

**CITY OF WILTON MANORS, FLORIDA  
CONTRACT FOR CONSTRUCTION SERVICES**

**THIS CONTRACT**, made and entered into this 12<sup>th</sup> day of October, 2021, by and between the CITY OF WILTON MANORS, a municipal corporation of Florida, hereinafter called the "CITY" or "OWNER" and ARDON PAINTING AND TEXTURES, INC.

a Florida Corporation	( X )	Check One
a Florida General Partnership	( )	
a Florida Limited Partnership	( )	
a Sole Proprietor	( )	

hereinafter called "CONTRACTOR".

CITY and CONTRACTOR may each be referred to herein as Party and collectively as Parties.

**WITNESSETH**

**WHEREAS**, The CITY has heretofore invited bids for a CITY construction project ("Project") identified by the bid title, bid number, and project number listed below and commonly referred to as:

**City Facility Painting Project  
ITB # 2021-10 ("ITB")**

**WHEREAS**, on July 12, 2021, the CITY issued the ITB; and

**WHEREAS**, on August 11, 2021, CONTRACTOR, in compliance with the bidding requirements announced in the ITB, submitted a bid ("Bid Proposal") based upon unit pricing ("Unit Pricing") for estimated quantities for the total bid amount of \$37,784.00. The Bid Proposal is incorporated herein by reference. CONTRACTOR shall comply with the terms of its Bid Proposal; and

**WHEREAS**, on August 25, 2021, in accordance with the bidding requirements announced in the ITB, the CITY's Finance Department ranked CONTRACTOR number 1 as having submitted the bid that was the lowest, responsive, and responsible bidder and recommended that the CITY enter into this Agreement with CONTRACTOR; and

**WHEREAS**, on the 28<sup>th</sup> day of September, 2021, the CITY Commission designated CONTRACTOR as having submitted the lowest, responsive, and responsible bid and authorized the execution of this Agreement; and,

**NOW, THEREFORE**, in consideration of these premises and the mutual conditions and covenants contained herein, the parties agree as follows:

## **1. AGREEMENT**

- 1.1. The Parties agree that:
  - 1.1.1. The foregoing "Whereas" clauses are true and correct and incorporated herein by this reference.
  - 1.1.2. The CITY does hire and employ the CONTRACTOR to provide painting services for completion of the Project.
  - 1.1.3. The CONTRACTOR does accept this Contract and does agree to furnish the necessary labor, tools, equipment, materials and supplies, etc., and to complete the Project by performing all the work as set forth in the this Contract and the Contract Documents for the price and amounts set forth in Contractor's Bid Proposal.
  - 1.1.4. Contractor is an independent contractor as that term is set forth in Part V, paragraph 5.07 of the ITB.
  - 1.1.5. Unless otherwise provided, all time frames referenced in all Contract Documents shall be calendar days.

## **2. SCOPE OF SERVICES**

- 2.1. The Project consists of those improvements described and set forth in the Contract Documents.
- 2.2. The "Contract Documents" are the compilation of the following individual documents:
  - 2.2.1. Invitation to Bid
  - 2.2.2. Instructions for Bidders
  - 2.2.3. Bid Proposal
  - 2.2.4. Bid Bond
  - 2.2.5. Construction Contract
  - 2.2.6. Certificate of Insurance
  - 2.2.7. Public Construction Bond
  - 2.2.8. Addenda
  - 2.2.9. Written directives or interpretations
  - 2.2.10. Manufacturers warranties
  - 2.2.11. Purchase Orders ("PO") or Work Orders ("WO")
- 2.3. City will issue a PO or WO to authorize CONTRACTOR to perform specific work as described in the PO or WO. A WO is typically issued by CITY when the cost of the work is less than \$1,000.00. A PO is typically issued by CITY when the cost of work is greater than \$1,000.00. The PO or WO will describe the scope

of work for each Project, contain a commencement date, a completion date, and amount of compensation to be paid CONTRACTOR to complete the work. The compensation shall be based upon the Unit Pricing. CONTRACTOR shall complete small jobs within four calendar days. For purposes of this Contract, small jobs shall be defined as any patch work required, regardless of size. Notwithstanding anything contained in a PO or WO to the contrary, in the event of any inconsistency between the terms of any PO or WO and the terms of this Contract, the terms of this Contract shall control. Any provision contained in a PO or WO providing for Modifications and Insurance are hereby deleted in their entirety.

