONTRACTOR, effective September 26, 2019, a copy of which is attached hereto and made a part hereof as Exhibit "A," shall remain in full force and effect for the new contract extension term except as specifically amended herein below.

3. The attached Exhibit "C," Project Construction Budget/Schedule of Values (GMP) and Exhibit "E," Project Schedule, are hereby substituted for, and in all references replace, that Exhibit "C," Project Construction Budget/Schedule of Values (GMP) and Exhibit "E," Project Schedule, which were attached to, referenced and made a part of the Original Agreement. Exhibit "E," Project Schedule may be amended through a Change Order as outlined within the terms of the Original Agreement, however, the term of the Original Agreement, as amended, shall not be extended beyond ninety (90) days without City Commission approval.

1. The parties agree hereto to establish a GMP of nine million three hundred and seventy seven thousand six hundred and thirty one dollars (\$9,377,631.00).

2. The parties agree that as part of the requirement for the CITY to receive funds through the Broward County's Surtax Program, CONTRACTOR shall comply with all requirements as listed under Broward County Ordinances 2018-29, 2020-08 and 2012-33 as amended, and any agreement between Broward County and the CITY.

3. The parties agree that all work for Phase 1 shall be completed by September 30, 2021 and that all work for Phase 2 and the term of the contract shall end on September 30, 2024 in compliance with the terms and conditions set forth by the City's General Obligation bonds.

4. This Agreement shall bind the parties and their respective executors, administrators, successors and assign and shall be fully effective as though the amendment had been originally included in the Agreement.

**THE REMAINDER OF THE PAGE IS INTENTIONALLY LEFT BLANK**

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed the day and year hereinabove written.

Attest:

**CITY OF POMPANO BEACH**

DocuSigned by:  
*Asceleta Hammond*  
775D4290316A490  
\_\_\_\_\_  
ASCELETA HAMMOND, CITY CLERK

DocuSigned by:  
*Rex Hardin*  
502CB780EB3F480  
By: \_\_\_\_\_  
REX HARDIN, MAYOR

(SEAL)

DocuSigned by:  
*Gregory P. Harrison*  
7052A67F15A44C8  
By: \_\_\_\_\_  
GREGORY P. HARRISON, CITY MANAGER



APPROVED AS TO FORM:

DocuSigned by:  
*Mark E. Berman*  
B4DD5E1CDA804A1...  
\_\_\_\_\_  
MARK E. BERMAN, CITY ATTORNEY

**"CONTRACTOR":**

Witnesses:

**The Whiting-Turner Contracting Company**

Cassandra Larkin

CASSANDRA LARKIN

Print Name

Frank Zarembo

Frank Zarembo

Print Name

By:

Bob Minutoli Jr.

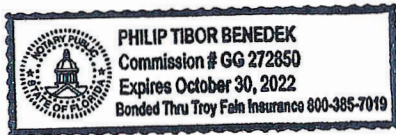
Bob Minutoli Jr., Senior Vice President

STATE OF FL

COUNTY OF Broward

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this 27<sup>th</sup> day of October, 2020 by Bob Minutoli Jr. as Senior Vice President of The Whiting-Turner Contracting Company, a Maryland corporation authorized to do business in Florida, on behalf of the corporation. He is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification.

NOTARY'S SEAL:



Philip Benedek

NOTARY PUBLIC, STATE OF

\_\_\_\_\_  
(Name of Acknowledger Typed, Printed or Stamped)

\_\_\_\_\_  
Commission Number