

AMENDMENT 002 TO THE AGREEMENT
WITH
CITY OF LAKE WORTH BEACH

Amendment 002 with an effective date of July 15, 2023 by and between **Palm Beach County** and the **City of Lake Worth Beach**.

WITNESSETH:

WHEREAS, Palm Beach County entered into an Agreement (R2021-1533) on October 1, 2021, as amended by Amendment 001 (R2023-0308) on December 14, 2022, to provide \$274,506 of Community Development Block Grant (CDBG) funds for the Phase I construction improvements at Harold Grimes Memorial Park, in the City of Lake Worth Beach; and

WHEREAS, the City has completed the project scope, but experienced delays with contractor's final documentation to allow for project close-out. The City as a result of the delay has requested an extension of the performance requirement to submit for 100% reimbursement of CDBG funding from the County; and

WHEREAS, both parties desire to amend the original Agreement in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and various other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

A. INCORPORATION OF RECITALS

The foregoing recitals are true and correct and incorporated herein by reference. Terms not defined herein shall have the same meaning as ascribed to them in the Agreement.

B. EXHIBIT A. SECTION 1. G: PERFORMANCE REQUIREMENTS

Delete the 100% Reimbursement performance requirement and replace with the following:

Submit for 100% Reimbursement of CDBG Funds no later than: October 31, 2023

Except as modified by this Amendment 002, the Agreement remains unmodified and in full force and effect in accordance with the terms thereof. This Amendment 002 is expressly contingent upon the approval of the County and shall become effective only when signed by all parties.

WITNESS our Hands and Seals on this _____ day of _____, 20____ and caused this Amendment 002 to be executed.

(SUBRECIPIENT SEAL BELOW)

CITY OF LAKE WORTH BEACH

By: _____
Betty Resch, Mayor

By: _____
Melissa Ann Coyne, City Clerk

By: _____
Carmen Y. Davis, City Manager

By: _____
Attorney for Subrecipient (Optional)

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this Amendment 002 on behalf of the County.

**PALM BEACH COUNTY, FLORIDA, a
Political Subdivision of the State of Florida
For its BOARD OF COUNTY COMMISSIONERS**

By: _____
Jonathan B. Brown, Director
Dept. of Housing & Economic Development

**Approved as to Form and
Legal Sufficiency**

**Approved as to Terms and Conditions
Department of Housing & Economic Development**

By: _____
Howard J. Falcon III
Chief Assistant County Attorney

By: _____
Sherry Howard
Deputy Director



OFFICE OF THE CITY MANAGER
7 NORTH DIXIE HIGHWAY
LAKE WORTH BEACH, FL 33460

August 29, 2023

Jonathan D. Brown, Director
Palm Beach County Department of Housing and Economic Development
100 Australian Avenue, Suite 500
West Palm Beach, FL 33406

RE: Proposed Amendment to R2021-1533 dated 10/1/21, and Amendment 1 R2023-0308 dated 12/14/22


Dear Mr. Brown:

It has recently been brought to my attention that there has been a problem in obtaining the requisite supporting documentation necessary for the final closeout of the CDBG-funded Memorial Park Phase 1 Improvements project. All construction work has been completed and accepted. To date, a total of \$216,014 has been expended and reimbursed to the City. An additional \$52,422.50 has been expended and is currently being processed for final reimbursement.

However, the City has experienced difficulties in securing requisite documentation from the contractor, M&M Asphalt Maintenance, Inc. d/b/a All County Paving, related to the performance of this work. Although some of the supporting documentation was submitted in response to the City's continued requests, the contractor has failed to provide payroll entries into the County's Elation system in a timely manner. This has resulted in a delay in the submission of the final reimbursement request and the project close-out.

The City has continued to reach out to the contractor including the offer to provide necessary technical assistance to complete the process. After several ensuing requests went unanswered, the City provided written notice to the contractor of its intent to enforce the provisions contained in the signed construction contract to complete the project, including potential liquidated damages, and provide all supporting documentation. (A copy is included.) The contractor has subsequently entered the payroll documentation in Elation and provided all missing supporting documentation to close out the project to the City.

Based on the need to adequately process this documentation, the City respectfully requests an extension to the current benchmark date of July 15, 2023 for submission of the 100% Reimbursement Request to October 31, 2023. If this request is acceptable, the City will be able to complete the submission of the final



reimbursement request and the close-out of the project, and remain in compliance with the terms of the Project Agreement.

Should you have any questions or require additional information, please do not hesitate to contact Jerry Kelly, Grants Analyst, at 561.586.1689. The City will respond in a timely manner. Thank you for your consideration of this request.

Sincerely,



Carmen Y. Davis

City Manager





**M&M Asphalt Maintenance, Inc.
D/B/A All County Paving
1180 SW 10th Street
Delray Beach, FL 33444**


**Subject: Harold Grimes Memorial Park Improvement Project Phase 1B
Parking Lot Resurfacing**

Dear Mr. Marfleet

This letter is to address current outstanding items for the Harold Grimes Memorial Park Improvement Project Phase 1B – Parking Lot Resurfacing project.

As of 8/10/2023 this project has exceeded the allotted contract time of 120 days for final completion. While construction has been completed there are several outstanding documentation items that have yet to be produced, payroll entries to the County Elations system being the most pressing. The required documents are necessary to satisfy the requirements of the Community Development Block Grant utilized to fund this project through the Palm Beach County Department of Housing & Economic Development. Without these documents the City will be unable to request reimbursement from the County and could potentially lose tens of thousands of dollars in grant funding. The documentation requirements for this project were clearly explained during the pre-construction meeting and have been reiterated through email and phone conversations as the project progressed. A plan for providing these documents is to be provided to the City no later than 8/18/23 to prevent the City from taking actions available to it, including liquidated damages, as described in the contract signed by M& M Asphalt Maintenance Inc. dba All County Paving.


Additionally, a deductive change order will need to be executed to reduce the contract price from \$54,922.50 to \$52,422.50 in order to reflect \$2,500.00 of contingency funds that were not needed. A request for a contact time extension may also be included in this change order if requested by the contractor.



All change orders require approval by both the City and the County prior to execution. The documentation referred to above represent only the current items needed, but does not include all documentation that will be necessary to complete the project.

It is of the utmost importance that no more time be lost in the preparation and production of the required documentation and to that end please contact myself or Shannon Garcia project manager if you require any assistance.



 Michael Pierce
2023.08.14
11:07:36-04'00'

Michael Pierce
Assistant Public Works Director
City of Lake Worth Beach
8/14/2023