### **3. OBLIGATIONS OF CONTRACTOR**

#### **3.1. CONTRACTOR shall:**

- 3.1.1. Furnish all materials, supplies, machines, equipment, tools, superintendents, labor, insurance, and other accessories and services necessary to complete said project in accordance with the conditions and prices as stated in the Contract Documents.
- 3.1.2. Perform all the work and labor pursuant to this contract and all of the materials furnished shall be in strict conformity with the Contract Documents. CONTRACTOR further accepts and consents to the conditions contained in said Contract Documents and expressly agrees to comply with every requirement and stipulation therein contained.
- 3.1.3. Furnish all tools, equipment, materials and supplies and to do all the work above mentioned in a first-class, substantial and workmanlike manner, and in conformity with the detail for said work on file in the office of the Project Manager and strictly in accordance with the Contract Documents.
- 3.1.4. CONTRACTOR shall furnish each subcontractor or material supplier with a copy of his Public Construction Bond within five (5) days of subcontractors' work or material supplying and shall maintain records to establish that notice. A copy of said notice shall be provided to the CITY's Project Manager at time of issuance.
- 3.1.5. Guarantee all work and materials for a period of seven (7) years.
- 3.1.6. Pay promptly, before final settlement, any and all claims or liens by subcontractors or material suppliers, incurred in and about this work.
- 3.1.7. Remove and clean up all rubbish, debris, excess material, temporary structures, tools and equipment from streets, alleys, parkways and adjacent property that may have been used or worked on by the CONTRACTOR in connection with the project promptly as such section or portion is

completed and ready for use, leaving the same in a neat and presentable condition.

- 3.1.8. Observe and comply with the provisions of the charter, ordinances, codes and regulations of the CITY of Wilton Manors, Florida.
- 3.1.9. Obtain written approval from the CITY of all subcontractors not disclosed in the Contractor's bid document.
- 3.1.10. Perform such other tasks as set forth in the Contract Documents.
- 3.1.11. Shall provide all required bonds, insurance certificates and any other required security for performance of the Project within ten (10) calendar days of the Award of the Project.
- 3.1.12. The CONTRACTOR will be held responsible for the care, protection and condition of all work until final completion and acceptance thereof, and will be required to make good at his own cost any damage or injury occurring from any cause resulting from their acts or omissions, or the acts or omissions of their subcontractors or suppliers.
- 3.1.13. The CONTRACTOR shall, in accordance with section 255.05, Florida Statutes, before commencing the work or before recommencing the work after a default or abandonment, execute and record in the public records of Broward County a Public Construction Bond. The Public Construction Bond shall comply with the requirements of Section 255.05, Florida Statutes. The CONTRACTOR shall comply with the requirements of Section 255.05, Florida Statutes. The minimum amount of the Public Construction Bond shall be \$250,000.00. CITY reserves the right to require CONTRACTOR to increase the amount of the bond to the extent that the estimated cost of the CONTRACTOR'S work under this Contract exceeds \$250,000.00.

#### **4. TERM**

- 4.1. The initial term ("Initial Term") of this Contract shall be for ninety (90) days from the effective date set forth above, unless otherwise terminated earlier pursuant to the terms of this Contract. City has the option, in its sole and absolute discretion, to renew this Contract for zero (0) additional terms of zero (0) year each ("Renewal Term"). The Renewal Term shall be upon the same terms and conditions of this Contract during the Initial Term, except that there shall be no additional options to extend the term beyond the Renewal Term.

#### **5. CITY'S OBLIGATIONS**

- 5.1. CITY shall provide a written PO or WO to CONTRACTOR.

- 5.2. Make timely payments for the work in accordance with the procedures and time frames set forth in the Contract Documents.
- 5.3. On satisfactory completion of the Project, provide a written final acceptance and payment for the entire project.

## **6. COMMENCEMENT OF WORK**

- 6.1. CONTRACTOR hereby agrees to commence work under a PO or WO as set forth in the and to achieve Final Completion as set forth in the PO or WO..
- 6.2. Time is the essence of the contract.
- 6.3. CONTRACTOR shall notify the Project Manager in writing of any change in the names and addresses of each subcontractor proposed for principal parts of work, and any changes in subcontractors from those proposed in CONTRACTOR's bid proposal, and for such others as the Project Manager may direct, and shall not employ any that CITY may, within a reasonable time, object to as incompetent or as unfit. CONTRACTOR may, to the extent the CONTRACTOR'S schedule is delayed, be entitled to an extension of time based upon the number of days it takes CITY to approve a change to subcontractor.

