

MEMORANDUM

DATE: June 4, 2015

TO: Honorable Mayor and City Commission

VIA: Kenneth Fields, City Manager

FROM: James Slaton, Public/Support Services Director

SUBJECT: Contract Award for Annual Street, Sidewalk and Curbing Maintenance

SYNOPSIS: The City Commission will consider awarding Grove Construction the contract for annual street, sidewalk and curbing maintenance.

RECOMMENDATION

It is recommended that the City Commission take the following action(s):

1. Award the contract to Grove Construction.
2. Authorize the City Manager to execute the contract on behalf of the City.

BACKGROUND

City staffed advertised a request for sealed bids (ITB #15-396) for annual street, sidewalk and curbing maintenance and received one proposal.

Grove Construction was the only qualified bidder to submit a bid for this annual contract. Grove Construction has previously been contracted by the City for annual sidewalk and curbing maintenance and demonstrated quality workmanship in performance of the contract.

After the single bid was received, City Staff contacted the other vendors who registered for the bid in an attempt to ascertain why more bids were not received. The majority of the vendors were subcontractors who only performed single functions, such as milling, and could not perform the work outlined in the bid specifications without working through a prime contractor. Of the three prime contractors interested in the bid, one did not submit a proposal as their current workload is too high, one failed to read the bid addenda, and the third was Grove Construction.

Staff advertised this bid for 21 days via Demandstar, the city's website and the Ledger newspaper.

Given Grove Construction's proven quality of work and their competitive pricing, staff recommendation is to award the contract to Grove Construction.

Combining the asphalt, sidewalk and curbing maintenance into one contract should expedite equipment mobilization and reduce overall mobilization costs by coordinating street and sidewalk work together.

OTHER OPTIONS

The City Commission may direct staff to re-advertise the bid as an annual contract or direct staff to bid each individual project throughout the year.

FISCAL IMPACT

The combined current fiscal year budget for Street Resurfacing, Pavement Marking and Sidewalk Maintenance is \$125,000 (Resurfacing/75,000, Marking/35,000, and Sidewalks/15,000).

ATTACHMENTS

Contract Documents

Bid Sheet

Scope of Work and Specifications

CITY OF LAKE WALES BID PROPOSAL SHEET

ASPHALT REPAVING (ASPHALT PRICING SHALL INCLUDE A FINISHED PRODUCT AS OUTLINED IN THE BID SPECIFICATIONS)

ITEM	DESCRIPTION	UNIT	Unit Price
1	S1 Virgin Asphalt	SY	27.00
2	S1 Recycled Asphalt	SY	25.00
3	S3 Virgin Asphalt	SY	31.00
4	S3 Recycled Asphalt	SY	18.00
5	Milling (up to 1")	SY	10.00
6	Milling (over 1" and up to 2")	SY	11.00
7	Milling (over 2" and up to 3")	SY	14.00

SIDEWALKS

ITEM	DESCRIPTION	Unit	Unit Price
1	Mobilization	LF	3.00
2	Preconstruction Photos or Video	LS	25.00
3	Maintenance of Traffic	LS	300.00
4	Best Management Practices	LS	N/A
5	Remove existing sidewalk	SY	9.00
6	Driveway (FDOT index 515)	SY	65.00
7	Restore right-of-way (if required)	SY	6.50
8	Rehabilitate Handicap Ramp (ADA requirement)	EA	450.00
9	Install new Handicap Ramp (ADA requirement)	EA	650.00
10	"F" Curb removal and replace	LF	58.00

PAVEMENT MARKING

ITEM	DESCRIPTION	Unit	Unit Price
1	Mobilization	EA LF	700.00
2	Maintenance of Traffic	LS	500.00
3	Best Management Practices	LF	N/A
4	24" Solid White Temp & Thermo	LF	12.50
5	6" Solid White Temp & Thermo	LF	7.50
6	4" White 10' - 30' Skips Temp & Thermo	LF	6.00
7	4" Solid Yellow Temp & Thermo	LF	6.50
8	4" Solid Blue Temp & Thermo	LF	6.50
9	Directional Arrows Temp & Thermo	EA	275.00
10	Reflective Pavement Markers	EA	12.00

11	Railroad Crossing	EA	850.00
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Pavement markings include the white RXR symbol on the roadway, usually near the advance warning sign, to warn that a crossing is ahead.
A white stop bar is painted near the crossing itself.

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SCOPE OF WORK AND SPECIFICATIONS

MILL AND RESURFACE

LAYOUT WORK

City of Lake Wales Public Services staff will mark the old pavement with paint, the start and stop of the street millings and resurfacings. The CONTRACTOR shall use the existing pavement edges as a guide for horizontal alignment. A straight and uniform center seam shall be created by the new asphalt overlay. All seams shall follow lane lines where multiple passes of the paving machine are required.

WORKING CONDITION

The CONTRACTOR will not work on or keep his equipment on any private property without the permission of the property OWNER involved. The CONTRACTOR, during the construction period may leave their rollers, paver, and other essential equipment on adjacent streets as long as no private driveways are blocked and all equipment is marked with reflective barricades. The CONTRACTOR shall be responsible for damages to any private property including trees, curbs, mailboxes, private yards and street signs. The CONTRACTOR shall not prime or resurface over any mud, dirt, paper or rock. All heavy accumulations shall be removed by the CONTRACTOR at his expense. No asphalt shall be placed in the rain or when the temperature is below 55°F.

MILLING

The majority of milling work shall be done with a self-propelled grinding machine capable of removing approximately 6 ft. of in a single pass at a depth ranging from 1 to 3 inches. Unless otherwise noted, all milling shall be done to an average depth of 1 ½ inches. At adjoining concrete curbs, at least 1 ¼ inches of concrete shall be visible after milling is complete. All millings must be removed immediately from the pavement and must not be allowed to remain on the street more than one (1) hour. Care must be taken to avoid damaging manhole lids, water and gas valves, etc. As such, some chipping by use of a jackhammer may be required. The areas milled will not be the exact same as the areas overlaid.

At all street ends, a vertical butt joint 6' or 12' wide shall be cut to provide a smooth transition to the original pavement.

Millings shall belong to the City of Lake Wales and will be hauled and dumped by the CONTRACTOR to a location no more than three (3) miles from site of project.

UNEXPECTED PROBLEMS

If replacement of any road base is needed on any streets after the milling operations, it will be done by the CONTRACTOR and resurfacing work may be delayed. The CONTRACTOR will not be charged working delays when the road base must be replaced, nor will he be compensated in any fashion for this delay.

SWEEPING

All surfaces to be overlaid shall be swept clean after the milling and again immediately prior to the placement of the final asphalt surface. Sweeping shall include the removal of mud, dirt, rocks, debris, and may require scraping. The sweeping must pick up the debris from the surface and not merely blown it onto adjacent yards. Payment will be on a lump sum basis for the estimated length of street paving.

PRIMER

The cleaned streets shall receive a tack coat at an approximate rate of (.05) gallon per square yard immediately prior to the placing of the final asphalt surface. The tack shall cover all surfaces and shall only be placed on one lane of the street at a time, and in a method to cause the least amount of tracking and inconvenience to the traveling public. The costs of the tack shall be included in the unit price for asphalt.

ASPHALT SURFACE

On top of the primer an average depth (compacted thickness) of 1 ½ inches of S-1 or S-3, virgin or recycled asphalt (at the City's discretion) shall be uniformly laid, unless individual projects dictate otherwise. The mix shall be laid with a self-propelled spreader for all streets. The mix shall be placed to create a uniform crown (2%) in the pavement. Rollers shall be equipped with sprinkling systems in good operating condition. Vibratory rollers are not permitted.

ASPHALT FEATHERING

Vertical butt joints shall be milled at start and end of all resurfacings.

MANHOLE/WATER VALVE ADJUSTMENTS

Manholes, water valves, street grates, and other boxes in the existing pavement shall be chipped around to provide room for a 1 ½ inch thick overlay. If these items require risers to become level with the asphalt, the contractor will be responsible to do so. When this work is done the existing lids and covers must be cleaned of any asphalt, tar, or gravel so that an even final surface is created. This work must be done simultaneous with the paving operations.

TRAFFIC

Local traffic shall be able to use all streets during the reconstruction process. All private entrances shall be passable. The CONTRACTOR shall schedule his work to minimize hazards and delays, and shall take every possible effort to promote safety. Signs, barricades and flagmen shall be utilized to protect the traveling public and to prevent damage to their vehicles. All signs shall conform to the MUTCD and be at least 30 inches in size, properly located in advance of the work and in good overall condition. No work shall commence until the appropriate signs are in place. MOT shall conform to the current FDOT design standards, Topic No. 625-010-003.

SIDEWALKS AND CURBING

1. Project Description Scope of Work
 - This annual contract includes construction of new sidewalks and curbing for multiple project work orders at various locations throughout the City of Lake Wales according to the requirements of the bid document.
 - The length of construction for any project work order will vary.
 - The project work order locations may be anywhere within the City of Lake Wales jurisdictional area.
2. Concrete: Class I concrete, as per Section 347 of the Florida Department of Transportation Standard Specifications for Road and Bridge Construction latest editions now in force or hereafter adopted, shall be used. This includes 347-3.1 Delivery of concrete from a facility that is certified by the National Ready-Mixed Concrete Association (NRMCA).
3. Sidewalks: Shall conform to FDOT Standard Design Index 310.
4. Public Sidewalk Curb Ramps: Shall conform to FDOT Standard Design Index 304 and the American with Disability Act (ADA) Accessibility Guidelines Section 4.7.
5. Sidewalk Joints: Cut joints shall be every five (5) feet, and expansion joints shall be at one hundred and twenty (120) feet unless otherwise directed by the City.
6. Removal of Existing Sidewalk: The quantity to be paid will be the number of square feet of existing sidewalk acceptably removed and disposed of. The actual quantity will be determined by actual measurements along the surface of the sidewalk before its removal. The thickness of sidewalk to be removed will be between 4 inches and 6 inches.
7. Sidewalk Alignment: Directional changes and adjustments to the path of the sidewalk shall be achieved by wide radius curves. Sidewalk layout incorporating sharp angles will NOT be accepted. All sidewalks and handicap ramps shall conform to American Disability Act (ADA) construction standards. Sidewalk shall have a maximum cross slope of 2%. Sidewalk construction shall match existing grade and shall not create restrictions to overland flow of storm water runoff into existing inlets, ditches, or swales. All construction activities will be conducted within the City Right-of-way. Sidewalks will be constructed to avoid junction boxes utility poles, fire hydrants and trees, unless otherwise directed by the City's Public Services Director.
8. Sidewalk & Driveway Aprons: When a length of sidewalk intersects an unpaved driveway, a two foot wide concrete approach slab will be placed on both sides of the sidewalk. The roadway side of the sidewalk may be wider to meet field conditions. The length of the slab shall be determined by the driveway width.

9. Sodding: Use Bahia grass inside City rights-of-way, sod disturbed areas on private property to match existing grass. Sodding shall be maintained by the contractor for 30 days following installation.

PAVEMENT MARKING

Thermoplastic marking and striping of various streets within the Lake Wales city limits to FDOT specifications, including signalized intersections. The scope of work includes the marking of:

- Crosswalks
- Turn lanes
- Stop bars
- Double and single yellow lines (lane dividers)
- White lines (shoulders)
- Parking spaces
- Reflective Pavement Markers
- Railroad Crossings
- Blue Lines

All workmanship and material is to be done in accordance with the Standard Specifications for Road and Bridge Construction, FDOT Design Standards and the FDOT "Greenbook".

CONSTRUCTION AGREEMENT
Annual Sidewalk Repair and Replacement
Lake Wales, Florida

This Agreement is made this ____ day of _____, 2015, by and between the City of Lake Wales, a Florida municipal corporation, with offices located at 201 Central Avenue W, Lake Wales, Florida, 33853 (the "City") and Grove Construction Corporation, a Florida corporation, with offices located at 2340 Pleasant Hill Road, Kissimmee, Florida, 34746 (the "Contractor").

1. SCOPE OF WORK

Contractor shall perform all necessary engineering services, shall procure, order and furnish all of the required materials, labor and equipment, and shall construct, install and complete all of the work called for and described in the Invitation to Bid, and other descriptive data contained or referred to for the Annual Street, Sidewalk and Curbing Maintenance, Bid #15-396, Scope of Work", attached hereto, and in this Agreement (all hereinafter referred to as the "Contract").

2. WORK CONDITIONS

Contractor represents that it has received and has had an opportunity to examine copies of the Invitation to Bid and other descriptive data and has fully acquainted itself with all the conditions relevant to the work to be performed, and the site of the work, and assumes the risk of any variances between the actual conditions relevant to the work and the same as shown or represented in the invitation to bid document; that it has made all investigations essential to a full understanding of the difficulties which may be encountered in performing the work, and bases its conclusions to execute this Contract on such investigation, independent of any other information prepared or furnished by the City or others; and Contractor will satisfactorily complete the work in accordance with the provisions of this Contract, and will assume full and complete responsibility for such conditions relevant to the work, the site of the work, and all risks in connection therewith.

3. TIME OF COMPLETION

TIME IS OF THE ESSENCE. Contractor will start the work when notified by the City and shall complete the work in accordance with the Contract.

4. TERM & PRICING

This contract shall commence for a period beginning on the date of approval of the City Commission and end on September 30, 2016 with the option to renew for Two (2), One-Year terms. The performance of the City of Lake Wales and its obligation to pay under this contract is contingent upon annual appropriation by the City Commission of Lake Wales.

5. PAYMENTS

- A. Contractor shall submit an invoice for the cost of work completed as of the date of completion of the installation and final approval of the City. All invoices shall describe, in detail, all work performed.
- B. Any payment due hereunder may be withheld by City upon evidence of default by Contractor in the performance of its obligations. Upon completion of the work and the acceptance in writing thereof by the City, the final payment due Contractor will be paid by City to Contractor within forty-five (45) days after receipt of the invoice. Any payment made hereunder, prior to acceptance of the entire project, will not be construed as evidence of acceptance of any part of the work. Contractor's acceptance of final payment will constitute a waiver of all claims.

6. CHANGES

The City may, at any time by a written change order, make changes in the work and/ or the Exhibits, omit certain work and/or require additional work to be performed by Contractor. If such changes, additions, or omissions cause an increase or decrease in the amount or character of the work performed hereunder, then an equitable adjustment of the Contract Price and to the time of completion shall be agreed upon by City and Contractor and incorporated in an amendment to this Contract. Contractor agrees to make no change, addition or omission in the work without prior written direction from the City.

7. MATERIALS, EMPLOYEES AND SUBCONTRACTORS

- A. All materials shall be new and both workmanship and materials shall be of good quality. Contractor shall, if required by City, furnish samples or other satisfactory evidence as to the kind and quality of materials as directed by the City, and all materials thereafter furnished by Contractor shall be in strict accord with such approved samples.
- B. Contractor is an independent contractor and will employ only competent, careful, orderly and fully trained persons and, shall at all times enforce strict discipline and good order among its employees and subcontractors. Upon notification by Buyer that the conduct of any person employed by Contractor or a subcontractor is unsatisfactory to Buyer, Contractor will immediately remove such person from the work.

8. PERMITS AND REGULATIONS

- A. Before commencing the performance of any work, Contractor shall procure all necessary building permits for the erection of permanent structures, all other permits and licenses as may be necessary, and before and during the progress of work under this Contract, give all notices and comply with all laws, ordinances, codes, rules and regulations of every kind and nature now or hereafter in effect promulgated by any Federal, State, County, or other Governmental authority, including the City, relating to the performance of work under this Contract.
- B. Contractor agrees to indemnify City from liability or penalty which may be imposed by reason of an asserted violation of such laws, ordinances, codes, rules or regulations. On completion of the work, Contractor will submit original Certificates of Inspection and Acceptance and of Occupancy.

9. SAFETY

Contractor agrees to protect its own employees and work and its subcontractor's work and be responsible under all circumstances for their condition until City's acceptance of the entire project and to protect adjacent property from injury arising out of such work. Contractor agrees to abide by and observe all standards and regulations of the Occupational Safety and Health Administration which are applicable to the work performed. Contractor recognizes the work may involve exposure to toxic and other hazardous substances and use of potentially dangerous equipment requiring high knowledge and skill levels to operate safely.

10. TITLE TO THE WORK

The title to all work completed or in the course of construction or installation at the site and of all materials and equipment on account of which any payment has been made by the City to Contractor, shall be in the City; provided, however, nothing in this paragraph shall be construed as affecting the City's right of accepting or rejecting the work in accordance with this Contract. Title to and risk of loss of all other materials, equipment and tools delivered to the site shall be and remain in the Contractor or its subcontractors.

11. INSPECTION AND ACCEPTANCE

A. The City shall have access to and the right to inspect all material, equipment and work in the course of construction. The City shall have the right to reject defective material, equipment and workmanship, and rejected workmanship shall be satisfactorily replaced with acceptable material and equipment.

B. Final acceptance by the City shall be made as promptly as practicable after completion and inspection of all work required hereunder. Acceptance shall be final and conclusive except as regards latent defects, fraud or gross mistakes, or with respect to City's right under the paragraph entitled "Warranty".

C. Final acceptance shall be evidenced by City's certification to the Contractor that all work has been completed, inspected and accepted by the City.

12. WARRANTY

A. Contractor warrants that the work to be performed hereunder, and the materials and equipment to be furnished shall be free from all defects in equipment, material, design or workmanship, shall meet all requirements of this Contract, and shall be suitable for the purpose intended for a period of one (1) year from the date of the City's acceptance of the work, unless a longer period is provided for by Contractor. During the warranty period, Contractor hereby:

(1) indemnifies and holds harmless the City from and against all loss or damage arising out of or in connection with any such defects, and

(2) agrees on notice from the City to Contractor promptly to remedy and cure any such defect at the sole cost and expense of Contractor as set forth below.

B. Upon discovery of any defect within the warranty period provided, the following conditions shall apply:

- (1) the City shall furnish written notice to the Contractor of the item or work involved;
- (2) within ten (10) days after receipt by the Contractor of City's notice, Contractor shall provide the following information in writing to the City:
 - a. acknowledgement of the notification given by the City of the defect;
 - b. the corrective action to be taken by the Contractor to remedy the defect;
 - c. disposition instructions regarding the defective item or work;
 - d. the date that the defective items or work shall be repaired or replaced as required or, with the advance approval of the City, a proposed price reduction to this Contract for the City's consideration.

C. In addition to other rights and remedies provided in this paragraph, all subcontractors', manufacturers' and suppliers' warranties, express or implied, applicable to any material, equipment, parts, property and services furnished under this Contract shall be enforced by the Contractor for the benefit of the City and survive acceptance and payment.

D. Whether goods are being sold, leased or rented, or services are being performed hereunder, the parties have all rights, duties and remedies provided by the Uniform Commercial Code, including inspection, rejection, revocation of acceptance and all implied and express warranties.

13. INSURANCE

A. During the term of this Agreement and at all times that Contractor performs services for City, Contractor shall, at its sole cost and expense, procure and maintain insurance policies from a licensed carrier with the following minimum limits and coverage:

- (1) Comprehensive general liability insurance for a limit of [\$500,000] each occurrence and [\$1,000,000] in the aggregate, including but not limited to coverage for bodily injury and property damage.
- (2) Statutory worker's compensation insurance as required by law.
- (3) Employer's liability insurance covering all Contractor's employees associated with this Agreement in amounts not less than [\$500,000] per accident for bodily injury.
- (4) Comprehensive automobile liability insurance to a single limit of liability for each accident of not less than [\$1,000,000].

B. Certificates of Insurance evidencing the required coverage and limits shall be furnished to City before any Work is commenced hereunder and shall provide that there will be no cancellation or reduction of coverage without thirty (30) days prior written notice to the City. Certificates of such insurance shall name City as Additional Insured on such policies. The certificates of insurance should also state specifically that the indemnity contained in this Agreement is covered.

C. Contractor shall require that each subcontractor provide and maintain at all times during the term of this Agreement insurance equivalent to that which is required of Contractor.

14. INDEMNIFICATION

Contractor shall defend, indemnify and save City, its elected and appointed officials, directors, employees, agents and representatives harmless from and against all liabilities, claims, costs, damages and expenses (including attorneys' fees) for personal injuries, death or property damage (including theft) to the extent arising out of or in connection with:

- (1) The negligence or intentional act or omission of Contractor, its employees, agents, representatives and subcontractors; or
- (2) Contractor's breach of this Agreement; or
- (3) Labor, materials, services, or supplies furnished by subcontractors or suppliers of Contractor and from all related liens, including without limitation, laborer's, materialmen's or mechanics' liens.

15. BONDS

If required by City, the Contractor shall furnish performance and payment bonds in form and amount satisfactory to City. Contractor represents that the Contract Price does not include any amount for the cost of performance or payment bonds.

16. PLANS AND SPECIFICATIONS; CITY EQUIPMENT AND DOCUMENTS

A. All plans and specifications drawn by Contractor shall be submitted to the City for written approval prior to commencement of work or procurement of materials. Copies of such plans and specifications shall be furnished to City, and all designs, specifications, improvements, inventions and all rights pertaining thereto, developed in the course of performance of this Contract, shall be promptly disclosed to, and shall become the sole and exclusive property of the City.

B. All drawings, specifications, plans and other documents, whether tracings or originals, furnished by City to Contractor shall remain the property of City, and Contractor shall make no copies or use of such drawings, specifications, plans or documents except in performance of the Work under this Contract. All such documents shall be returned to the City upon completion or termination of this Contract. Contractor and its subcontractors will treat as confidential all City information, including plans, policies, requirements, financial and employment activities, specifications, drawings, blueprints and documents.

B. The use of any City equipment, rigging, blocking, hoist, or scaffolding by Contractor or a subcontractor, given, lent or rented will be under the distinct understanding that he uses it at his own risk and takes it "as is". Contractor will satisfy himself by examination as to its condition, assumes all responsibility therefore, and shall save City harmless from all claims and damages due to its use.

17. COMPLIANCE WITH ENVIRONMENTAL PROCEDURES

A. If, during the course of the work, Contractor encounters or becomes aware of any environmentally related issues, including the following, then Contractor shall immediately notify the City:

- (1) the release or substantial threat of release of a hazardous substance;

(2) the discovery of materials or substances of unknown origin on or under the premises;

(3) the discovery of any underground storage tank.

B. Contractor shall not take any action in respect of such environmentally related issue without first obtaining the written authorization of the City.

C. Contractor shall indemnify and hold harmless the City from every claim, damage, loss, liability, action, complaint or suit for bodily injury, sickness, disease or death or damage to property arising out of any breach of its obligations to comply with the foregoing procedures.

18. TERMINATION FOR CONVENIENCE

A. Notice of Termination. City shall have the right to terminate this Agreement at any time, in whole or in part, for its convenience. Such termination shall be effected by delivery from City to Contractor of a written notice of termination specifying the extent to which performance of work under this Agreement is terminated and the date upon which such termination shall become effective. In the event of such termination, Contractor will, to the extent directed: stop work immediately; place no further orders or subcontracts for materials, labor, services or facilities; unless otherwise specified, terminate all subcontractors and orders to the extent that they relate to work terminated; complete the performance of the work not terminated; and take such other actions as may be necessary or requested by the City for the protection of the terminated work.

B. Submission of Termination Claim. After receipt of a notice of termination, Contractor shall submit to the City its termination claim, in the form prescribed by the City. If the entire Contract is terminated, such claim shall be submitted not later than 15 days from the effective date of termination and shall be based on the percentage of the completion of the work performed. Upon failure of the Contractor to submit its termination claim within the time allowed, the City may determine the amount, if any, due to the contractor with respect to the termination, and such determination shall be final.

C. Payment of Termination Claim. Subject to subparagraph (B) above, Contractor and the City may agree upon the whole or any part of the amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this provision, which amount may include a reasonable allowance for profit on work performed. However, such agreed amount shall not exceed the total Contract price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of work not terminated.

D. Audit of Termination Costs. For purposes of this paragraph, the amounts of the payments to be made by the City to the Contractor shall be based upon verification and/or audit by a certified public accounting firm designated by the City of the Contractor's actual allocable costs stated in Contractor's termination claim. Contractor shall make available to said accounting firm, at reasonable times at the office of the Contractor, accounting records relating to the work terminated hereunder.

E. In the event of termination of this Agreement for any reason, City will not be liable to Contractor for indirect, incidental or consequential damages, including loss of profits, whether under breach of contract, tort or any other theory.

19. TERMINATION FOR CAUSE

A. If, in the opinion of City, Contractor should so fail to make progress as to endanger performance of this Agreement in accordance with its terms, or if Contractor's work is inadequate, or if it should fail to make prompt payment to subcontractors or for material or labor, or violate any laws, ordinances or regulations, or otherwise violate any provision of this Agreement, or if Contractor becomes insolvent or a petition under any bankruptcy act is filed by or against the Contractor, then City may, without prejudice to any other right or remedy, terminate this Agreement in whole or in part upon written notice to Contractor and proceed to complete or cause the work to be completed.

B. If fixed and agreed liquidated damages are provided for in the Contract and if the City so terminates the Contractor's right to proceed, the resulting damage will consist of such liquidated damages until such reasonable time as may be required for final completion of the work together with any excess costs incurred by the City in completing the work.

C. The rights and remedies of the City provided in this paragraph are in addition to any other rights and remedies provided by law or under this Contract.

20. CLEANING UP

Contractor shall at all times keep the site of the work free from accumulations of waste material or rubbish caused by its employees and subcontractors or the work. At the completion of the work, Contractor shall remove from the site all rubbish, implements and materials and shall leave the site in broom clean condition.

21. SUBCONTRACTORS

Within [five (5)] days after the award of any subcontract in excess One Dollar (\$1.00) by the Contractor, the Contractor shall deliver to the City a statement setting forth the name and address of the subcontractor and a summary description and the cost of the work subcontracted.

22. SUPERINTENDENCE BY CONTRACTOR

The Contractor shall have a competent foreman or superintendent, satisfactory to the City, on the work site at all times during the performance of the work. Said foreman or superintendent shall have the authority to act for the Contractor.

23. SET OFFS

Contractor agrees that City shall have the right to set off any amounts which may become payable by City to Contractor under this Agreement or any other transaction with Contractor, any amounts which Contractor may owe to City, whether arising under this Agreement or otherwise.

24. GENERAL

A. **Governing Law.** This Contract shall be governed and construed in accordance with the Laws of the State of Florida.

B. **Entire Agreement.** This Agreement constitutes the entire Agreement between the parties with respect to the subject matter contained herein and shall supersede all prior oral and written understandings, agreements and proposals. No modification of this Contract shall be valid unless made in writing, referring to this Contract, and executed by City and Contractor.

C. Independent Contractor. Contractor, in performance of the Work under this Contract, is acting as an independent contractor and shall have the exclusive control of the manner and means of performing the work. Personnel and subcontractors supplied by Contractor hereunder are not City's employees, agents or representatives, and Contractor assumes full responsibility for their acts.

D. Work Rules. Contractor's employees, agents and subcontractors shall observe the working hours, working rules, holiday schedules and policies of City while working on City's premises.

E. Assignment. This Contract shall be binding upon the parties' respective successors and permitted assigns. Contractor may not assign this Contract or any of its rights or obligations hereunder without the prior written consent of City, and any such attempted assignment shall be void. Furthermore, no work to be performed on behalf of Contractor hereunder shall be subcontracted to or performed on behalf of Contractor in an amount exceeding One Dollar (\$1.00) by any third party, except upon written permission of City. Contractor agrees that any assignment hereunder shall not relieve Contractor of its obligations hereunder.

F. Notices. Any notices or communication under this Contract shall be in writing and shall be personally delivered or sent by certified or registered mail return receipt requested or by confirmed facsimile transmission to the party receiving such communication at the address specified below or such other address as either party may in the future specify to the other party.

To City: City of Lake Wales
P.O. Box 1320
Lake Wales, FL 33859-1320

To Contractor: Grove Construction Corporation
2340 Pleasant Hill Road
Kissimmee, FL 34746

G. Waiver. A failure of either party to exercise any right provided herein, shall not be deemed to be a waiver of any right hereunder.

H. Compliance with Laws. Contractor's employees, agents and subcontractors shall comply with all applicable U.S., state and local laws and regulations and union work rules in its performance of its obligations hereunder.

I. Public Records. Contractor acknowledges that it is acting on behalf of a Public agency and that this Agreement is subject to the provisions of §119.0701, Florida Statutes, and that Contractor must comply with the public records laws of the State of Florida. Contractor shall:

(a) Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service.

(b) Provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed.

(d) Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public

agency.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the date first set forth above.

City of Lake Wales
City

Grove Construction.
Contractor

By: _____

By: _____

Kenneth Fields
Printed Name

Karen Khan
Printed Name

Title: City Manager

Title: President

Date: _____

Date: _____