

AGREEMENT

THIS AGREEMENT is dated as of the 30th day of November in the year 2015 by and between CITY OF POMPANO BEACH, FLORIDA (hereinafter call OWNER) and Weekley Asphalt Paving, Inc. (hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. **WORK**

The project consist of the furnishing of all labor, equipment and materials for:

Construction of a new sidewalk, landscape, lighting, milling & resurfacing, pavement markings, Etc. Along MLK Blvd from Powerline Rd to Blount Rd as a part of LAP Project with EDOT (see Bid proposal pages 15-20)

The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows: (Bid Name) MLK Boulevard Streetscape Project LAP, Bid T-35-15

Article 2. **ENGINEER**

I.B.I. Group and

The Project has been designed by Keith & Associates who is hereinafter called ENGINEER and who is to act as OWNER'S representative, assume all duties and responsibilities and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

Article 3. **CONTRACT TIME**

The Work will be substantially completed within 300 days from the date the Contract Time commences to run as provided in the GENERAL CONDITIONS, and completed and ready for final payment in accordance with the GENERAL CONDITIONS within 330 days from the date the Contract Time commences to run.

Article 4. LIQUIDATED DAMAGES

OWNER and CONTRACTOR recognize that time is of the essence of the Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in Article 3, above, plus any extensions thereof allowed in accordance with the GENERAL CONDITIONS. They also recognize the delays, expense and difficulties involved in the proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER two hundred and 00/100 dollars (\$200.00) for each day that expires after the time specified in Article 3 for Substantial Completion, plus any monies paid by the OWNER to the ENGINEER for additional engineering and inspection services until the Work is substantially complete. After Substantial Completion if CONTRACTOR shall neglect, refuse or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by OWNER, CONTRACTOR shall pay the OWNER one hundred and 00/100 (\$100.00) for each day that expires after the time specified in Article 3 for completion of Work and readiness for final payment, plus any monies paid by the OWNER to the ENGINEER for additional engineering and inspection services.

Article 5. CONTRACT PRICE

OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents in current funds as follows:

See BID PROPOSAL attached from bid/contract documents.

Article 6. PAYMENT PROCEDURES

6.1 CONTRACTOR shall submit Applications for Payment in accordance with the GENERAL CONDITIONS. Applications for Payment will be processed by ENGINEER as provided in the GENERAL CONDITIONS.

6.2 Progress Payments. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR'S Applications for Payment as recommended by ENGINEER, on or about the 1st day of each month during construction as provided below. All progress payments will be on the basis of the progress of the Work measured by the schedule of values established in the GENERAL CONDITIONS (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.

6.2.1 Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and such amounts as ENGINEER shall determine, or OWNER may withhold, accordance with the GENERAL CONDITIONS.

10% of Work completed will be withheld by OWNER as retainage.

6.2.2 Upon Substantial Completion, in an amount sufficient to increase total payments to CONTRACTOR to 90% of the Contract Price, less such amounts as ENGINEER shall determine, or OWNER may withhold, in accordance with the GENERAL CONDITIONS.

6.3 Final Payment. Upon final completion and acceptance of the Work in accordance with the GENERAL CONDITIONS, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said GENERAL CONDITIONS.

Article 7. CONTRACTOR'S REPRESENTATIONS

In order to induce OWNER to enter into this Agreement, CONTRACTOR makes the following representations:

7.1 CONTRACTOR has familiarized itself with the nature and extent of the Contract documents, Work, site, locality, and all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the Work.

7.2 CONTRACTOR has studied carefully all reports of explorations and tests of subsurface conditions and drawings of physical conditions which are identified in the bid, and accepts the determination set forth in the bid of the extent of the technical data contained in such reports and Drawings upon which CONTRACTOR is entitled to reply.

7.3 CONTRACTOR has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests, reports and studies in addition to or to supplement physical conditions at or contiguous to the site or otherwise may affect the cost, progress, performance or furnishing of the Work as CONTRACTOR considers necessary for the performance or furnishing of the Work at the Contract Price, within the Contract Time and in accordance with other terms and conditions of the Contract Documents, including specifically the provisions of the GENERAL CONDITIONS; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or will be required by CONTRACTOR for such purposes.

7.4 CONTRACTOR has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional examinations, or investigations, explorations, tests, reports, studies or similar information or data in respect of said Underground Facilities are or will be required by CONTRACTOR in order to perform and furnish the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents.