## **7. PROTECTION OF EXISTING FACILITIES AND WORK IN PROGRESS**

- 7.1. The CONTRACTOR warrants that quoted prices include the protection and continuous use of all existing work in process, property or operations of the CITY.

## **8. INDEMNIFICATION**

- 8.1. The CONTRACTOR shall indemnify and save harmless and defend the CITY, its agents, servants, and employees from and against any claim, demand, or cause of action of whatsoever kind or nature arising out of error, omission or negligent act of CONTRACTOR, its agents, servants, or employees in the performance of services under this Contract.
- 8.2. CONTRACTOR shall indemnify and save harmless and defend CITY, its agents, servants and employees from against any kind and all causes, claims, demands, actions, losses, liabilities, settlements, judgments, damages, costs, expenses, and fees (including without limitation reasonable attorney's and paralegal expenses at both the trial and appellate levels) of whatsoever kind or nature for damages to persons or property caused in whole or in part by any act, omission, or default of the CITY, its agents, servants or employees arising from this contract or its performance. The CONTRACTOR and the CITY hereby agree and covenant that the CONTRACTOR has incorporated in this original bid, which constitutes the Contract sum payable by the CITY to the CONTRACTOR, specific additional

consideration in the amount of twenty five dollars (\$25.00) sufficient to support this obligation of indemnification provided for in this paragraph. The indemnification required pursuant to the Contract shall in no event be less than \$1 million per occurrence or no more than the limits of insurance required of the CONTRACTOR by the Contract, whichever is greater. It is the CITY'S and CONTRACTOR'S full intention that this provision shall be enforceable and said provision shall be in compliance with Section 725.06, Florida Statute.

- 8.3. The execution of this Agreement by the CONTRACTOR shall obligate CONTRACTOR to comply with the foregoing indemnification provision, as well as the insurance provisions which are set forth in the General Conditions for Construction. However, the indemnification provision, and the insurance provision contained in the General Conditions for Construction are not interdependent of each other, but rather each one is separate and distinct from the other.
- 8.4. The obligation of the CONTRACTOR to indemnify the CITY is not subject to any offset, limitation or defense as a result of any insurance proceeds available to either the CITY or the CONTRACTOR.

## **9. PAYMENT BY CITY**

- 9.1. The CITY agrees to pay the CONTRACTOR in current funds for the performance of the contract, subject to additions and deductions as provided in the Contract Documents.

## **10. CHANGES IN THE WORK**

- 10.1. The CITY, without invalidating this Contract, a PO or WO, may order extra work or make changes by altering, adding to or deducting from the work, a PO or WO sum being adjusted accordingly. All such work shall be executed under the conditions of this Contract and a PO or WO. Any claim for extension of time caused thereby shall be made in writing at the time such change is ordered.
- 10.2. All change orders and adjustments shall be in writing and approved by the Project Manager, otherwise, no claim for extras will be allowed.
- 10.3. Claim of payment for extra work shall be submitted by the CONTRACTOR upon certified statement supported by receipted bills. Such statements shall be submitted for the current contract payment for the month in which the work was done. No claim for extra work shall be allowed unless same was ordered, in writing, as aforesaid and the claim presented at the time of the first estimate after the work is completed.

## **11. PROJECT MANAGER**

- 11.1. The Project Manager is the Director of Leisure Services, or the Director's designee.

## **12. INSURANCE**

- 12.1. The CONTRACTOR shall obtain and maintain insurance as set forth in the Part VI, paragraph 6.14 of the ITB.

## **13. CONTRACT CONTROLS**

- 13.1. This Contract must be construed with all other Contract Documents, a master set of which shall be maintained by the CITY Clerk of the CITY. In the event of a dispute, only the master set of documents, or copies thereof certified by the CITY Clerk, shall be used as evidence.
- 13.2. In the event of a conflict between the requirements or specifications set forth in the Contract Documents, the conflict shall be resolved by written interpretation by the CITY. In reconciling conflicting provisions of the Contract Documents, the Contract shall have the greatest weight, followed by the ITB, then by the relevant PO or WO, and finally by the balance of the Contract Documents.

