

RESOLUTION NO. R-2019-113

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA, APPROVING AND AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO EXECUTE A CONTRACT WITH OMB, LLC, FOR FY 2019 SIDEWALK CONSTRUCTION AND MISCELLANEOUS ROAD/RIGHTS-OF-WAY MAINTENANCE WORK IN AN AMOUNT NOT TO EXCEED \$524,545.00.

WHEREAS, the Architecture, Engineering and Mobility Division implements sidewalk improvement projects adopted under the City's Capital Improvement Program, which include the continuation of the 50/50 Shared Cost Sidewalk Program, the ADA Sidewalk/Ramp Program, the CDBG Sidewalk Program, and the City Facilities Sidewalk Program; and

WHEREAS, the Architecture, Engineering and Mobility Division monitors and oversees rights-of-way repair and maintenance needs; and

WHEREAS, a unified sidewalk improvement project incorporating the above programs and road / rights-of-way maintenance work was advertised on BidSync.com under Bid Number EN-19-007 for bids under open market conditions on February 7, 2019, and the construction program received interest from 87 prospective bidders; and

WHEREAS, a total of four bids were received and opened on March 6, 2019, and the four bidders are listed below:

OMB, LLC 365 Ansin Boulevard Hallandale Beach, Florida 33009	\$524,545.00
Continental Construction USA, LLC 95 Merrick Way, Suite #480 Coral Gables, Florida 33134	\$797,710.00
Team Contracting, Inc. 13911 SW 42 <sup>nd</sup> Street, Suite 209 Miami, Florida 33175	\$849,350.00
Weekley Asphalt Paving, Inc. 20701 Stirling Road Pembroke Pines, Florida 33332	\$1,560,024.00
	; and

WHEREAS, after Architecture, Engineering and Mobility Division staff reviewed all bids received, the Division found OMB, LLC to be the lowest, responsive, responsible bidder, and staff recommends award of a contract to OMB, LLC in the amount of \$524,545.00; and

WHEREAS, the term of this contract shall be for 365 calendar days as established in the Notice to Proceed, and provides for one renewal; and

WHEREAS, through receipt of the City's bid specifications for this project, all contractors have been provided with a copy of the City's contract, including the terms and conditions set forth therein; and

WHEREAS, funding for these services has been provided pursuant to Rollover Resolution R-2018-311, which continued the appropriation for previously approved capital projects from FY 2018 to FY 2019 in account numbers  
334.149901.54100.563010.000099.000.000,  
334.149901.54100.563010.000515.000.000,  
334.149901.54100.563030.000074.000.000,  
334.149901.54100.563010.000096.000.000,  
334.149901.54100.563030.000083.000.000.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That the foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are incorporated in this Resolution.

Section 2: That it approves and authorizes the execution, by the appropriate City officials, of the attached contract with OMB, LLC, together with such non-material changes as may be subsequently agreed to by the City Manager and approved as to form and legal sufficiency by the City Attorney.

Section 3: That this Resolution shall be in full force and effect immediately upon its passage and adoption.

PASSED AND ADOPTED this 1 day of May, 2019.

ATTEST:

  
PATRICIA A. CERNY, MMC, CITY CLERK

  
JOSH LEVY, MAYOR

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY for the use and reliance  
of the City of Hollywood, Florida, only.

  
DOUGLAS R. GONZALES, CITY ATTORNEY *DR*

**SECTION 00500**



**CITY OF HOLLYWOOD  
DEPARTMENT OF DEVELOPMENT SERVICES  
ARCHITECTURE, ENGINEERING & MOBILITY DIVISION**

2600 Hollywood Boulevard  
Hollywood, Florida 33022  
Phone (954) 921-3900 Fax (954) 921-3416

**CONTRACT**

THIS AGREEMENT, made and entered into, this \_\_\_\_ day of \_\_\_\_\_, A.D., \_\_, by and between the CITY OF HOLLYWOOD, Florida, a municipal corporation of the State of Florida, part of the first part, (hereinafter sometimes called the "CITY"), and

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party of the second part (hereinafter sometimes called the "CONTRACTOR").

WITNESSETH: The parties hereto, for the considerations herein- after set forth, mutually agree as follows:

Article 1. Scope of Work: The CONTRACTOR shall furnish all labor, materials, and equipment and perform all work in the manner and form provided by the Contract Documents, for:

**FY2019 SIDEWALK CONSTRUCTION & MISCELLANEOUS ROAD / RIGHTS-OF-WAY  
MAINTENANCE WORK  
PROJECT BID NO. EN-19-007**

Article 2. The Contract Sum: The CITY shall pay to the CONTRACTOR, for the faithful performance of the Contract, in lawful money of the United States of America, and subject to additions and deductions as provided in the Contract Documents, as follows:

Based upon the prices shown in the Proposal heretofore submitted to the CITY by the CONTRACTOR, a copy of said Proposal being a part of these Contract Documents, the aggregate amount of this Contract being the sum of:

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Article 3. Partial and Final Payments: In accordance with the provisions fully set forth in the "General Conditions" of the "Specifications", and subject to additions and deductions as provided, the CITY shall pay the CONTRACTOR as follows:

- (a) On the 15th day, or the first business day thereafter, of each calendar month, the CITY shall make partial payments to the CONTRACTOR on the basis of a duly certified and approved estimate of work performed during the preceding calendar month by the CONTRACTOR, less ten percent (10%) of the amount of such estimate which is to be retained by the CITY until all work has been performed strictly in accordance with this Agreement and until such work has been accepted by the CITY.

## **PAYMENT:**

Payment will be due to the Contractor from the City of Hollywood thirty (30) days after receipt of invoice, provided that Contractor shall not submit more than one invoice per thirty-day period. Payment may be withheld by the City due to failure by the Contractor to comply with the Specifications, because unacceptable equipment or Materials were delivered as determined by the City's inspection or failure by the Contractor to comply with the "Prompt Payment: Late Payments by Contractors to Subcontractor and Material Suppliers; penalty:" clause. The City shall notify the Contractor of any unsatisfactory performance or non-compliance with the "Late Payments by Contractors to Subcontractor and Material Suppliers" clause as soon as practicable so that it can be corrected without delaying payment if possible.

## **PROMPT PAYMENT: LATE PAYMENTS BY CONTRACTORS TO SUBCONTRACTOR AND MATERIAL SUPPLIERS; PENALTY:**

When a contractor receives from the City of Hollywood any payment for contractual services, commodities, materials, supplies, or construction contracts, the contractor shall pay such moneys received to each Subcontractor and Material Supplier in proportion to the percentage of Work completed by each Subcontractor and Material Supplier at the time of receipt. If the contractor receives less than full payment, then the contractor shall be required to disburse only the funds received on a pro rata basis with the Subcontractors and Material Suppliers, each receiving a prorated portion based on the amount due on the payment. If the contractor without reasonable cause fails to make payments required by this section to Subcontractors and Material Suppliers within 15 Working days after the receipt by the contractor of full or partial payment, the contractor shall pay to the Subcontractors and Material Suppliers a penalty in the amount of 1 percent of the amount due, per month, from the expiration of the period allowed herein for payment. Such penalty shall be in addition to actual payments owed. Retainage is also subject to this prompt payment requirement and must be returned to the Subcontractor or Material Supplier whose Work has been completed, even if the prime contract has not been completed. The Contractor shall include the above obligation in each subcontract it signs with a Subcontractor or Material Supplier.

- (b) Upon submission by the CONTRACTOR of evidence satisfactory to the CITY that all payrolls, material bills and other costs incurred by the CONTRACTOR in connection with the construction of the WORK have been paid in full, and also, after all guarantees that may be required in the Specifications have been furnished and are found acceptable by the CITY, final payment on account of this Agreement shall be made within sixty (60) days after completion by the CONTRACTOR of all work covered by this Agreement and acceptance of such work by the ENGINEER and approved by the CITY.

Article 4. Time of Completion: The CONTRACTOR shall commence work to be performed under this Contract within ten (10) consecutive calendar days after date of written Notice To Proceed and shall fully complete the Contract in accordance within the Contract Documents and meet all intermediate milestone completion dates required after said date of written notice as set forth in the Proposal, as may be modified by Instructions to Bidders, and stated in the Notice to Proceed.

It is mutually agreed between the parties hereto, that time is of the essence, and in the event that construction of the WORK is not completed within the Contract Time and per intermediate dates, as may have been modified solely in accordance with the General Conditions of this Contract, that from the compensation otherwise to be paid to the CONTRACTOR, the CITY is authorized and shall retain, for each day thereafter, Sundays and holidays included, the sum set forth in the Supplementary General Conditions of this Contract as liquidated damages sustained by the CITY in the event of such default by the CONTRACTOR, or shall withhold such compensation for actual and consequential damages as may be stated therein or contemplated therefrom.

Article 5. Additional Bond: It is further mutually agreed between the parties hereto, that if, at any time after the execution of this Agreement and the Payment and Performance Bonds required herein for the express purpose of assuring the faithful performance of the Contractor's work hereto attached, the CITY shall deem the surety or sureties' to be unsatisfactory, or, if for any reason, said bonds cease to be adequate to cover the performance of the work, the CONTRACTOR shall, at his expense, within five (5) days after receipt of notice from the CITY furnish an additional bond or bonds in such form and amount, and with such surety or sureties as shall be satisfactory to the CITY. In such event, no further payment to the CONTRACTOR shall be deemed to be due under this agreement until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the CITY.

Article 6. Contract Documents: All of the documents hereinafter listed form the Contract and they are as fully a part of the Contract as if hereto attached, or repeated in this Agreement:

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|--------------------------------------|--------------------------------------|
| 1. Notice to Bidders                 | 9. Contract                          |
| 2. Instruction to Bidders            | 10. Performance Bond                 |
| 3. Proposal                          | 11. Payment Bond                     |
| 4. Proposal Bid Form                 | 12. General Conditions               |
| 5. Bid Bond                          | 13. Supplementary General Conditions |
| 6. Information Required from Bidders | 14. Addenda                          |
| 7. Local Preference                  | 15. Specifications                   |
| 8. Trench Safety Form                | 16. Drawings                         |

Article 7. The rate of wages and fringe benefits, or cash equivalent, for all laborers, mechanics and apprentices employed by any contractor or subcontractor on the work covered by the contract shall be not less than the prevailing rate of wages and fringe benefit payments or cash equivalent for similar skills or classifications of work as established by the General Wage Decision by the United States Department of Labor for Broward County, Florida that is in effect prior to the date the city issues its invitation for bids. If the General Wage Decision fails to provide for a fringe benefit rate for any worker classification, then the fringe benefit rate applicable to the worker classification shall be the fringe benefit rate applicable to the worker classification with a fringe benefit rate that has a basic hourly wage closest in dollar amount to the worker classification for which no fringe benefit rate has been provided.

Article 8. No additional work or extras shall be performed unless the same be duly authorized by appropriate action of the City.

Article 9. That in the event either party brings suit for enforcement of disagreement, the prevailing party shall be entitled to attorney's fees and court costs in addition to any other remedy afforded by law.

Article 10. The Contractor shall guarantee the complete project against poor workmanship and faulty materials for a period of twelve (12) months after final payment and shall immediately correct any defects which may appear during this period upon notification by the City or the Engineer.

Article 11. The making and acceptance of the final payment shall constitute a waiver of all claims by the Contractor, except those previously made and still unsettled.

As prepared/approved by:

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Luis Lopez, P.E.  
City Engineer

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IN WITNESS WHEREOF the parties hereto have executed this Agreement on the day and date first above written in three (3) counterparts, each of which shall, without proof or accounting for the other counterparts, be deemed an original contract:

THE CITY OF HOLLYWOOD, FLORIDA  
Party of the First Part

By: \_\_\_\_\_ (SEAL)  
JOSH LEVY, MAYOR

ATTEST:

\_\_\_\_\_  
PATRICIA CERNY, MMC, CITY CLERK

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CONTRACTOR  
Party of the Second Part

WHEN THE CONTRACTOR IS AN INDIVIDUAL:

Signed, sealed and delivered in the presence of:

_____ (Witness)	_____ (Signature of Individual) (SEAL)
_____ (Witness)	_____ (Signature of Individual)

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WHEN THE CONTRACTOR IS A SOLE PROPRIETORSHIP OR OPERATES UNDER A TRADE NAME:

Signed, sealed and delivered in the presence of:

_____ (Witness)	_____ (Name of Firm)
_____ (Witness)	_____ (Signature of Individual) (SEAL)

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WHEN THE CONTRACTOR IS A PARTNERSHIP:

Signed, sealed and delivered in the presence of:

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(Name of Firm) a Partnership

\_\_\_\_\_  
(Witness)

BY: \_\_\_\_\_ (SEAL)  
(Partner)

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WHEN THE CONTRACTOR IS A CORPORATION:

Attest:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
(Correct Name of Corporation)

BY: \_\_\_\_\_ (SEAL)  
President

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APPROVED AS TO FORM & LEGAL  
SUFFICIENCY for the use and reliance  
of the City of Hollywood, Florida, only.

APPROVED AS TO FINANCE:

By \_\_\_\_\_  
DOUGLAS R. GONZALES, CITY ATTORNEY

By \_\_\_\_\_  
CINTYA RAMOS,  
DIRECTOR OF FINANCIAL SERVICES

CERTIFICATE

**STATE OF FLORIDA            )**  
**COUNTY OF BROWARD        )**

**I HEREBY CERTIFY** that a meeting of the Board of Directors of \_\_\_\_\_,  
a corporation under the laws of the State of \_\_\_\_\_, was held on \_\_\_\_\_, 20\_\_\_\_, and the  
following resolution was duly passed and adopted:

"RESOLVED, that \_\_\_\_\_ as \_\_\_\_\_ President of the corporation, be and he is  
hereby authorized to execute the contracts on behalf of this corporation, and that his  
execution thereof, attested by the Secretary of the corporation and with corporate seal  
affixed, shall be the official act and deed of this corporation."

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the corporation, this  
day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Secretary

- END OF SECTION -