7.5 CONTRACTOR has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.

7.6 CONTRACTOR has given ENGINEER written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

Article 8. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between OWNER and CONTRACTOR concerning the Work consist of the following:

- 8.1 This Agreement.
- 8.2 Exhibits to this Agreement.
- 8.3 Performance and other Bonds, identified as exhibits Performance and Payment Bond.
- 8.4 Notice of Award.
- 8.5 GENERAL CONDITIONS.
- 8.6 SUPPLEMENTARY CONDITIONS. MLK Boulevard Streetscape Project
- 8.7 Specifications bearing the title (Bid Name) LAP, Bid T-35-15 consisting of (# of sections 20) and (297) pages, as listed in table of contents thereof.
- 8.8 Drawings, consisting of a cover sheet and sheets numbered (1) through (E14) inclusive with each sheet bearing the following general title: (total 72 Pages)
(Bid Name) Same as 8.7 above
- 8.9 Addenda numbers 1 to 10, inclusive.
- 8.10 Contractor's Bid pages.
- 8.11 Contractor's Sworn Statement on Drug-Free Workplace Section 287.087, Florida Statutes, on Drug-Free Workplace and consisting of one (1) page.
- 8.12 Documentation submitted by CONTRACTOR prior to Notice of Award (Pages 13 to 41, inclusive).
- 8.13 The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to the GENERAL CONDITIONS.
- 8.14 The documents listed in paragraphs 8.2 et seq. above are attached to this Agreement (except as expressly noted otherwise above). There are no Contract Documents other than those listed above in the Article 8.
- 8.15 The insurance certificate detailing terms and provisions of coverage as required by the bid and approved by the City of Pompano Beach Risk Manager.

The Contract Documents may only be amended, modified or supplemented as provided in the GENERAL CONDITIONS.

Article 9. MISCELLANEOUS

9.1 Terms used in this Agreement which are defined in the GENERAL CONDITIONS will have the meanings indicated in the GENERAL CONDITIONS.

9.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the Contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.3 OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

"CITY":

Witnesses:

Betty J. Mones

Christine Kendel

CITY OF POMPANO BEACH

By: [Signature]
LAMAR FISHER, MAYOR

By: [Signature]
DENNIS W. BEACH, CITY MANAGER

Attest:

[Signature]
ASCELETA HAMMOND, CITY CLERK

(SEAL)

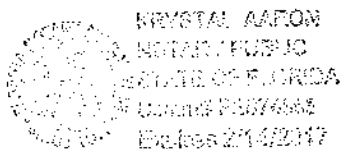
Approved As To Form:

[Signature]
MARK E. BERMAN, CITY ATTORNEY

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 30th day of November, 2015 by **LAMAR FISHER**, as Mayor, **DENNIS W. BEACH** as City Manager and **ASCELETA HAMMOND**, as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who are personally known to me.

NOTARY'S SEAL:



[Signature]
NOTARY PUBLIC, STATE OF FLORIDA

Krystal Aaron
(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

"CORPORATION":

Witnesses:

Cathy B. Brown
CATHY BROWN
William Glenn
WILLIAM GLENN

Corporation Name

Signature

Title

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 9TH day of NOVEMBER, 2015 by DANIEL D. WEEKLEY, as PRESIDENT, of WEEKLEY ASPHALT PAVING, INC., on behalf of the corporation. He/she is personally known to me or has produced _____ (type of identification) as identification.

NOTARY'S SEAL: NOTARY PUBLIC, STATE OF FLORIDA

June J. Stone
(Name of Acknowledger Typed, Printed or Stamped)

Commission Number



JUNE J. STONE
MY COMMISSION # FF 054586
EXPIRES: December 8, 2017
Bonded Thru Budget Notary Services

ACKNOWLEDGMENT OF CONTRACTOR, IF A CORPORATION

STATE OF FLORIDA }
COUNTY OF BROWARD } ss:

On this 9th day of NOVEMBER, 2015, before me personally came and appeared DANIEL D. WEEKLEY, to me known, who, being by me duly sworn, did depose and say that he resides at PEMBROKE PINES, FL, that he is the PRESIDENT of PEMBROKE PINES, FL, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that one of the impressions affixed to said instrument is an impression of such seal; that he is the proper official of said corporation designated to execute such contract, that he has authority so to do, that he executed same for and in behalf of said corporation, and this his act is the act and deed of said corporation.

Witness my hand and official notarial seal at PEMBROKE PINES, FLORIDA the day and year above written.



JUNE J. STONE
MY COMMISSION # FF 054586
EXPIRES: December 8, 2017
Decided Thru Budget Notary Services

June J. Stone

Notary Public

My Commission Expires: _____