## **14. TIME OF ESSENCE**

- 14.1. Inasmuch as the provisions of the Contract Documents relating to the times of performance and completion of the work are for the purpose of enabling the CITY to complete the construction of a public improvement in accordance with a predetermined program, all such time limits are of the essence of the Contract.

## **15. REMEDY FOR DELAY**

- 15.1. In the event of any delay in the project caused by any act or omission of the CITY, its agents or employees, by the act or omission of any other party other than the CONTRACTOR, his agents, employees or subcontractors, or delay caused by weather conditions or unavailability of materials, the sole remedy available to CONTRACTOR shall be by extension of the time allocated to complete the project.
- 15.2. NO MONETARY DAMAGES SHALL BE CLAIMED OR AWARDED TO CONTRACTOR IN ASSOCIATION WITH ANY DELAY IN THE PROJECT CAUSED BY AN ACT OR OMISSION OF THE CITY, ITS AGENTS OR EMPLOYEES. CONTRACTOR ACKNOWLEDGES THIS LIMITATION ON RECOVERY AND ASSUMES ALL MONETARY RISK ASSOCIATED WITH THIS LIMITATION.

**CONTRACTOR hereby acknowledges that he has read and understands the above provision.**

 INITIALS

- 15.3. Failure on the part of CONTRACTOR to timely process a request for an extension of time to complete the work shall constitute a waiver by CONTRACTOR and CONTRACTOR shall be held responsible for completing the work within the time allocated by this Contract or any PO or WO.
- 15.4. All requests for extension of time to complete the work shall be made in accordance with the General Conditions for Construction GC-23, EXTENSION OF TIME/NO DAMAGES FOR DELAY.
- 15.5. For the purpose of this section, the phrase “the CITY, its agents and employees” shall include but shall not be limited to the Project Manager.

## **16. DISPUTES**

- 16.1. Disputes shall be resolved as set forth in the Part VIII, paragraph 8.02 of the ITB.

## **17. MISCELLANEOUS**

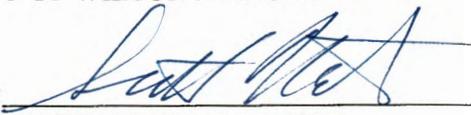
- 17.1 Joint Preparation. Preparation of this Contract has been a joint effort of CITY and CONTRACTOR and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.
- 17.2 Facsimile or Electronic Signature Deemed Original and Counterparts. This Contract and any amendment or addendum thereto, may be executed and distributed by facsimile or electronically by pdf and a copy of the Contract executed and distributed by facsimile or electronically by pdf shall be deemed an original for all purposes. The Contract and any amendment or addendum thereto may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement. The Parties agree that signatures by facsimile and/or .pdf are acceptable and binding.

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IN WITNESS WHEREOF, the CITY has caused these presents to be signed by its Mayor, attested to by the City Clerk with the Corporate Seal of the said CITY and the CONTRACTOR has executed these presents the day and year herein before written.

CITY

CITY OF WILTON MANORS

BY:   
SCOTT NEWTON, MAYOR

ATTEST:

  
FAITH LOMBARDO  
CITY CLERK

APPROVED AS TO FORM

/s/ Kerry L. Ezrol  
KERRY L. EZROL  
CITY ATTORNEY

**CONTRACTOR**

Ardon Painting and Textures, Inc.  
a Florida Corporation

BY: [Signature]  
JORGE ARDON, PRESIDENT

WITNESSES:

[Signature]

Wendy L. Villamia

Print Name

[Signature]

Karin Schubach

Print Name

ATTEST:

\_\_\_\_\_  
SECRETARY

STATE OF FLORIDA )

COUNTY OF BROWARD )

THE FOREGOING INSTRUMENT was acknowledged before me by means of physical presence or online notarization, this 22<sup>nd</sup> day of August, 2021, by JORGE ARDON, as President of ARDON PAINTING AND TEXTURES, INC., a Florida corporation, on behalf of the corporation. He is personally known to me or has produced \_\_\_\_\_ as identification.

[Signature]  
NOTARY PUBLIC

My Commission Expires:

